

**WORK SESSION AGENDA**  
**March 21, 2023**  
**4:00 p.m.**

1. Agenda Review and Citizen Forum

**AGENDA**  
**CITY OF MORRISTOWN, TENNESSEE**  
**CITY COUNCIL MEETING**  
**March 21, 2023**  
**5:00 p.m.**

1. **CALL TO ORDER**

Mayor Gary Chesney

2. **INVOCATION**

Reverend Benny Jones, Morristown Police Dept. Chaplain

3. **PLEDGE OF ALLEGIANCE**

4. **ROLL CALL**

5. **ADOPTION OF AGENDA**

6. **PROCLAMATIONS/PRESENTATIONS**

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

8. **APPROVAL OF MINUTES**

1. March 7, 2023

9. **OLD BUSINESS**

- 9-a. **Public Hearings & Adoption of Ordinances/Resolutions**

1. Ordinance No. 4713.07

To amend Ordinance No. 4713, the City of Morristown, Tennessee annual budget for fiscal year 2022-2023 necessary to appropriate additional funds in relation to a donation, the issuance of the 2022 General Obligation Bonds for the land expansion at the Morristown-Hamblen County Landfill, a legal settlement, various operational needs, and a grant-funded airport project; and to appropriate and establish the funding source for each appropriation.

## 10. NEW BUSINESS

### 10-a. Resolutions

### 10-b. Introduction and First Reading of Ordinances

1. Ordinance No. \_\_\_\_\_  
Entitled an Ordinance to Annex certain territory and to incorporate same within the corporate boundaries of the city of Morristown, Tennessee. Annexation of property currently located along either side of Morelock Road, having been assigned Hamblen County Parcel ID # 025 15900 000.  
**{Public Hearing April 4, 2023}**
2. Ordinance No. \_\_\_\_\_  
Entitled an Ordinance to amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. Rezoning of Lots 1-12, Block 7 and Lots 1-12, Block 8 as shown on the Map (plat B, page 55) of the Hoyt Addition belonging to W.E. Hodges and Geo. O. Barnard, recorded in Hamblen County from LI (Light Industrial) to R-2 (Medium Density) East 13<sup>th</sup> North Street and Macarthur Streets.  
**{Public Hearing April 4, 2023}**
3. Ordinance No. \_\_\_\_\_  
Entitled an Ordinance to amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. Rezoning of Hamblen County Tennessee Tax Parcel ID # 032041 01005 from LI (Light Industrial District) to HI (Heavy Industrial District), S. Sugar Hollow Road.  
**{Public Hearing April 4, 2023}**
4. Ordinance No. \_\_\_\_\_  
Entitled an Ordinance to amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. Rezoning of Hamblen County Tennessee Tax Parcel ID # 032034 02204 from IB (Intermediate Business) to R-3 (High Density Residential District) Thompson Creek Road.  
**{Public Hearing April 4, 2023}**
5. Ordinance No. \_\_\_\_\_  
Being an Ordinance of the City Council of Morristown, Tennessee Amending Title 13 (Property Maintenance Regulations), of the Morristown Municipal Code.  
**{Public Hearing April 4, 2023}**

### 10-c. Awarding of Bids/Contracts

1. Approve Addendum #3 to the lease for the Employee Health Clinic office space located at 1748 West Andrew Johnson Hwy, Morristown, TN to extend the current lease from November 1, 2023 to December 31, 2024 at the current monthly rent of \$1,650.

2. Approve contract between Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO) and WSP USA, Inc. for the Public Transportation Transit Center Study for ETHRA/Lakeway Transit.
3. Approve Inspection and Maintenance Agreement (I&M) with Merchants Greene Partners for property described as Merchants Greene Phase 2, Map 040, parcel 30.03, Morristown, Tennessee.
4. Approve Task Order No. 3 for Mattern & Craig with a base amount of \$61,030 to perform civil engineering services relative to site construction plans for the construction of a new Fire Station No. 3 and training facility.
5. Approve Right-of-Way acquisitions with Jeffrey and Peggy Wisecarver for the Thompson Creek Road Project Phase 2, Tracts 6 and 8 in an amount of \$165,650.00.
6. Approve photography contract with Lori Horner for Parks and Recreation Department sporting events.

**10-d. Board/Commission Appointments**

**10-e. New Issues**

**11. CITY ADMINISTRATOR'S REPORT**

**12. COMMENTS FROM MAYOR/COUNCILMEMBERS/COMMITTEES**

**13. ADJOURN**

**WORK SESSION  
March 21, 2023**

1. Hotbox Asphalt Machine

## City Council Meeting/Holiday Schedule.

April 4, 2023	Tuesday	3:30 p.m.	Finance Committee Meeting
April 4, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
April 4, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
April 7, 2023	Friday		City Center Closed – Observance of Good Friday
April 18, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
April 18, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
May 2, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
May 2, 2022	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
May 8, 2023	Monday	5:00 p.m.	Sine Die Council Meeting
May 16, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
May 16, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
May 29, 2023	Monday		City Center Closed – Observance of Memorial Day
June 6, 2023	Tuesday	3:30 p.m.	Finance Committee Meeting
June 6, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
June 6, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
June 20, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
June 20, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
July 4, 2023	Tuesday		City Center Closed – Observance of Independence Day
July 6, 2023	Thursday	4:00 p.m.	Council Agenda Review & Citizen Forum
July 6, 2023	Thursday	5:00 p.m.	Regular City Council Meeting with Work Session
July 20, 2023	Thursday	4:00 p.m.	Council Agenda Review & Citizen Forum
July 20, 2023	Thursday	5:00 p.m.	Regular City Council Meeting with Work Session
August 1, 2023	Tuesday	3:30 p.m.	Finance Committee Meeting
August 1, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
August 1, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
August 15, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
August 15, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
September 4, 2023	Monday		City Center Closed – Observance of Labor Day
September 5, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
September 5, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
September 19, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
September 19, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
October 3, 2023	Tuesday	3:30 p.m.	Finance Committee Meeting
October 3, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
October 3, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
October 17, 20223	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
October 17, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
November 7, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
November 7, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
November 21, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
November 21, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
November 23-24, 2023	Thurs/Fri		City Center Closed – Observance of Thanksgiving Holiday
December 5, 2023	Tuesday	3:30 p.m.	Finance Committee Meeting
December 5, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
December 5, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
December 19, 2023	Tuesday	4:00 p.m.	Council Agenda Review & Citizen Forum
December 19, 2023	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
December 25, 2023	Monday		City Employee’s Holiday – Observance of Christmas Day

**STATE OF TENNESSEE  
COUNTY OF HAMBLLEN  
CORPORATION OF MORRISTOWN  
March 7, 2023  
5:00 p.m.**

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. with the Honorable Mayor Gary Chesney presiding and the following Councilmembers present: Al A'Hearn, Chris Bivens, Bob Garrett, Tommy Pedigo and Kay Senter. Absent: Ken Smith.

Reverend Jacqui Griffin, Morristown Police Dept. Chaplain led in the invocation.

Councilmember A'Hearn led in the "Pledge of Allegiance".

Councilmember A'Hearn made a motion to adopt the March 7, 2023 agenda as presented. Councilmember Senter seconded the motion and upon roll call; all voted "aye".

Mayor Chesney presented the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year ending June 30, 2021 to Finance Director Michelle Woods and commended her and the Finance Department on a job well done.

Mayor Chesney opened the floor for citizens' comments related to Agenda items. No one spoke.

Councilmember A'Hearn made a motion to approve the February 21, 2023 minutes as circulated. Councilmember Senter seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion to approve Resolution No. 2023-01. Councilmember Pedigo seconded the motion and upon roll call; all voted "aye."

**Resolution No. 2023-01 Plan of Services  
Resolution adopting a Plan of Services for the annexation of  
property located at 255 Milburn Street, Morristown, TN.**

A Public Hearing was held relating to Ordinance No. 4733. No one spoke.

Councilmember Bivens made a motion to approve Ordinance No. 4733 on second and final reading. Councilmember A'Hearn seconded the motion and upon roll call; all voted "aye."

**Ordinance No. 4733**

**Entitled an Ordinance to Annex certain territory and to incorporate same within the corporate boundaries of the city of Morristown, Tennessee. Annexation of property identified as Hamblen County Parcel ID # 032047E C 00800 and currently addressed as 255 Milburn Street with the Zoning Designation of Medium-Density Residential District, R-2.**

A Public Hearing was held relating to Ordinance No. 4734. No one spoke.

Councilmember Pedigo made a motion to approve Ordinance No. 4734 on second and final reading. Councilmember Garrett seconded the motion and upon roll call; all voted “aye.”

**Ordinance No. 4734**

**Entitled an Ordinance to amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. {Rezoning of Hamblen County Tennessee Tax Parcel ID # 032034 02202, 855 Thompson Creek Road, from PCD (Planned Commercial District) to R-2 (Medium Density Residential District).**

A Public Hearing was held relating to Ordinance No. 4735. No one spoke.

Councilmember Pedigo made a motion to table Ordinance No. 4735 upon request from applicant. Councilmember A’Hearn seconded the motion and upon roll call; all voted “aye.”

**Ordinance No. 4735**

**Entitled an Ordinance to close and vacate certain rights-of-ways within the city of Morristown as located along Combs Lane in the Eastern Quadrant of the City of Morristown.**

A Public Hearing was held relating to Ordinance No. 4736. No one spoke.

Councilmember Senter made a motion to deny Ordinance No. 4736 on second and final reading due to spot zoning. Councilmember Garrett seconded the motion and upon roll call; Mayor Chesney and Councilmembers Bivens, Garrett, Pedigo and Senter voted “aye.” Councilmember A’Hearn voted “no.”

**Ordinance No. 4736**

**Entitled an Ordinance to amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. Rezoning from R-2 (Medium Density Residential) to LI (Light Industrial), parts of Tract 1R and Tract 3 of the Final Plat of Jason Leffew Property (Buffalo Trail).**



A Public Hearing was held relating to Ordinance No. 4737. No one spoke.

Councilmember Senter made a motion to deny Ordinance No. 4737 on second and final reading due to spot zoning. Councilmember Garrett seconded the motion and upon roll call; all voted “aye.”

**Ordinance No. 4737**

**Entitled an Ordinance to amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. Rezoning from R-1 (Single Family Residential) to IB (Intermediate Business), being a portion of the property addressed 644 Witt Road.**

Councilmember A’Hearn made a motion to approve Resolution No. 2023-02. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye.”

**Resolution No. 2023-02**

**A Resolution to Ratify the Amended Morristown-Hamblen Growth Plan.**

Councilmember Pedigo made a motion to approve Ordinance No. 4713.07 on its first reading and schedule a public hearing relative to final passage of said ordinance for March 21, 2023. Councilmember A’Hearn seconded the motion and upon roll call; all voted “aye”.

**Ordinance No. 4713.07**

**To amend ordinance number 4713, the City of Morristown, Tennessee annual budget for fiscal year 2022-2023 necessary to appropriate additional funds in relation to a donation, the issuance of the 2022 General Obligation Bonds for the land expansion at the Morristown- Hamblen County Landfill, a legal settlement, various operational needs, and a grant-funded airport project; and to appropriate and establish the funding source for each appropriation.**

Councilmember Senter made a motion to authorize a service agreement with GEOServices, LLC for geotechnical exploration services related to the proposed site of the new Fire Station No. 3 on Thompson Creek Road in the amount of \$11,000. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to acknowledge receipt of bids for the Landing’s HVAC Preventative Maintenance Services, accept the bid from Interstate Mechanical Services as the best and lowest bid, and authorize the City Administrator to enter into a two (2) year agreement with Interstate Mechanical Services to provide HVAC Preventative Maintenance Services totaling \$24,750.00 per year. Councilmember A’Hearn seconded the motion and upon roll call; all voted “aye”.

Councilmember A'Hearn made a motion to acknowledge receipt of bids on February 7, 2023 for the Slate Roof Replacement for Rose Center and authorize the negotiation and execution of a contract with Eskola, LLC for \$314,330. Councilmember Senter seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion of the approval to declare Public Works equipment as surplus. Councilmember Pedigo seconded the motion and upon roll call; all voted "aye".

Mayor reappointed Frank McGuffin and Ventrus Norfolk to the Morristown Regional Planning Commission for a four (4) year term to expire March 1, 2027.

Councilmember Senter made a motion to appoint Rosemary Wigington to the Civil Service Board to fill the unexpired term of Joel Hice; term expiring October 1, 2024. Councilmember A'Hearn seconded the motion and upon roll call; all voted "aye".

Councilmember A'Hearn made a motion of the approval to hire Hayden Chase Bewley, Cory Bryant, Jarod Bond, Aaron Davis, Tabitha Dykes, Aaron Greene, Ryan Johnson, and Oliver Kallal, as Entry-Level Officers for the Morristown Police Department. Councilmember Bivens seconded the motion and upon roll call; all voted "aye".

Councilmember Bivens made a motion of the approval to hire Michael Boswell as a part-time Reserve Officer for the Morristown Police Department. Councilmember A'Hearn seconded the motion and upon roll call; all voted "aye".

City Administrator Anthony Cox reported on Line-Item Transfers in the General Fund #110, Drug Fund #126, LAMTPO Fund #172, Sanitation Fund #435 and Storm Water Fund #440. He reported that the Morristown Police Department was awarded the Violent Crime Intervention Fund Grant in an amount of \$269,978.

Mayor Gary Chesney adjourned the March 7, 2023, Morristown City Council meeting at 5:34 p.m.

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Mayor

Attest:

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City Administrator



# APPROPRIATION ORDINANCE

Ordinance Number:

4713.07

To amend ordinance number 4713, the City of Morristown, Tennessee annual budget for fiscal year 2022-2023 necessary to appropriate additional funds in relation to a donation, the issuance of the 2022 General Obligation Bonds for the land expansion at the Morristown-Hamblen County Landfill, a legal settlement, various operational needs, and a grant-funded airport project; and to appropriate and establish the funding source for each appropriation.

Be it ordained by the Council of the City of Morristown Tennessee that Ordinance Number 4713 identifying the revenue and expenditure accounts of the City of Morristown contained in the annual budget for the fiscal year 2022-2023 is hereby amended and funds are herewith appropriated or adjusted as presented.

FUND	DEPARTMENT	CODE	ACCOUNT DESCRIPTION	FUND BALANCE / REVENUE		EXPENDITURES	
				Increase	Decrease	Increase	Decrease
General Fund (110)	Legal Services	41660.532	Judgement Fees & Court Costs			\$ 96,570	
General Fund (110)	Fund Balance	110.27234	Assigned - Kennebeck		\$ 53,430		
General Fund (110)	Police Patrol	42120-419	Small Tools & Equipment			\$ 1,000	
General Fund (110)	Revenue	110.34740	Donations Police	\$1,000			
General Fund (110)	Debt Service	49100-731	Debt Interest			\$ 96,550	
General Fund (110)	Revenue	110.36700	Miscellaneous	\$96,550			
General Fund (110)	Other Debt Service	49300.698	Other Debt Service			\$ 4,503,304	
General Fund (110)	Bond Expenditures	49300.605	Underwriter's Discount			\$ 46,892	
General Fund (110)	Bond Expenditures	49300.606	Other Issuance Cost			\$ 67,295	
General Fund (110)	Other Funding Sources	110.49100	Bonds Issued	\$4,500,000			
General Fund (110)	Other Funding Sources	110.49410	Premium on Bonds Issued	\$117,491			
General Fund (110)	Airport	48100-399	Other Contracted Services			\$ 175,000	
General Fund (110)	Revenue	110.33585	TDOT Aeronautics Grant	\$157,500			
General Fund (110)	Public Works	43160.971	Motor Equipment			\$ 409,000	
General Fund (110)	Revenue	110-36330	Sale of Equipment	\$220,000			
General Fund (110)	Police Administration	42110-343	Natural Gas & Propane			\$ 7,815	
General Fund (110)	Fire Administration	42110-343	Natural Gas & Propane			\$ 1,430	
General Fund (110)	Facilities Maintenance	42120.343	Natural Gas & Propane			\$ 10,000	
General Fund (110)	Public Works	43140.399	Other Contracted Services			\$ 45,000	
General Fund (110)	Public Works	43140.433	Vehicle Parts Oil Fluids Tires ect			\$ 39,100	
General Fund (110)	Public Works	43150.111	Wages & Salaries			\$ 7,550	
General Fund (110)	Public Works	43150.345	Electricity			\$ 56,500	
General Fund (110)	CDBG	46510.801	Grants & Other Subsidies			\$ 35,000	
General Fund (110)	Revenue	110.31600	Local Option Sales Tax	\$452,035			
General Fund (110)	Planning	41700.341	Electricity			\$ 88	
General Fund (110)	PW - Street Lights	43150.341	Electricity			\$ 56,453	
General Fund (110)	Parks & Rec Maintenance	44430.341	Electricity			\$ 7,677	

FUND	DEPARTMENT	CODE	ACCOUNT DESCRIPTION	FUND BALANCE / REVENUE		EXPENDITURES	
				Increase	Decrease	Increase	Decrease
General Fund (110)	Planning	41700.343	Natural Gas & Propane			\$ 1,340	
General Fund (110)	Codes Enforcement	41710.343	Natural Gas & Propane			\$ 206	
General Fund (110)	GIS	41810.343	Natural Gas & Propane			\$ 559	
General Fund (110)	Inspections	42400.343	Natural Gas & Propane			\$ 7,815	
General Fund (110)	Police Administration	42110.343	Natural Gas & Propane			\$ 1,430	
General Fund (110)	Fire Administration	42210.343	Natural Gas & Propane			\$ 3,108	
General Fund (110)	Fire Stations	42230.343	Natural Gas & Propane			\$ 612	
General Fund (110)	Facilities Maintenance	43120.343	Natural Gas & Propane			\$ 9,654	
General Fund (110)	Planning	41700.345	Telephone Services			\$ 2,765	
General Fund (110)	Codes Enforcement	41710.345	Telephone Services			\$ 1,625	
General Fund (110)	GIS	41810.345	Telephone Services			\$ 1,977	
General Fund (110)	Inspections	42400.345	Telephone Services			\$ 5,215	
General Fund (110)	Police Administration	42110.345	Telephone Services			\$ 24,464	
General Fund (110)	Fire Stations	42230.345	Telephone Services			\$ 4,390	
General Fund (110)	Firefighting	42240.345	Telephone Services			\$ 2,558	
General Fund (110)	PW - Brush & Bulk	43160.345	Telephone Services			\$ 392	
General Fund (110)	Codes Enforcement	41710.342	Water & Sewer			\$ 279	
General Fund (110)	Revenue	110.31600	Local Option Sales Tax	\$132,607			
			Totals	\$ 5,677,183	\$ 53,430	\$ 5,730,613	\$ -

PASSED ON FIRST READING THIS 7th DAY OF MARCH 2022

\_\_\_\_\_  
Mayor Signature

ATTEST:

\_\_\_\_\_  
City Administrator Signature

PASSED ON SECOND READING THIS 21st DAY OF MARCH 2023

\_\_\_\_\_  
Mayor Signature

ATTEST:

\_\_\_\_\_  
City Administrator Signature

# The City of Morristown

## Community Development & Planning



TO: Morristown City Council  
FROM: Lori Matthews  
DATE: March 21st, 2023  
REQUEST: Annexation Request

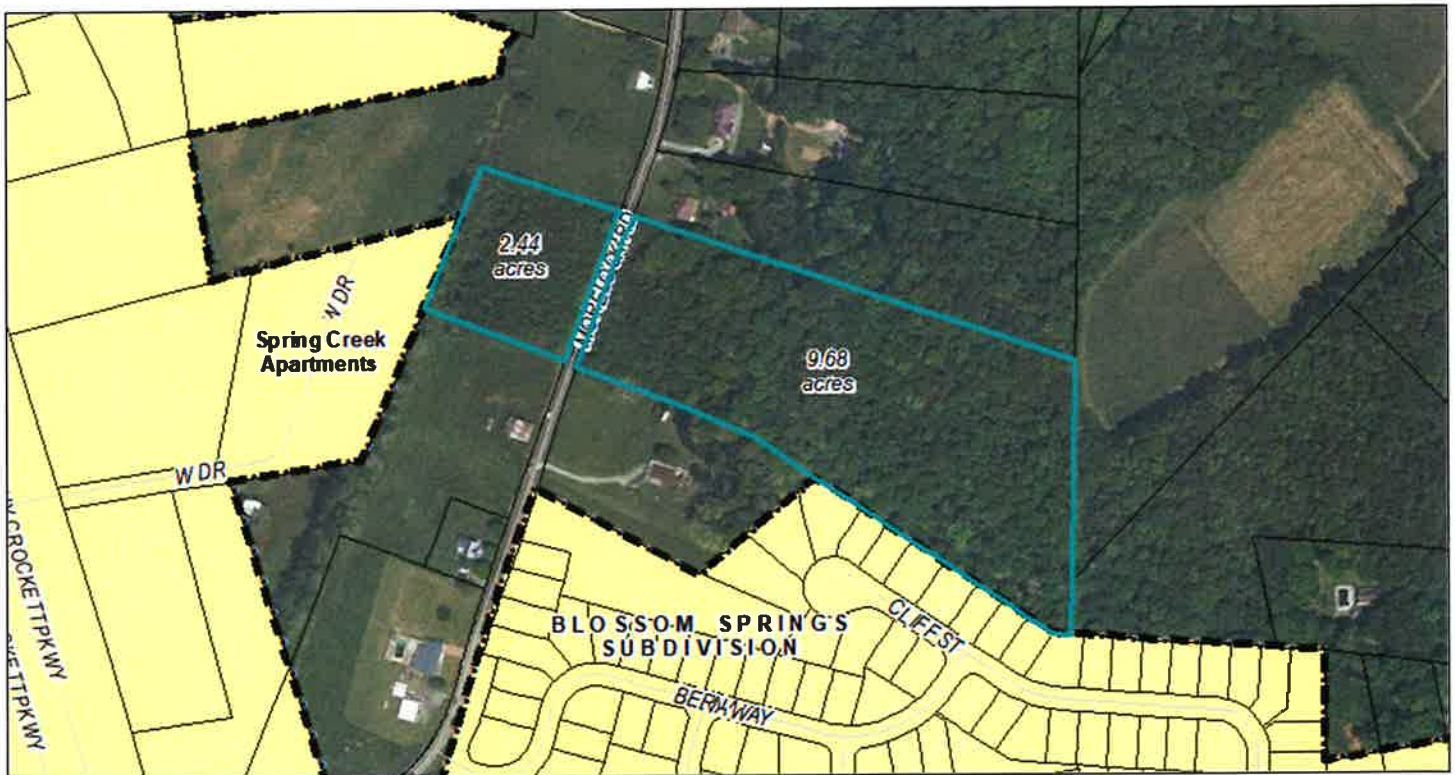
Property owner Benjamin Jarnigan is requesting his property, located along both sides of Morelock Road, in the City's Urban Growth Boundary Area, be annexed into the Morristown corporate limits. The parcel is 13 acres in size and consists of 2 lots, split by Morelock Road. Morelock Road will not be a part of this request as by doing so, would create an "annexation doughnut hole" which means pockets of unincorporated land surrounded by incorporated land.

The subject site adjoins Spring Creek Apartments to the west and Blossom Springs Subdivision to the northeast. Mr. Jarnigan is asking to bring the property into the City with an R-2 (Medium Density Residential) zoning designation, which would allow for the construction of housing.

Morristown Utilities will be the service provider for the sanitary sewer and electricity; Russellville-Whitesburg will be the service provider for water.

### **RECOMMENDATION:**

As the request area is within the City's Urban Growth Boundary; and it is contiguous to current City limits; and the annexation of said property will not include Morelock Road, Staff is in favor of the annexation. The Planning Commission voted to forward the request and the Plan of Services on to City Council for approval.



ORDINANCE NO. \_\_\_\_\_  
ENTITLED AN ORDINANCE TO ANNEX CERTAIN TERRITORY AND TO  
INCORPORATE SAME WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF  
MORRISTOWN TENNESSEE

*Annexation of property currently located along either side of Morelock Road, having been  
assigned Hamblen County Parcel ID # 025 15900 000, the general location being shown  
of the attached exhibit A;*

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Section 1. WHEREAS , it now appears that the prosperity of the City and of the territory herein  
described shall be materially retarded and the safety and welfare of inhabitants and property  
owners thereof endangered if such territory is not annexed; and

Section II. WHEREAS, the annexation of such territory is deemed necessary for the welfare of  
the residents and property owners thereof and the City as a whole;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
MORRISTOWN;

(1) PURSUANT to authority conferred by Section 6-15:102 of the Tennessee Code Annotated,  
there is hereby annexed to the City of Morristown Tennessee and incorporated within the  
corporate boundaries thereof, the following described territory adjoining the present corporate  
boundaries:

*Being a 13.36 acre tract, having Hamblen County Tax ID # 025 15900 000, located along both  
sides of Morelock Road in Hamblen County Tennessee and the location being shown on Exhibit  
A;*

(2) Medium Density Residential District (R2) zoning shall be applied upon adoption of the  
annexation area.

(3) This Ordinance shall become operative thirty days after its passage or as otherwise provided  
for in Chapter 113, Public Acts of Tennessee, 1955.

(4) This Ordinance shall become effective from and after its passage, the public welfare requiring  
it.

Passed on first reading the 21st day of March 2023.

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Mayor

ATTEST:

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City Administrator



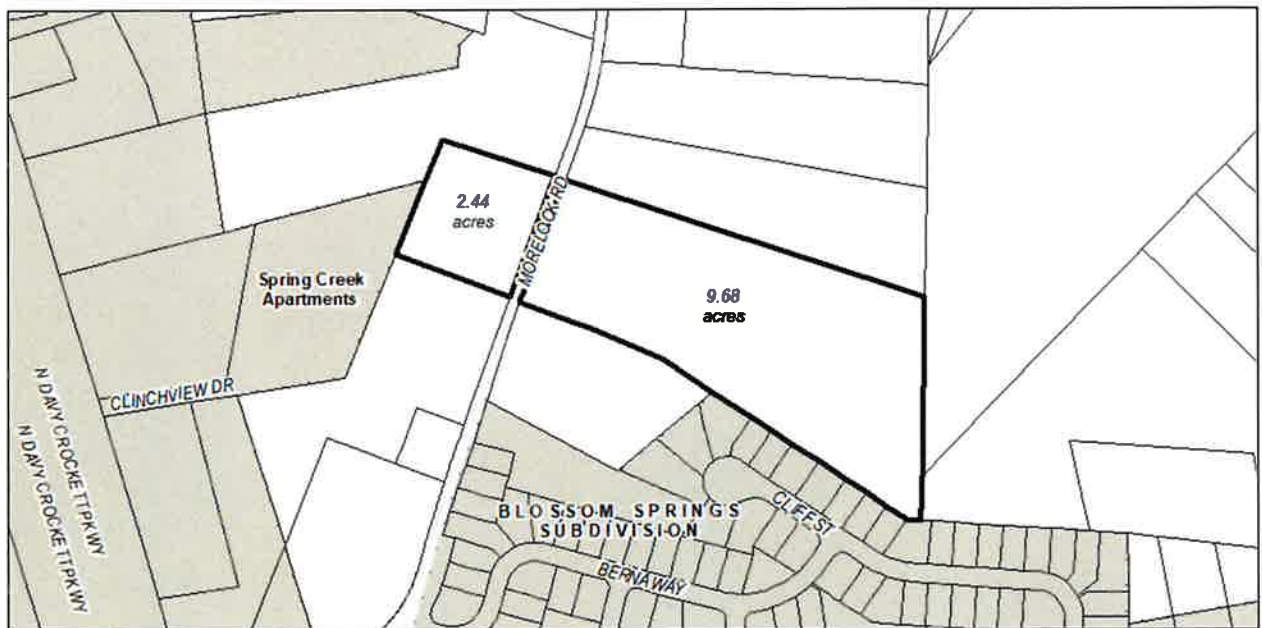
Passed on second and final reading the 4th day of April 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

Exhibit A:





## **PLAN OF SERVICES**

**RESOLUTION NO. \_\_\_\_\_**

### **RESOLUTION ADOPTING A PLAN OF SERVICES FOR THE ANNEXATION OF 255 MILBURN STREET.**

RESOLUTION ADOPTING A PLAN OF SERVICES FOR THE ANNEXATION OF APPROXIMATELY 12.1 ACRES LOCATED OFF OF MORELOCK ROAD WITHIN HAMBLLEN COUNTY TENNESSEE,

WHEREAS, TENNESSEE CODE ANNOTATED, TITLE 6, CHAPTER 51, AS AMENDED REQUIRES THAT A PLAN OF SERVICES BE ADOPTED BY THE GOVERNING BODY.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND COUNCIL OF THE CITY OF MORRISTOWN, TENNESSEE:

Property identified as Hamblen County Parcel ID # 025 15900 000, located along the east and west side right-of-way lines of Morelock Road, the general location being shown on the attached exhibit A;

**Section I.** Pursuant to the provisions of Title 6, Chapter 51, Tennessee Code Annotated, there is hereby adopted, for the area bounded as described above, the following plan of services.

#### **Police Protection**

Patrolling, radio responses to calls, and other routine police services using present personnel and equipment will be provided upon the effective date of annexation.

#### **Fire Protection**

Fire protection by the present personnel and the equipment of the fire fighting force, within the limitations of available water and distances from fire stations, will be provided upon the effective date of annexation. Water for fire protection to serve the substantially developed annexed area(s) will be provided in accordance with current policies of Russellville-Whitesburg Utility District unless authorized by franchise agreement with another utility district which has made service available with capabilities to meet City of Morristown Fire Protection Standards. Any extension of water system infrastructure beyond that of the Russellville-Whitesburg Utility District policies shall be at the expense of the property owner or developer.

#### **Water Service**

Russellville-Whitesburg Utility District will extend service to properties within its jurisdiction in accordance with the regulations and extension policies of the Russellville-Whitesburg Utility District.

#### **Sanitary Sewer Service**

Morristown Utilities will extend service to properties within its jurisdiction in accordance with the regulations and extension policies of Morristown Utilities Commission.

#### **Electrical Service**

Electrical service for domestic, commercial and industrial use will be provided at city rates for new lines as extended in accordance with current policies of Morristown Utility Commission. In those parts of the annexed area presently served by another utility cooperative, the above conditions or terms will begin with the acquisition by the city of such cooperatives or parts thereof, which may be delayed by negotiations and/or litigation.

**Refuse Collection**

The same regular refuse collection service now provided within the City will be extended to the annexed area sixty days following the effective date of annexation.

**Streets**

Reconstruction and resurfacing of streets, installation of storm drainage facilities, construction of curbs and gutters, and other such major improvements, as the need therefore is determined by the governing body, will be accomplished under current policies of the city. Traffic signals, traffic signs, street markings and other traffic control devices will be installed as the need therefore is established by appropriate study and traffic standards. Street name signs where needed will be installed as new street construction requires.

**Inspection Services**

Any inspection services now provided by the City (building, electrical, plumbing, gas, housing, sanitation, etc.) will begin upon the effective date of annexation.

**Planning and Zoning**

The planning and zoning jurisdiction of the City will apply to the annexed area in conjunction with the effective date of annexation.

**Street Lighting**

Street lights will be installed in accordance to City policies.

**Recreation**

Residents of the annexed area may use all existing recreational facilities, parks, etc., on the effective date of annexation. The same standards and policies now used in the present city will be followed in expanding the recreational program and facilities in the enlarged city.

**Miscellaneous**

Fibernet will be installed per the current Morristown Utility System policy.

**Section II.** This Resolution shall become effective from and after its adoption.

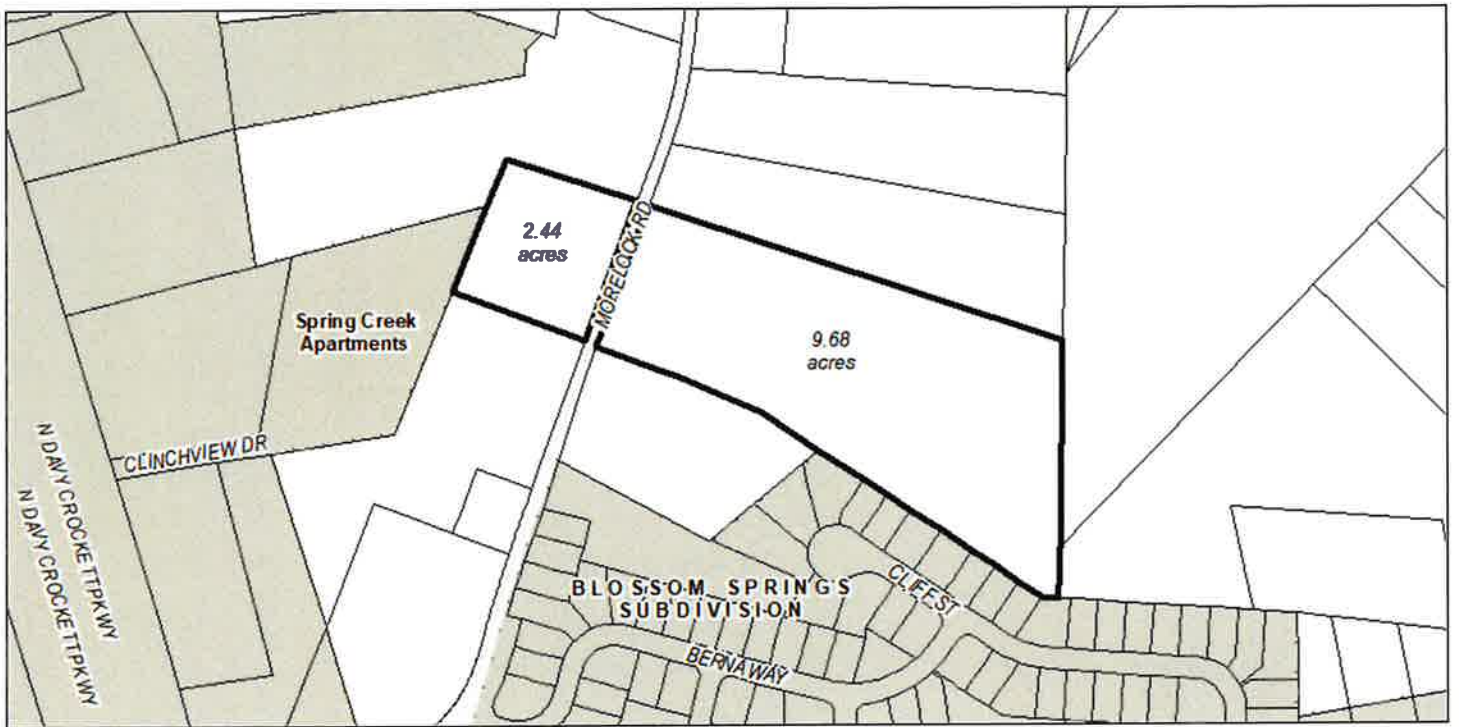
Passed on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

Exhibit A:



# The City of Morristown

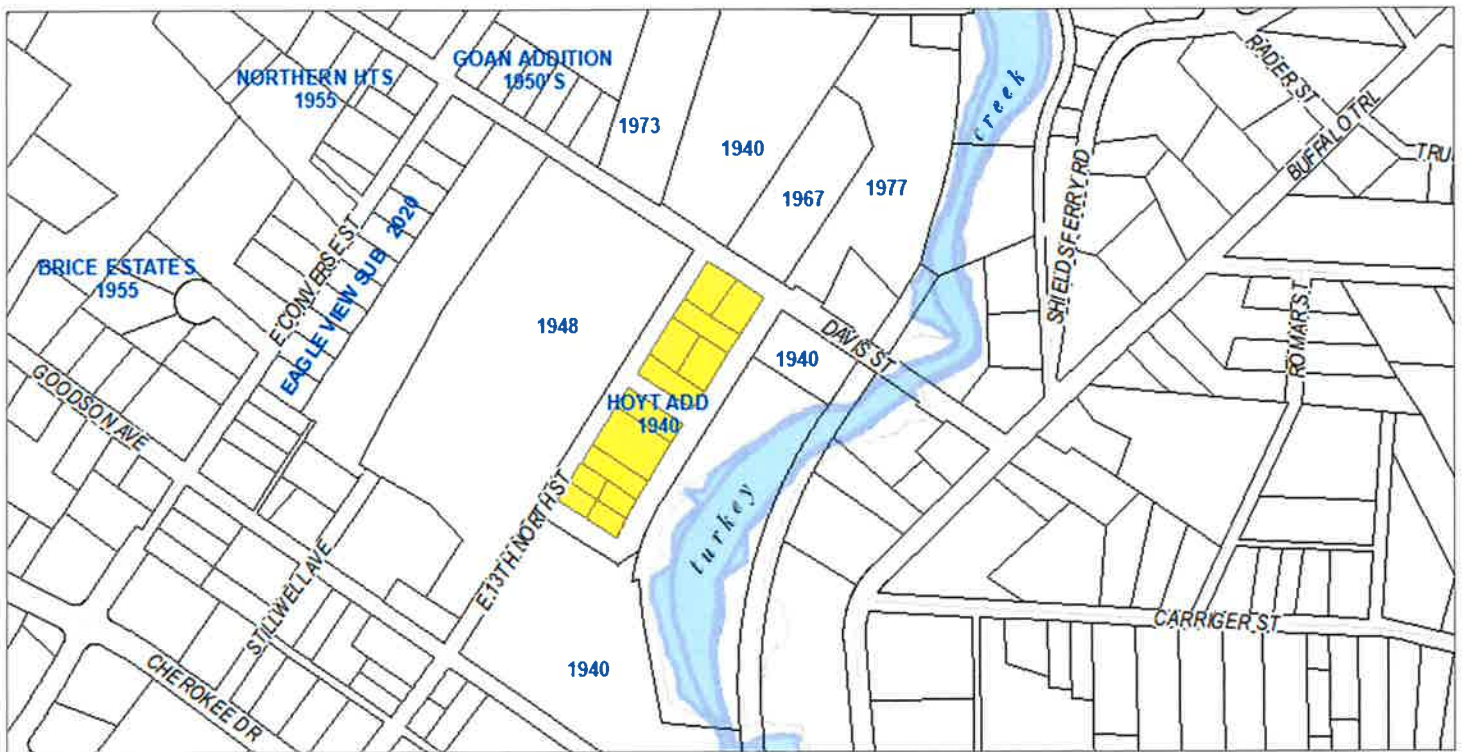
## Community Development & Planning



TO: Morristown City Council  
FROM: Lori Matthews  
DATE: March 21st, 2023  
REQUEST: City Initiated Rezoning of Properties between East 13<sup>th</sup> North Street and Macarthur Streets

The Morristown Planning Department has received requests to rezone properties located between East 13<sup>th</sup> North Street and Macarthur Street, from LI (Light Industrial) to R-2 (Medium Density Residential). Staff has been communicating with property owners within this same neighborhood over the past year, asking them to request this very action, in an attempt to correct the zoning.

The boundary of the request area includes those lots between East 13<sup>th</sup> North Street (to the north), Macarthur Street (to the south) and Davis Street (to the northeast), all shown in yellow below. The subject area, roughly 2.3 acres in size, contains thirteen lots and eight single family residential houses. Of the thirteen lots, only four are owner-occupied. Also included is a portion of right-of-way which was once part of Clinch Avenue.

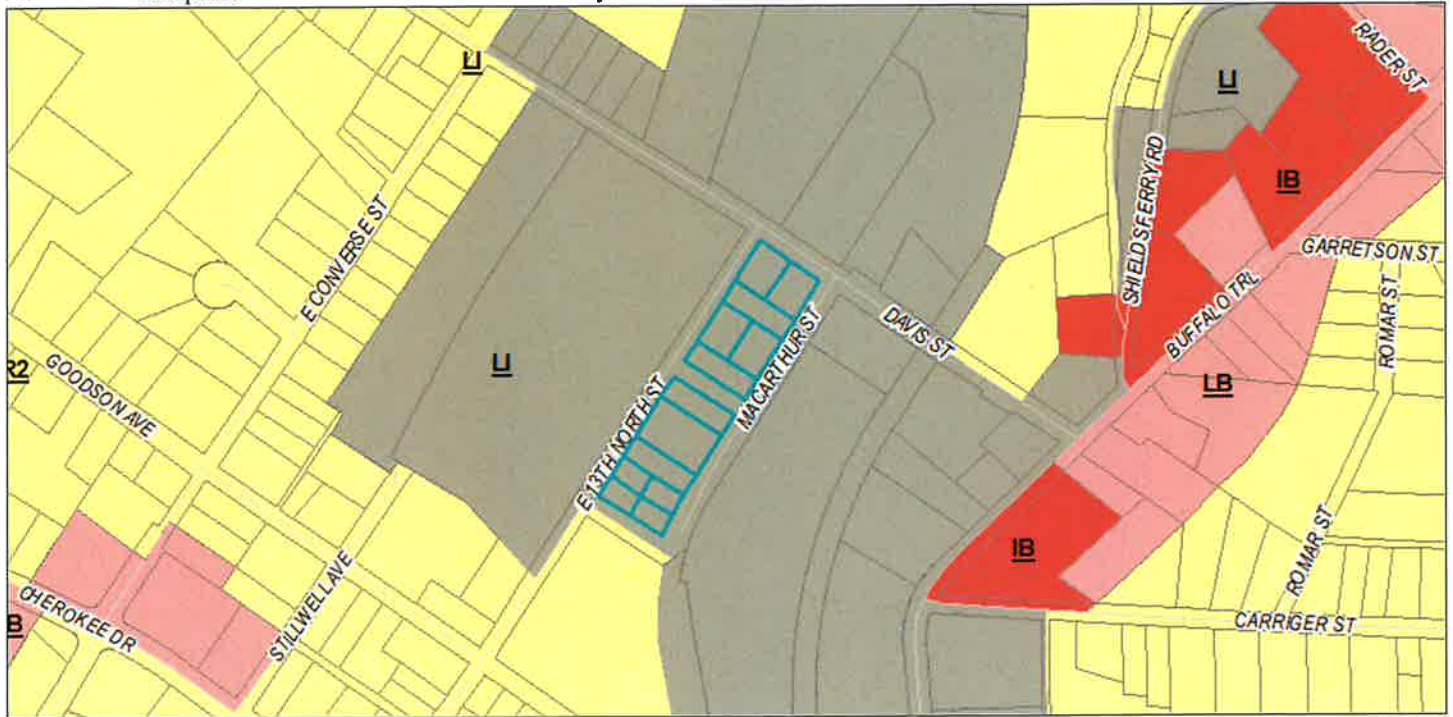


Subject Area and Surrounding Dates of Construction/Development

The lots, created as part of the Hoyt Addition subdivision in 1940, appear to have been platted with single family homes in mind, as the majority of lots at that time were 50 feet by 150 feet (7,500 square feet). However, the City of Morristown adopted its first Zoning Ordinance and Map in 1948, which shows a portion of the Hoyt Addition zoned as Light Industrial (LI). Strangely enough, after researching some building dates within the area, the (former) Team Technologies building which adjoins the subject properties to the north, was built in 1948. Coincidental or not, the industrial zoning boundary has remained virtually unchanged in this area since 1948.



Also over time, owners have divided some of these properties into smaller lots, some only 3,700 square feet in size. Staff feels none of the lots is of adequate size in which to accommodate any industrial land use.



#### Current Zoning Map

The primary reason behind the City initiated rezoning is to save the existing housing units within this area. Property zoned as Light Industrial does not allow housing; therefore, should any of the housing units fall into disarray or be vacated, the property would not be allowed to continue the residential use, but would instead be required to be used for industry/manufacturing uses. Rezoning these properties to R-2 would allow the existing residences to stay, and more be built in the future.

#### **STAFF RECOMMENDATION:**

Staff is in support of this rezoning; the Planning Commission voted unanimously to forward the request on to City Council for approval.

#### Original Neighborhood Plat (circa 1940)





ORDINANCE NO. \_\_\_\_\_,

ENTITLED AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF MORRISTOWN, TENNESSEE, APPENDIX B.

*{Rezoning of Lots 1-12, Block 7 and Lots 1-12, Block 8 as shown on the Map (plat B, page 55) of the Hoyt Addition belonging to W.E. Hodges and Geo. O. Barnard, recorded in Hamblen County and, the general location being shown on the attached exhibit A.}*

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 Light Industrial (LI) to R-2 (Medium Density Residential),

*Lots 1-12, Block 7 and Lots 1-12, Block 8 as shown on the Map (plat B, page 55) of the Hoyt Addition belonging to W.E. Hodges and Geo. O. Barnard, recorded in Hamblen County and, the general location being shown on the attached exhibit A*

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 Medium Density Residential District (R-2) 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 21st day of March 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

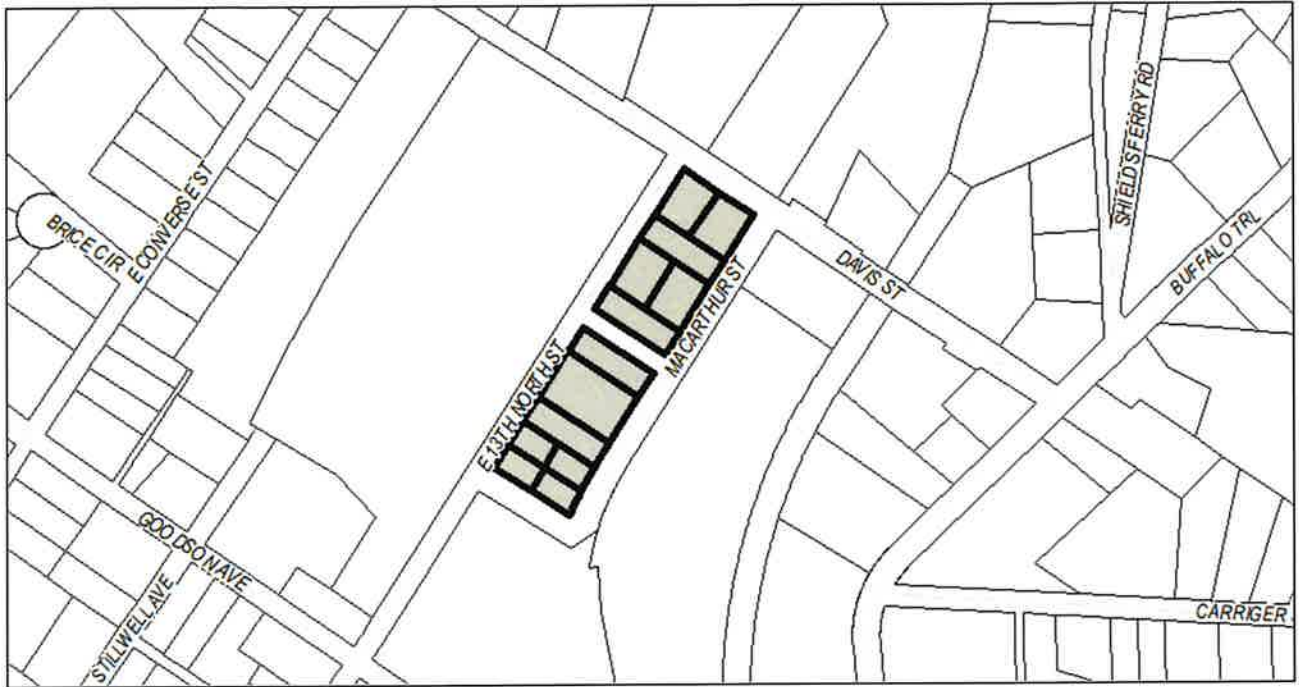
Passed on second and final reading the 4th day of April 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

Exhibit A



# The City of Morristown

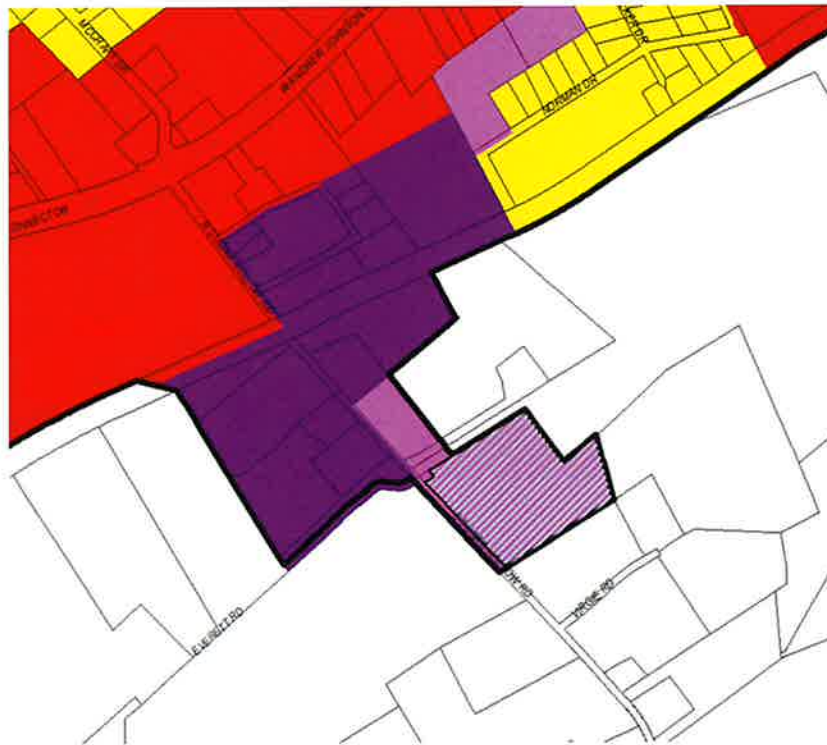
## Community Development & Planning



TO: Morristown City Council  
FROM: Josh Cole, Planner  
DATE: March 21<sup>st</sup>, 2023  
SUBJECT: Rezoning Request from LI to HI  
S. Sugar Hollow Road

### **BACKGROUND:**

Staff has received a request from the applicant, Joe Parrott, on behalf of the property owner, Rock Solid Poured Concrete, to rezone property located at on S. Sugar Hollow from LI (Light Industrial District) to HI (Heavy Industrial District). Per discussion with the applicant, the owner is seeking to use this property for a concrete plant.



This properties to the north and south are zoned Light Industrial, the property to the west is outside of the City limits but is zoned Hamblen County's Industrial District (I-1), and it has Heavy Industrial just to the northwest of this property.

### **RECOMMENDATION:**

This property has similar zoning and land uses nearby. Thus, staff recommends the rezoning to HI and Planning Commission voted in support of this request at their March meeting.

ORDINANCE NO. \_\_\_\_\_,  
ENTITLED AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF  
MORRISTOWN, TENNESSEE, APPENDIX B.  
*{Rezoning of Hamblen County Tennessee Tax Parcel ID # 032041 01005 from LI (Light Industrial  
District) to HI (Heavy Industrial District), the general location being shown on the attached exhibit  
A.}*

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 IB (Intermediate Business District) to R-3 (High Density Residential District),

*BEGINNING at an iron rod in the northern margin of the right of way of Sugar Hollow Road thence with the margin of said right of way, North 43 deg. 32 min. 37 sec. West 469.94 feet to an iron rod; thence leaving said right of way, North 57 deg. 59 min. 55 sec. East 24.59 feet to a pipe; thence North 33 deg. 59 min. 55 sec. West 33.51 to an iron rod; thence North 57 deg. 59 min. 55 sec. East 452.09 feet to an iron rod; thence South 37 deg. 01 min. 29 sec. East 259.65 feet to an iron rod; thence North 51 deg. 18 min. 06 sec. East 176.22 feet to an iron rod; thence South 15 deg. 42 min. 40 sec. East 263.45 feet to a rock; thence South 57 deg. 39 min 49 sec. West 505.55 to the point of BEGINNING.*

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 Industrial District (HI) 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 21st day of March 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

Passed on second and final reading the 4th day of April 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

Exhibit A:





# The City of Morristown

## Community Development & Planning

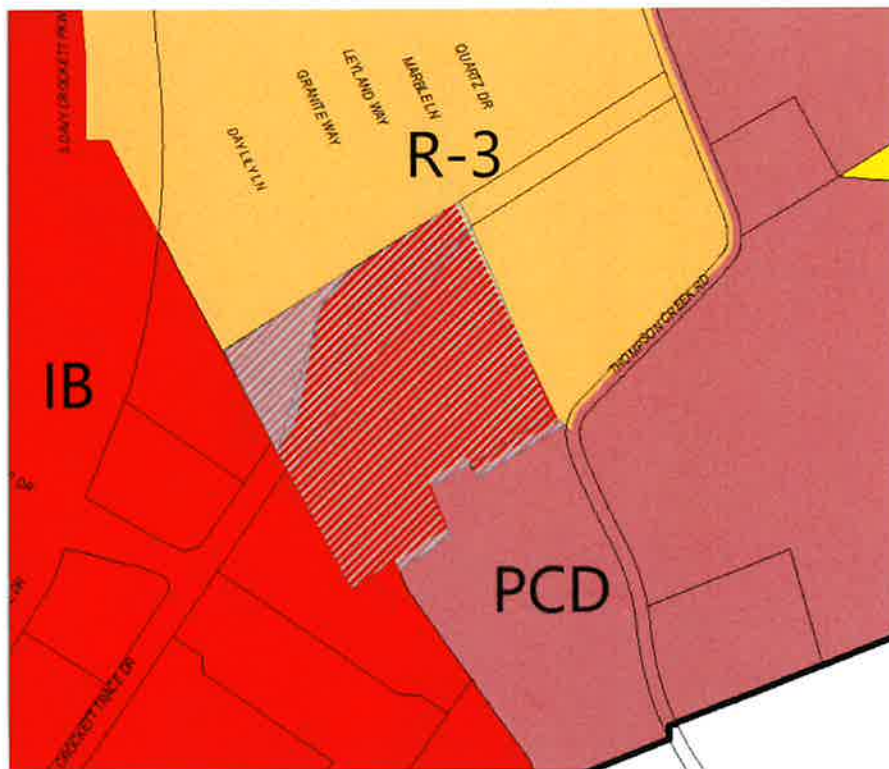


TO: Morristown City Council  
FROM: Josh Cole, Senior Planner  
DATE: November 15<sup>th</sup>, 2022  
SUBJECT: Rezoning Request from PCD to R-2  
Thompson Creek Road

### **BACKGROUND:**

Staff has received a request from the property owner, Thompson Creek Road Storage, to rezone property located on Thompson Creek Road from IB (Intermediate Business District) to R-3 (High Density Residential District). The applicant originally had this property rezoned from PCD (Planned Commercial District) to IB as they sought to use it for self-storage; however, they are now seeking to use this and the adjoining property to the east for the Universal at Thompson Creek Phase 2.

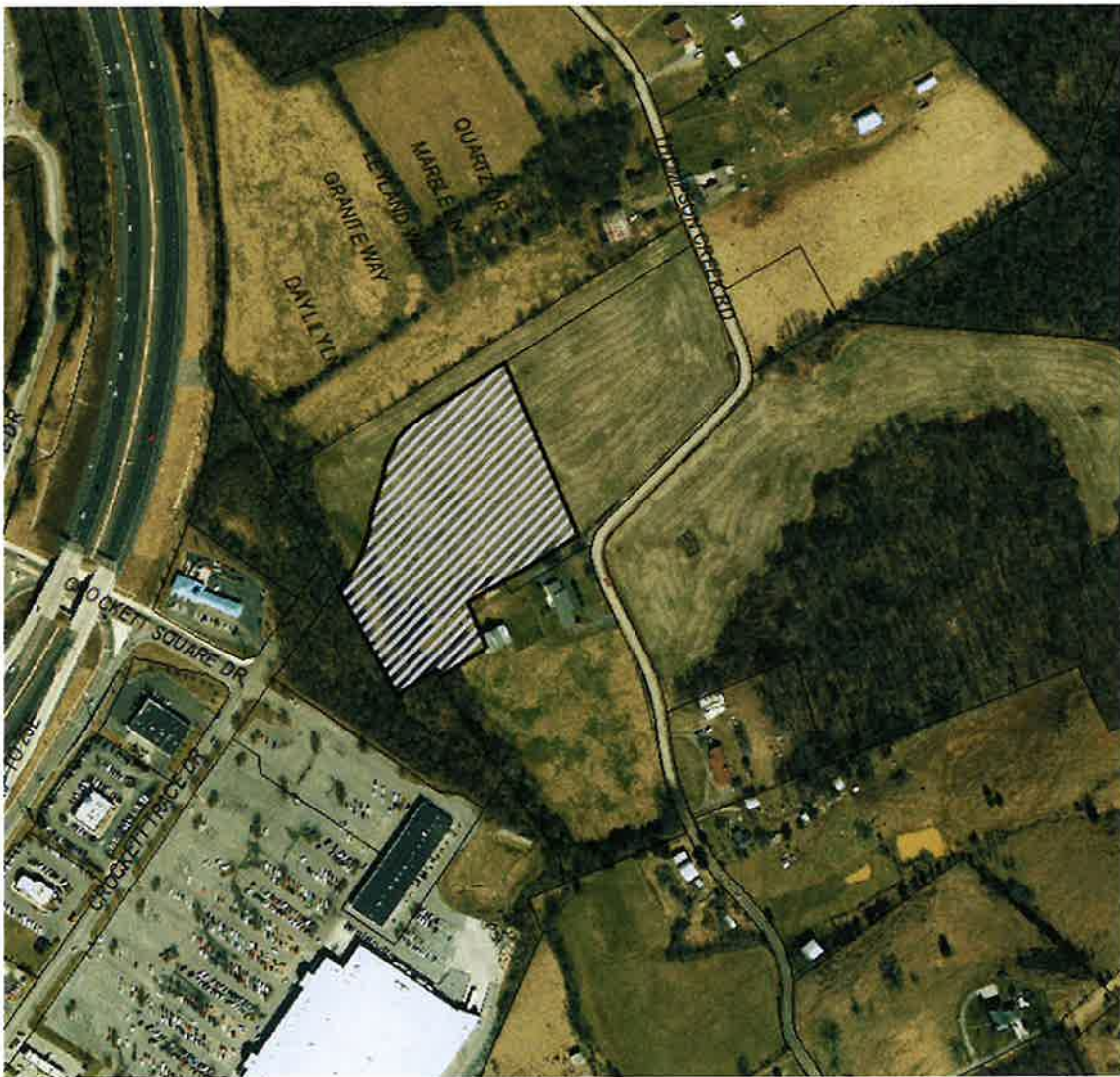
This property is 5.45 acres in size and is currently vacant. The property to the north contains the first phase of the Universal at Thompson Creek consisting of 300 multifamily units and zoned R3, the property to the east is vacant and is zoned R-3 (High Density Residential District), the property to south is vacant and zoned PCD, and the properties to the west are zoned Intermediate Business containing commercial developments.



Based on the concept plan, the applicant is proposing 171 multi-family units on 10.48 acres which is 16.3 units per acre and under the maximum of 20 units that is permissible in this district. It should be noted that prior to any development on this site, the applicant must submit a site plan that meets all applicable city requirements.

**RECOMMENDATION:**

Thompson Creek Road not seen the commercial growth that was one proposed; however, due to the ongoing road improvements, the nearby commercial properties, Walter's State Community College, and Frank Lorino park, this road is prime for continued residential growth. Thus, staff recommends the rezoning to R-3 and Planning Commission voted in support of this request at their March 14 meeting.



ORDINANCE NO. \_\_\_\_\_,

ENTITLED AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF MORRISTOWN, TENNESSEE, APPENDIX B.

*{Rezoning of Hamblen County Tennessee Tax Parcel ID # 032034 02204 from IB (Intermediate Business) to R-3 (High Density Residential District), the general location being shown on the attached exhibit A.}*

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 IB (Intermediate Business District) to R-3 (High Density Residential District),

*BEGINNING at the point of intersection of Parcel 022.00 of Hamblen County Tax Map 034, Parcel 022.04 of Hamblen County Tax Map 034, and 021.11 of Hamblen County Tax Map 034 and heading in a northerly direction along the boundary line to the point of intersection of Parcel 021.00 of Hamblen County Tax Map 034 and Parcel 022.00 of Hamblen County Tax Map 034; Thence in an easterly direction along the boundary line to the point of intersection Parcel 022.03 of Hamblen County Tax Map 034, Parcel 021.00 of Hamblen County Tax Map 034, and Parcel 022.00 of Hamblen County Tax Map 034; Thence in a southerly direction along the boundary line to the point of intersection of Parcel 022.03 Hamblen County Tax Map 034; Parcel 022.04 of Hamblen County Tax Map 034, and Parcel 022.00 of Hamblen County Tax Map 034; Thence following the common boundary shared by Parcel 022.00 of Hamblen County Tax Map 034 and Parcel 022.04 of Hamblen County Tax Map 034 to the point of BEGINNING.*

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 High Density Residential District (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 21st day of March 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator



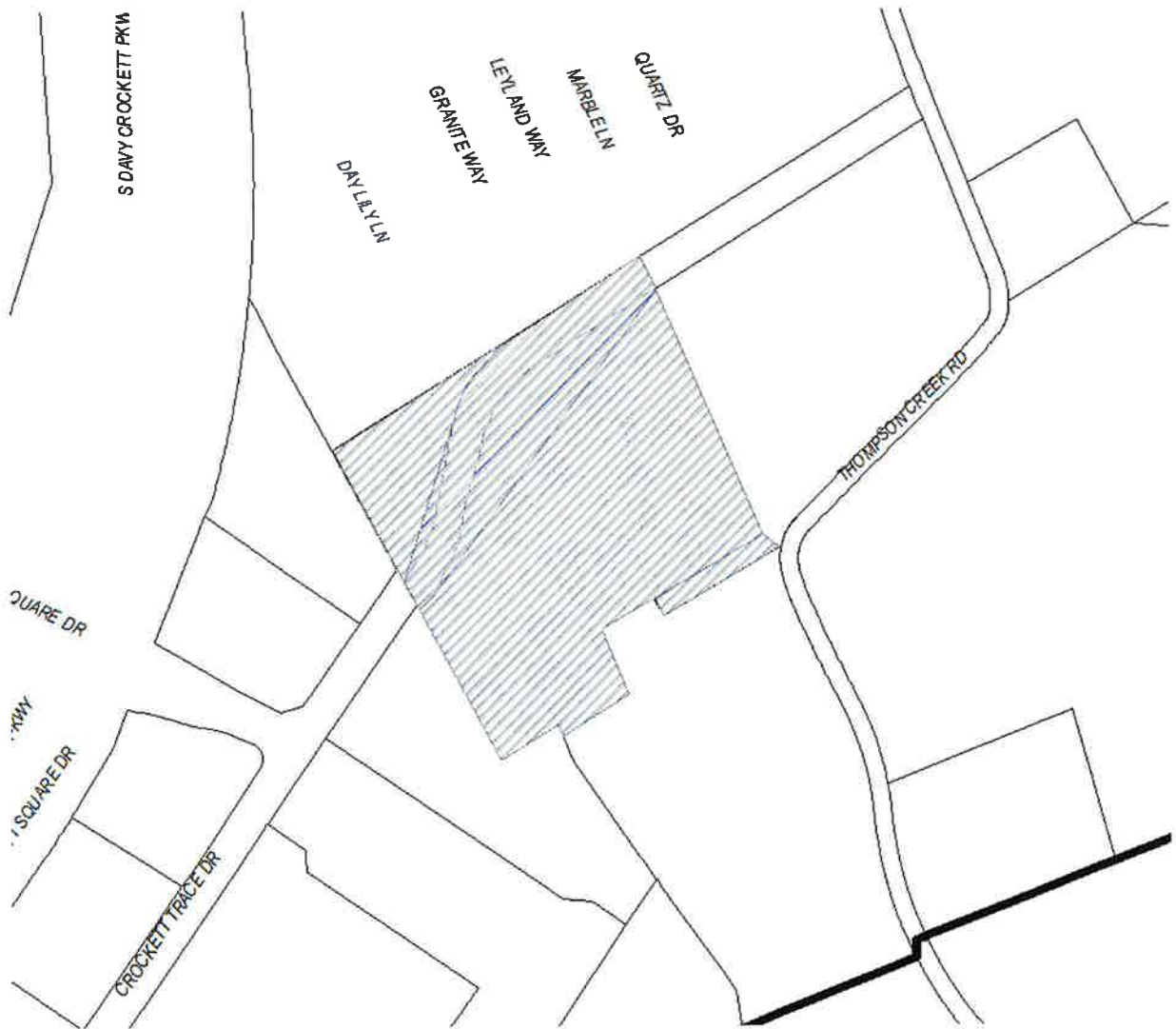
Passed on second and final reading the 4th day of April 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

Exhibit A:



# The City of Morristown

## Community Development & Planning



TO: Morristown City Council  
FROM: Steve Neilson, Development Director  
DATE: March 21, 2023  
REQUEST: Title 13- Property Maintenance Regulations

The proposed amendments to the Property Maintenance Regulations were presented to the City Council at its February 21<sup>st</sup> Work Session. It includes new definitions of “Junked Yards” and “Recreational Vehicle.” These are terms listed in the Code but were not defined.

***Junked yard*** shall mean a yard (front, back or side), tract, parcel or lot within the corporate limits which has debris, litter, garbage (bagged, including food products), household items (such as refrigerators or other appliances, furniture, upholstery, cabinets, bathroom or kitchen fixtures, etc.), paper products, chemicals/ chemical containers, construction materials (such as wood, boards, dry wall, pipes, brick, etc.), auto parts (such as tires on or off rims, mufflers, doors etc.), cloth or clothing strewn about or piled whether in a yard, carport, deck or porch area. Items covered with a tarp shall not be adequate for compliance.

***Recreational Vehicle*** is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

The proposed amendments also clarify enforcement of junk cars and nuisance properties and the associated processes to remove junk cars if necessary and to apply liens to properties the City contractor remedied.

Further, the ordinance change provides alignment with the recent creation of the Property Maintenance Board of Appeals as the body to which violators may appeal.

### **RECOMMENDATION:**

Staff recommends approval of the proposed text amendment.



## TITLE 13 - PROPERTY MAINTENANCE REGULATIONS<sup>[1]</sup>

### Footnotes:

--- (1) ---

**Cross reference**— Toilet facilities in beer places, § 8-213(12); animal control, title 10; littering streets, etc., § 16-107; wastewater treatment, title 18, ch. 2.

**Charter reference**— Contagious disease control, § 5(4); general health, nuisances, etc., § 5(6); inspection of food and drink, § 5(18); inspection of lard, butter, etc., regulation of vending of meats and vegetables, § 5(19); sewer connections: authority to prohibit cesspools, privies, etc., § 5(27); milk and dairy products, § 5(28).

## CHAPTER 1 - GENERAL PROPERTY MAINTENANCE<sup>[2]</sup>

### Footnotes:

--- (2) ---

**Editor's note**— Ord. No. 3528, adopted November 3, 2015, repealed the former chapter 1, §§ 13-101—13-109, and enacted a new chapter 1 as set out herein. The former chapter 1 pertained to miscellaneous and derived from 1979 Code, §§ 8-101, 8-104, 8-106, 8-107, 8-109—8-113; Ord. No. 2612, 12-1990; Ord. No. 3429, 11-2011.

**Charter reference**— Contagious disease control: § 5(4). General health, nuisances, etc.: § 5(6). Inspection of food and drink: § 5(18). Inspection of lard, butter, etc., regulation of vending of meats and vegetables: § 5(19). Milk and dairy products: § 5(28). Sewer connections: authority to prohibit cesspools, privies, etc.: § 5(27).

**Cross reference**— Animal control: title 10. Littering streets, etc.: § 16-107. Toilet facilities in beer places: § 8-213(12). Wastewater treatment: title 18, chapter 2.

### Sec. 13-101. - Health officer and codes enforcement officer.

The "health officer" and "codes enforcement officer" shall be such city, county, or state officer(s) as designated by the city administrator ~~shall appoint or designate~~ to administer and enforce health and sanitation regulations and/or municipal code sections within the city. These officers are designated as special police officers pursuant to T.C.A. § 7-63-101, et seq., by the city administrator and/or city council and specifically ~~has~~ **have** the authority to issue citations in lieu of arrest for violations of this title.

( Ord. No. 3528 , 11-3-2015; Ord. No. 3644 , 10-1-2019)

### Sec. 13-102. - Smoke, soot, cinder, etc.

It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

( Ord. No. 3528 , 11-3-2015 )

### Sec. 13-103. - Stagnant water.

It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

( Ord. No. 3528, 11-3-2015 )

Sec. 13-104. - Weeds and grass.

It is unlawful for the owner, lienholder, occupant or any person or persons, agent, firm, corporation, other legal entity, lessee, or agent having control or management of any real property within the city to permit, allow or maintain grass, weeds or uncultivated vegetation exceeding a height of 12 inches or more above the ground and such a condition is hereby declared to be a public nuisance. It is a duty to cut or remove grass, weeds or uncultivated vegetation from the real property including up to and along the traveled portion of the street or public right-of-way. It shall be unlawful for any person to fail to comply with an order by the city codes enforcement or health officer to cut or remove such vegetation. (Referenced and adopted from The International Property Maintenance Code, 2012 Edition, published by the International Code Council, Inc.)

( Ord. No. 3528, 11-3-2015 )

Sec. 13-105. - Removal of vegetation and debris from certain lots.

- (a) (1) Real property means any improved land, unimproved land, graveled areas, private roadways, driveways or premises. Owners are required to maintain their property in such a manner as to not endanger the health, safety or welfare of other citizens, or creates such conditions where such growth provides a harbor for rats, mosquitoes or other vermin **whether the vegetation/ debris is in public view or not.**
- (2) Grass, weeds and uncultivated vegetation means and includes all weeds, grasses, plants, bushes, vines, poison oak, poison ivy and other vegetation not cultivated, whether living or dead, except vegetation for the purpose of conservation or preventing erosion, trees, ornamental shrubbery, ornamental grass, flowers, garden vegetables or other plants or vegetables customarily planted and/or cultivated by farmers or gardeners.
- (3) Notwithstanding any other requirements and conditions set out in this section, no owner, lienholder, occupant or any person or persons, agent, firm, corporation, other legal entity, lessee or agent having control or management of any land or premises shall allow or permit any plant growth of any sort to remain in such a manner as to render the streets, alleys, sidewalks or public ways adjoining said land or premises unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public street, alley, sidewalk or public way.
- (b) (1) Upon failure of any owner of property within the city to cut, have cut or remove such growth of grass, weeds and uncultivated vegetation or to remove or have removed such accumulations of debris, trash, litter, garbage, refuse or other materials as described herein, it shall be the duty of the codes enforcement officer, or such other persons as are designated, to serve notice on the owner, lessee, occupant or person having control of such real property, ordering the person to remedy the condition within ten days, including weekends, of the service of such notice; provided, however, that, if the person who is the owner of record of the property is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage or other materials, then the notice required under this section shall allow such owner of record 20 days, excluding Saturdays, Sundays and legal holidays, to comply with the order. Such notice may be served by any one or more of the following methods:
  - a. Personally delivering the notice to the owner, lessee, occupant or person having control of such real property;
  - b. Mailing the notice to the last known address of such owner, lessee, occupant or person having control of such property by first class, United States mail; or

- c. Posting the notice on the property on which such conditions described exist.
- (2) Service of notice by any of the methods set out in subsection (b)(1) of this section shall be due notice within the meaning of this article; provided, however, that no owner out of possession shall be liable to the penalty imposed of this code unless there shall be personal service of such notice upon him or such notice mailed to him by first class, United States mail as provided in this section.
- (3) For purposes of this section, service of notice shall occur:
  - a. If notice is personally delivered to the owner, lessee, occupant or person having control of such property, on the date such delivery is made;
  - b. If notice is mailed to the last known address of the owner, lessee, occupant or person having control of such property, three days after the notice is deposited in the mail, properly addressed and with sufficient postage to carry it to its destination; or
  - c. If notice is posted on the property, on the date the notice is posted.
- (4) The notice required under this section shall state that the owner, lessee, occupant or other person having control of such property is entitled to a hearing. The notice shall be written in plain language and shall also include but not be limited to the following elements:
  - a. A brief statement of this article, which shall contain the consequences of failing to remedy the noted condition;
  - b. The person, office, address and telephone number of the department or person giving notice;
  - c. A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing. Failure to make the request within the time specified in this article shall, without exception, constitute a waiver of the right to a hearing.
- (c) *Appeals.* Any owner, lessee, occupant or person having control of property aggrieved by the determination and order of an officer under this article may appeal therefrom to the ~~city administrator, or such other person as is designated,~~ **Property Maintenance Board of Appeals** within ten days from the date of service of the notice; provided, however, that if the owner of record of any such aggrieved property is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage or other materials such appeal may be taken within 20 days from the date of the service of the notice. Such appeal shall be taken by filing with the ~~administrator~~ **Property Maintenance Board of Appeals** a notice of appeal stating in brief and concise form the grounds therefor. The ~~administrator~~ **Property Maintenance Board of Appeals** shall hear and determine such appeal as promptly as practicable, but within ~~ten~~ **twenty** calendar days of the filing of the appeal, except upon written application for an extension of time by the appellant, who shall recite reasons satisfactory to the ~~administrator~~ **Property Maintenance Board of Appeals** before such extension may be granted. The ~~administrator~~ **Property Maintenance Board of Appeals** shall have the power to affirm, reverse or modify the order of the officer. The ~~administrator's~~ **Property Maintenance Board of Appeals** decision, together with the reasons therefor, shall be in writing and maintained as a public record. An owner, lessee, occupant or person having control of the property who fails, refuses or neglects to comply with the order of the officer, as modified by the ~~administrator~~ **Property Maintenance Board of Appeals**, shall be in violation of the provisions of this article. Appeal from the decision of the ~~administrator~~ **Property Maintenance Board of Appeals** shall be provided by law in cases or certiorari.
- (d) (1) If the owner or such other person described in section 13-104 shall fail to remedy such conditions within the time prescribed in that section, unless an appeal is made, the codes enforcement officer shall take such action as is necessary to remedy the conditions and abate the nuisance **and certify the cost to the city tax collector, who shall place the cost per section 13-105 (e) upon the tax rolls as a lien upon the affected property, which cost shall then be collected in the same manner as the city taxes are collected.** ~~the total cost to be billed to the owner.~~ Upon failure of the owner to remit to the director of finance the amount of such ~~charge cost~~ within 60 days from the date of such notice, **a ten percent penalty and filing fees for the lien shall be added and the total amount of the bill and the penalty shall be certified to the director of finance by the codes enforcement**



~~officer and the lien shall be recorded in the office of the register of deeds for the county in the same manner as other liens are required to be filed and shall constitute a lien upon the property for which the expenditure is made.~~

~~(2) The city codes enforcement officer shall:~~

- ~~a. Certify the cost to the city tax collector, who shall place the cost upon the tax rolls as a lien upon the affected property, which cost shall then be collected in the same manner as the city taxes are collected; and~~
- ~~b. Note the lien in favor of the city and against the affected property by filing a lien against the property in the office of the register of deeds for the county in the same manner as other liens are required to be filed.~~

~~(3)~~ (2) The lien granted by this section may be enforced at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

~~(4)~~ (3) No collection of costs may proceed against the owner of an owner-occupied residential property, including the filing of the liens referenced in subsection (d)(2), until cumulative charges for remediation equal or exceed \$500.00.

~~(5)~~ (4) In addition to the foregoing provisions, any person violating any of the provisions of this chapter shall be liable for a civil penalty pursuant to title 3, section 3-109 and 3-110 of the Morristown Municipal Code.

~~(6)~~ (5) a. The lien granted by this section shall be extinguished upon the payment to the city of all amounts owing hereunder, upon a finding that the lien was placed in error, or by operation of law.

b. The lien granted by this section may also be forgiven and released by agreement of the city administrator and the city attorney for extraordinary cause, including but not limited to the following reasons:

1. Upon a showing, by a prospective purchaser for value or prospective transferee of a lot encumbered by a lien or liens granted by this section, that the aggregate value of such liens against a lot exceeds the appraised value of the lot and that the purchaser or transferee will purchase or accept the lot if the liens are forgiven or reduced; or
2. Upon a showing by a prospective purchaser for value or prospective transferee of a lot encumbered by a lien or liens granted by this section that the purchaser or transferee has a reasonable plan to redevelop the lot supportive of and compatible with existing neighborhood design. In such case, the purchaser or transferee shall provide a written physical and financial plan including a project budget and schedule for redevelopment to the city administrator and the city attorney. This plan shall show that lien forgiveness or reduction is necessary to the redevelopment plan, and shall show that the lot will be transferred to the purchaser or transferee if the liens are forgiven or reduced.

~~(7)~~ (6) Forgiveness and release of such liens shall be at the sole discretion of the city administrator and the city attorney. It shall be the burden of any person seeking the forgiveness and release of any such liens to prove to the satisfaction of the city administrator and the city attorney that the conditions of subsections (d)(6)a. or (d)(6)b. exist.

(e) *Service fee for lot mowing.*

(1) Payment rates for said services shall be \$250.00 per hour with a minimum payment of \$125.00.

(2) Mowing services shall be charged in 30-minute time periods, with any portion of a period charged as a full 30 minutes.

(f) *Exceptions.* Notwithstanding the requirements set forth in this article, the following shall be exempt from the provisions of this article:

- (1) Undeveloped wooded areas where tree growth is in excess of ten feet in height.
- (2) All government-owned land or premises, and street rights-of-way.
- (3) Streambeds or banks.
- (4) Heavily wooded parcels of land or premises that are densely wooded with trees, shrubs and overgrowth where equipment cannot maneuver due to the density of the area.
- (5) Slopes covered with vegetation as recommended by the state agricultural extension service for the purpose of conservation or preventing erosion.
- (6) Portion of land or premises, excluding the curtilage of any dwelling located thereon, that, due to steepness of terrain, rock or rock outcroppings, marshes or wetlands, cannot be mowed using wheeled, motorized equipment, unless such vegetative growth is an immediate threat to the health or safety of life or property.
- (7) Land or premises zoned for agricultural use or that is actively and legitimately used for agricultural purposes, such as, but not limited to, mowing hay, pasture, gardens or field crops.
- (8) Periods of active construction and/or demolition, which is defined as the time when the land disturbance and/or demolition permit is issued and for a period of six months thereafter. If the construction is still in active development after the initial six-month period, the developer can request an extension for an additional six months by contacting the city administrator or his designee.
- (9) Public and private country clubs and golf courses.

( [Ord. No. 3528, 11-3-2015](#) ; [Ord. No. 3569, 10-18-2016](#) )

#### Sec. 13-106. - Dead animals.

Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct.

( [Ord. No. 3528, 11-3-2015](#) )

#### Sec. 13-107. - Health and sanitation nuisances.

It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use of occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.

( [Ord. No. 3528, 11-3-2015](#) )

#### Sec. 13-108. - House trailers.

A house trailer is defined as a trailer fitted with accommodations for sleeping, eating, washing, etc., including but not limited to **single-wide** mobile homes, **pull- behind** campers, and **motorized** recreational vehicles, but excluding double-wide manufactured homes. It shall be unlawful for any person to locate and occupy any house trailer or portable building, **storage building, shed or any other detached accessory structure** unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefore shall have been first duly issued by the building official, as provided for in the building code.



Reference city zoning ordinances: Habitation of accessory residential dwelling section 14-214 and mobile homes on individual lots section 14-215.

( [Ord. No. 3528, 11-3-2015](#) )

Sec. 13-109. - Junked yards and automobile graveyards.

- (a) *[Definitions.]* ~~Junked yards are prohibited within the corporate limits of the City of Morristown and it shall be unlawful for an owner or occupant of property within the corporate limits to maintain a junked yard as defined herein.~~ For the purpose of the interpretation and application of this section, the following words and phrases have the indicated meanings:

**Automobile graveyard** means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found. "Automobile graveyard" or "automobile junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal produce is scrap iron, steel, or nonferrous scrap for sale for re-melting purposes only.

**Junk** shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous metal.

**Junked yard** shall mean a yard (front, back or side), tract, parcel or lot within the corporate limits which has debris, litter, garbage (bagged, including food products), household items (such as refrigerators or other appliances, furniture, upholstery, cabinets, bathroom or kitchen fixtures, etc.), paper products, chemicals/chemical containers, construction materials (such as wood, boards, dry wall, pipes, brick, etc.), auto parts (such as tires on or off rims, mufflers, doors etc.), cloth or clothing strewn about or piled whether in a yard, carport, deck or porch area. Items covered with a tarp shall not be adequate for compliance.

**Junkyard** shall mean an establishment or place of business that is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard. "Junkyard" includes scrap metal processors, car crushing sites, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation, when the business will continually have like materials located on the premises, garbage dumps and sanitary landfills. For purposes of this chapter, a "recycling center" shall not be a "junkyard".

**Person** shall mean any natural person, or any firm, partnership, association, corporation, or other organization of any kind and description.

**Private property** shall include all property that is not public property, regardless of how the property is zoned or used.

**Recreational Vehicle is:**

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Recycling center** means an establishment, place of business, facility or building which is maintained, operated, or used for storing, keeping, buying or selling of newspaper, or used food or used beverage containers for the purpose of converting such items into a useable product.

**Residential yard nuisance** shall mean any condition or use of residential yards which is detrimental to the property of others, or which causes or tends to substantially diminish the value of other property in the

neighborhood in which such yards are located. This includes, but is not limited to, the keeping or maintaining or depositing on or scattering over such yards of any of the following:

- (1) Lumber, junk, trash, or debris;
- (2) Abandoned, discarded or unused objects or equipment such as furniture, appliances, cans, tires, or containers;
- (3) Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance;
- (4) Garbage and unsanitary matter on premises unless such material is retained in containers, garbage pails or vessels which deny access to flies, insects, rodents and animals. Garbage can only be stored outside in mechanically-handled containers (MHC) provided by the City of Morristown for garbage collection and then only for the purpose of such collection.
- (5) Abandoned wells, cisterns, shafts, basements, excavations, sinkholes, mounds of gravel or earth, junk vehicles, structurally unsound structures or fences, ~~trash, debris or~~ vegetation; and
- (6) Container units or garbage cans that have failed to be maintained in good repair, clean and well painted.
- (7) Or as stated within the city's adopted housing code.

**Right-of-way** shall mean a portion of land dedicated for placement of a street, road, thoroughfare or crosswalk, utilities, drainage facilities, and/or similar uses and designated by means of a right-of-way line or description of boundaries.

**Traveled portion of any public street or highway** shall mean the width of the street from curb to curb, or in cases where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

**Vehicle** shall mean any machine propelled ~~or towed~~ by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, ~~golf carts, recreational vehicles, motorized watercraft not on a trailer,~~ tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

- (1) **Vehicle, abandoned** shall mean any motor vehicle whose last registered owner of record has relinquished all further dominion and control, or any vehicle that is wrecked or partially dismantled or inoperable for a period of ten days. There shall be a presumption that the last registered owner thereof has abandoned such vehicle, regardless of whether the physical possession of such vehicle remains in the technical custody or control of such owner, if it has remained inoperable or partially dismantled, or if the owner has relinquished dominion or control of such vehicle, for ten days.
- (2) **Vehicle, junk** shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either make the vehicle not immediately operable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:
  - a. Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;
  - b. Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle;
  - c. Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows;

- d. Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever;
- e. Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor, or fuel injection system, spark plugs, or radiator;
- f. Interior is a container for metal, glass, paper, rags, or other cloth, wood, auto parts, machinery, waste, or discarded materials in such quantity, quality, and arrangement that a driver cannot be properly seated in the vehicle;
- g. Lying on the ground (upside down, on its side, or at any other extreme angle) sitting on block or suspended in the air by any other method;
- h. General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.
- i. Unregistered and in public view (Unregistered to mean not displaying current and valid license tags)

(b) *Violations, civil offense.* It shall be unlawful and a civil offense for any person:

- (1) To park and/or in any manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.
- (2) To park or in any manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than 48 continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.
- (3) To establish, operate, or maintain a junkyard and/or an automobile graveyard that does not meet the City of Morristown's zoning requirements, and/or meets the requirements of Tennessee Code Annotated, title 7, chapter 51, and/or title 54, chapter 20, and/or title 55, chapter 16.
- (4) To park, store, keep, and maintain on private property a junk vehicle.
- (5) To create any residential yard nuisance, as defined in this chapter.
- (6) To create or maintain a junked yard, as defined in this chapter.

(c) *Exceptions.*

- (1) It shall be permissible for a person to park, store, keep, and maintain a junked vehicle on private property under the following conditions:
  - a. The junked vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.
  - b. The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking or towing of vehicles. However, this exception shall not exempt the owner or operator of any such business from any other regulations governing business engaged in wrecking or towing vehicles.
    - 1. The outside storage area of abandoned and/or junked vehicles of any business that is engaged in the wrecking or towing of vehicles must be completely screened (opaque) from all adjacent properties and any road right-of-ways (public or private).



2. The screening can be a solid wall that is at least six feet high, or a two-tiered, staggered tree landscaping, or a combination of the tree landscaping and the solid wall.
  3. For any wrecker or towing business (that is within the City of Morristown) that is on the City of Morristown's rotation cycle, must come into compliance with the opaque screening as stated above, within one year of the adoption of this chapter. If a business does not wish to comply with these provisions, then that business shall be removed from the City of Morristown's rotation cycle.
  4. Any new wrecker or towing business shall comply with this chapter and any other applicable zoning ordinances prior to being added to the city's rotation cycle.
- (2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat, as determined by the city administrator or his designee, to the health and safety of citizens of the city.
- (d) *Enforcement.*
- (1) Pursuant to Tennessee Code Annotated, title 7, chapter 51, and/or title 54, chapter 20, and/or title 55, chapter 16, the city administrator, or his appointed designee, shall upon the complaint of any citizen, or acting on his own information, investigate complaints of abandoned and/or junked vehicles on private property. The city administrator, or his appointed designee, shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this chapter, ~~or~~ he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that such motor vehicle ~~violations~~ ~~violates~~ this chapter and directing that such motor vehicle be moved to a place of lawful storage within ten days. ~~Such notice shall be served upon the owner of the vehicle by leaving a copy of such notice on or within the vehicle. Such notice may be served by any one or more of the following methods:~~
    - a. Personally delivering the notice to the owner, lessee, occupant or person having control of such real property;
    - b. Mailing the notice to the last known address of such owner, lessee, occupant or person having control of such property by first class, United States mail; or
    - c. Posting the notice on the property on which such conditions described exist. Abandoned and/or junk vehicles on publicly owned property may be labeled with an orange 72- hour notice before vehicle may be towed from publicly owned property.
  - ~~(2) Notice to the property owner on whose property such motor vehicle is located may be served by conspicuously posting such notice upon the premises.~~
  - ~~(3)~~ (2) In the case of abandoned and/or junk vehicles on publicly owned property, notice to the property owner by the City of Morristown is not required
- (e) *Failure to remove.* The owner of any abandoned and/or junked vehicle who fails, neglects or refuses to remove such vehicle or to house such vehicle and abate such nuisance in accordance with the notice given pursuant to the provisions of the previous section shall be guilty of a misdemeanor and/or in violation of the city ordinance.
- (f) *Abatement and removal by city.* If the vehicle is not disposed of after the time provided for in the notice, the city administrator or his designee shall ~~may~~ report the location of such vehicle to a wrecker/towing company, designated by rotation, and shall ~~may~~ then remove such vehicle or cause it to be removed to the wrecker/towing service's storage area. At the time that the vehicle is removed by the police department using the wrecker/towing company assigned, a tow-in ticket shall be completed by the person towing such vehicle.
- (g) *Removal and storage.* Abandoned and/or junked vehicles shall be transported from the property where they are found to the assigned wrecker/towing storage area only during daylight hours.



- (h) *Return of vehicle and/or personal property to the owner.* When the vehicle is towed to a towing/wrecker service property, used car dealership/lot, or other private property, and the owner of the vehicle demands for the return of his vehicle, and/or any personal property within the vehicle, then the owner of the vehicle shall pay any fines, storage, and tow-in fees to the owner of the property where the vehicle was towed.
- (i) *Abandoned and/or junked vehicle towed to a towing/wrecker service property.* In cases where an abandoned and/or junked vehicle is towed to a towing and/or wrecker service property and the vehicle has not been claimed, the owner of the service shall follow all state laws that pertain to abandoned vehicles.
- (j) *Penalty for violations.* Any person violating this chapter shall be subject to a civil penalty of \$50.00 and costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.
- (k) *[Reference.]* This article is referenced and adopted from The International Property Maintenance Code, 2012 Edition, published by the International Code Council, Inc.

**ORDINANCE NO. \_\_\_\_\_**

BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN,  
TENNESSEE AMENDING TITLE 13 (PROPERTY MAINTENANCE  
REGULATIONS), OF THE MORRISTOWN MUNICIPAL CODE.

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BE IT ORDAINED BY THE CITY COUNCIL of the City of Morristown that the text of Title 13 (Property Maintenance Regulations), be replaced in its entirety with the following:

**CHAPTER 1 - GENERAL PROPERTY MAINTENANCE<sup>[2]</sup>**

**Sec. 13-101. - Health officer and codes enforcement officer.**

The "health officer" and "codes enforcement officer" shall be such city, county, or state officer(s) as designated by the city administrator to administer and enforce health and sanitation regulations and/or municipal code sections within the city. These officers are designated as special police officers pursuant to T.C.A. § 7-63-101, et seq., by the city administrator and/or city council and specifically have the authority to issue citations in lieu of arrest for violations of this title.

( Ord. No. 3528, 11-3-2015; Ord. No. 3644, 10-1-2019)

**Sec. 13-102. - Smoke, soot, cinder, etc.**

It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

( Ord. No. 3528, 11-3-2015)

**Sec. 13-103. - Stagnant water.**

It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

( Ord. No. 3528, 11-3-2015)

**Sec. 13-104. - Weeds and grass.**

It is unlawful for the owner, lienholder, occupant or any person or persons, agent, firm, corporation, other legal entity, lessee, or agent having control or management of any real property within the city to permit, allow or maintain grass, weeds or uncultivated vegetation exceeding a height of 12 inches or more above the ground and such a condition is hereby declared to be a public nuisance. It is a duty to cut or remove grass, weeds or uncultivated vegetation from the real property including up to and along the traveled portion of the street or public right-of-way. It shall be unlawful for any person to fail to comply with an order by the city codes enforcement or health officer to cut or remove such vegetation. (Referenced and adopted from The International Property Maintenance Code, 2012 Edition, published by the International Code Council, Inc.)

**Sec. 13-105. - Removal of vegetation and debris from certain lots.**

- (a) (1) Real property means any improved land, unimproved land, graveled areas, private roadways, driveways or premises. Owners are required to maintain their property in such a manner as to not endanger the health, safety or welfare of other citizens, or create such conditions where such growth provides a harbor for rats, mosquitoes or other vermin whether the vegetation/debris is in public view or not.
- (2) Grass, weeds and uncultivated vegetation means and includes all weeds, grasses, plants, bushes, vines, poison oak, poison ivy and other vegetation not cultivated, whether living or dead, except vegetation for the purpose of conservation or preventing erosion, trees, ornamental shrubbery, ornamental grass, flowers, garden vegetables or other plants or vegetables customarily planted and/or cultivated by farmers or gardeners.
- (3) Notwithstanding any other requirements and conditions set out in this section, no owner, lienholder, occupant or any person or persons, agent, firm, corporation, other legal entity, lessee or agent having control or management of any land or premises shall allow or permit any plant growth of any sort to remain in such a manner as to render the streets, alleys, sidewalks or public ways adjoining said land or premises unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public street, alley, sidewalk or public way.
- (b) (1) Upon failure of any owner of property within the city to cut, have cut or remove such growth of grass, weeds and uncultivated vegetation or to remove or have removed such accumulations of debris, trash, litter, garbage, refuse or other materials as described herein, it shall be the duty of the codes enforcement officer, or such other persons as are designated, to serve notice on the owner, lessee, occupant or person having control of such real property, ordering the person to remedy the condition within ten days, including weekends, of the service of such notice; provided, however, that, if the person who is the owner of record of the property is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage or other materials, then the notice required under this section shall allow such owner of record 20 days, excluding Saturdays, Sundays and legal holidays, to comply with the order. Such notice may be served by any one or more of the following methods:
- Personally delivering the notice to the owner, lessee, occupant or person having control of such real property;
  - Mailing the notice to the last known address of such owner, lessee, occupant or person having control of such property by first class, United States mail; or
  - Posting the notice on the property on which such conditions described exist.
- (2) Service of notice by any of the methods set out in subsection (b)(1) of this section shall be due notice within the meaning of this article; provided, however, that no owner out of possession shall be liable to the penalty imposed of this code unless there shall be personal service of such notice upon him or such notice mailed to him by first class, United States mail as provided in this section.
- (3) For purposes of this section, service of notice shall occur:
- If notice is personally delivered to the owner, lessee, occupant or person having control of such property, on the date such delivery is made;
  - If notice is mailed to the last known address of the owner, lessee, occupant or person having control of such property, three days after the notice is deposited in the mail, properly addressed and with sufficient postage to carry it to its destination; or
  - If notice is posted on the property, on the date the notice is posted.

- (4) The notice required under this section shall state that the owner, lessee, occupant or other person having control of such property is entitled to a hearing. The notice shall be written in plain language and shall also include but not be limited to the following elements:
  - a. A brief statement of this article, which shall contain the consequences of failing to remedy the noted condition;
  - b. The person, office, address and telephone number of the department or person giving notice;
  - c. A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing. Failure to make the request within the time specified in this article shall, without exception, constitute a waiver of the right to a hearing.
- (c) *Appeals.* Any owner, lessee, occupant or person having control of property aggrieved by the determination and order of an officer under this article may appeal therefrom to the Property Maintenance Board of Appeals within ten days from the date of service of the notice; provided, however, that if the owner of record of any such aggrieved property is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage or other materials such appeal may be taken within 20 days from the date of the service of the notice. Such appeal shall be taken by filing with the Property Maintenance Board of Appeals a notice of appeal stating in brief and concise form the grounds therefor. The Property Maintenance Board of Appeals shall hear and determine such appeal as promptly as practicable, but within 20 calendar days of the filing of the appeal, except upon written application for an extension of time by the appellant, who shall recite reasons satisfactory to the Property Maintenance Board of Appeals before such extension may be granted. The Property Maintenance Board of Appeals shall have the power to affirm, reverse or modify the order of the officer. The Property Maintenance Board of Appeals decision, together with the reasons therefor, shall be in writing and maintained as a public record. An owner, lessee, occupant or person having control of the property who fails, refuses or neglects to comply with the order of the officer, as modified by the Property Maintenance Board of Appeals shall be in violation of the provisions of this article. Appeal from the decision of the Property Maintenance Board of Appeals shall be provided by law in cases or certiorari.
- (d)
  - (1) If the owner or such other person described in section 13-104 shall fail to remedy such conditions within the time prescribed in that section, unless an appeal is made, the codes enforcement officer shall take such action as is necessary to remedy the conditions and abate the nuisance and certify the cost to the city tax collector, who shall place the cost per section 13-105 (e) upon the tax rolls as a lien upon the affected property, which cost shall then be collected in the same manner as the city taxes are collected. Upon failure of the owner to remit to the director of finance the amount of such cost within 60 days from the date of such notice the lien shall be recorded in the office of the register of deeds for the county in the same manner as other liens are required to be filed and shall constitute a lien upon the property for which the expenditure is made.
  - (2) The lien granted by this section may be enforced at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.
  - (3) No collection of costs may proceed against the owner of an owner-occupied residential property, including the filing of the liens referenced in subsection (d)(2), until cumulative charges for remediation equal or exceed \$500.00.
  - (4) In addition to the foregoing provisions, any person violating any of the provisions of this chapter shall be liable for a civil penalty pursuant to title 3, section 3-109 and 3-110 of the Morristown Municipal Code.
  - (5)
    - a. The lien granted by this section shall be extinguished upon the payment to the city of all amounts owing hereunder, upon a finding that the lien was placed in error, or by operation of law.



- b. The lien granted by this section may also be forgiven and released by agreement of the city administrator and the city attorney for extraordinary cause, including but not limited to the following reasons:
  - 1. Upon a showing, by a prospective purchaser for value or prospective transferee of a lot encumbered by a lien or liens granted by this section, that the aggregate value of such liens against a lot exceeds the appraised value of the lot and that the purchaser or transferee will purchase or accept the lot if the liens are forgiven or reduced; or
  - 2. Upon a showing by a prospective purchaser for value or prospective transferee of a lot encumbered by a lien or liens granted by this section that the purchaser or transferee has a reasonable plan to redevelop the lot supportive of and compatible with existing neighborhood design. In such case, the purchaser or transferee shall provide a written physical and financial plan including a project budget and schedule for redevelopment to the city administrator and the city attorney. This plan shall show that lien forgiveness or reduction is necessary to the redevelopment plan, and shall show that the lot will be transferred to the purchaser or transferee if the liens are forgiven or reduced.
- (6) Forgiveness and release of such liens shall be at the sole discretion of the city administrator and the city attorney. It shall be the burden of any person seeking the forgiveness and release of any such liens to prove to the satisfaction of the city administrator and the city attorney that the conditions of subsections (d)(6)a. or (d)(6)b. exist.
- (e) *Service fee for lot mowing.*
  - (1) Payment rates for said services shall be \$250.00 per hour with a minimum payment of \$125.00.
  - (2) Mowing services shall be charged in 30-minute time periods, with any portion of a period charged as a full 30 minutes.
- (f) *Exceptions.* Notwithstanding the requirements set forth in this article, the following shall be exempt from the provisions of this article:
  - (1) Undeveloped wooded areas where tree growth is in excess of ten feet in height.
  - (2) All government-owned land or premises, and street rights-of-way.
  - (3) Streambeds or banks.
  - (4) Heavily wooded parcels of land or premises that are densely wooded with trees, shrubs and overgrowth where equipment cannot maneuver due to the density of the area.
  - (5) Slopes covered with vegetation as recommended by the state agricultural extension service for the purpose of conservation or preventing erosion.
  - (6) Portion of land or premises, excluding the curtilage of any dwelling located thereon, that, due to steepness of terrain, rock or rock outcroppings, marshes or wetlands, cannot be mowed using wheeled, motorized equipment, unless such vegetative growth is an immediate threat to the health or safety of life or property.
  - (7) Land or premises zoned for agricultural use or that is actively and legitimately used for agricultural purposes, such as, but not limited to, mowing hay, pasture, gardens or field crops.
  - (8) Periods of active construction and/or demolition, which is defined as the time when the land disturbance and/or demolition permit is issued and for a period of six months thereafter. If the construction is still in active development after the initial six-month period, the developer can request an extension for an additional six months by contacting the city administrator or his designee.
  - (9) Public and private country clubs and golf courses.

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A house trailer is defined as a trailer fitted with accommodations for sleeping, eating, washing, etc., including but not limited to single-wide mobile homes, pull- behind campers, and motorized recreational vehicles, but excluding double-wide manufactured homes. It shall be unlawful for any person to locate and occupy any house trailer or portable building, storage building, shed or any other detached accessory structure unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. Reference city zoning ordinances: Habitation of accessory residential dwelling section 14-214 and mobile homes on individual lots section 14-215.

( Ord. No. 3528, 11-3-2015 )

**Sec. 13-109. - Junked yards and automobile graveyards.**

(a) *[Definitions.]* For the purpose of the interpretation and application of this section, the following words and phrases have the indicated meanings:

**Automobile graveyard** means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found. "Automobile graveyard" or "automobile junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal produce is scrap iron, steel, or nonferrous scrap for sale for re-melting purposes only.

**Junk** shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous metal.

**Junked yard** shall mean a yard (front, back or side), tract, parcel or lot within the corporate limits which has debris, litter, garbage (bagged, including food products), household items (such as refrigerators or other appliances, furniture, upholstery, cabinets, bathroom or kitchen fixtures, etc.), paper products, chemicals/ chemical containers, construction materials (such as wood, boards, dry wall, pipes, brick, etc.), auto parts (such as tires on or off rims, mufflers, doors etc.), cloth or clothing strewn about or piled whether in a yard, carport, deck or porch area. Items covered with a tarp shall not be adequate for compliance.

**Junkyard** shall mean an establishment or place of business that is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard. "Junkyard" includes scrap metal processors, car crushing sites, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation, when the business will continually have like materials located on the premises, garbage dumps and sanitary landfills. For purposes of this chapter, a "recycling center" shall not be a "junkyard".

**Person** shall mean any natural person, or any firm, partnership, association, corporation, or other organization of any kind and description.

**Private property** shall include all property that is not public property, regardless of how the property is zoned or used.

**Recreational Vehicle** is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Recycling center** means an establishment, place of business, facility or building which is maintained, operated, or used for storing, keeping, buying or selling of newspaper, or used food or used beverage containers for the purpose of converting such items into a useable product.

**Residential yard nuisance** shall mean any condition or use of residential yards which is detrimental to the property of others, or which causes or tends to substantially diminish the value of other property in the neighborhood in which such yards are located. This includes, but is not limited to, the keeping or maintaining or depositing on or scattering over such yards of any of the following:

- (1) Lumber, junk, trash, or debris;
- (2) Abandoned, discarded or unused objects or equipment such as furniture, appliances, cans, tires, or containers;
- (3) Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance;
- (4) Garbage and unsanitary matter on premises unless such material is retained in containers, garbage pails or vessels which deny access to flies, insects, rodents and animals. Garbage can only be stored outside in mechanically-handled containers (MHC) provided by the City of Morristown for garbage collection and then only for the purpose of such collection.
- (5) Abandoned wells, cisterns, shafts, basements, excavations, sinkholes, mounds of gravel or earth, junk vehicles, structurally unsound structures or fences, vegetation; and
- (6) Container units or garbage cans that have failed to be maintained in good repair, clean and well painted.
- (7) Or as stated within the city's adopted housing code.

**Right-of-way** shall mean a portion of land dedicated for placement of a street, road, thoroughfare or crosswalk, utilities, drainage facilities, and/or similar uses and designated by means of a right-of-way line or description of boundaries.

**Traveled portion of any public street or highway** shall mean the width of the street from curb to curb, or in cases where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

**Vehicle** shall mean any machine propelled or towed by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, golf carts, recreational vehicles, motorized watercraft not on a trailer, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

- (1) **Vehicle, abandoned** shall mean any motor vehicle whose last registered owner of record has relinquished all further dominion and control, or any vehicle that is wrecked or partially dismantled or inoperable for a period of ten days. There shall be a presumption that the last registered owner thereof has abandoned such vehicle, regardless of whether the physical possession of such vehicle

remains in the technical custody or control of such owner, if it has remained inoperable or partially dismantled, or if the owner has relinquished dominion or control of such vehicle, for ten days.

- (2) **Vehicle, junk** shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either make the vehicle not immediately operable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

- a. Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;
- b. Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle;
- c. Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows;
- d. Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever;
- e. Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor, or fuel injection system, spark plugs, or radiator;
- f. Interior is a container for metal, glass, paper, rags, or other cloth, wood, auto parts, machinery, waste, or discarded materials in such quantity, quality, and arrangement that a driver cannot be properly seated in the vehicle;
- g. Lying on the ground (upside down, on its side, or at any other extreme angle) sitting on block or suspended in the air by any other method;
- h. General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.
- i. Unregistered (Unregistered to mean not displaying current and valid license tags)

- (b) *Violations, civil offense.* It shall be unlawful and a civil offense for any person:

- (1) To park and/or in any manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.
- (2) To park or in any manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than 48 continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.
- (3) To establish, operate, or maintain a junkyard and/or an automobile graveyard that does not meet the City of Morristown's zoning requirements, and/or meets the requirements of Tennessee Code Annotated, title 7, chapter 51, and/or title 54, chapter 20, and/or title 55, chapter 16.
- (4) To park, store, keep, and maintain on private property a junk vehicle.
- (5) To create any residential yard nuisance, as defined in this chapter.
- (6) To create or maintain a junked yard, as defined in this chapter.

- (c) *Exceptions.*

- (1) It shall be permissible for a person to park, store, keep, and maintain a junk vehicle on private property under the following conditions:
  - a. The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.



- b. The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking or towing of vehicles. However, this exception shall not exempt the owner or operator of any such business from any other regulations governing business engaged in wrecking or towing vehicles.
  - 1. The outside storage area of abandoned and/or junk vehicles of any business that is engaged in the wrecking or towing of vehicles must be completely screened (opaque) from all adjacent properties and any road right-of-ways (public or private).
  - 2. The screening can be a solid wall that is at least six feet high, or a two-tiered, staggered tree landscaping, or a combination of the tree landscaping and the solid wall.
  - 3. For any wrecker or towing business (that is within the City of Morristown) that is on the City of Morristown's rotation cycle, must come into compliance with the opaque screening as stated above, within one year of the adoption of this chapter. If a business does not wish to comply with these provisions, then that business shall be removed from the City of Morristown's rotation cycle.
  - 4. Any new wrecker or towing business shall comply with this chapter and any other applicable zoning ordinances prior to being added to the city's rotation cycle.
- (2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat, as determined by the city administrator or his designee, to the health and safety of citizens of the city.
- (d) *Enforcement.*
  - (1) Pursuant to Tennessee Code Annotated, title 7, chapter 51, and/or title 54, chapter 20, and/or title 55, chapter 16, the city administrator, or his appointed designee, shall upon the complaint of any citizen, or acting on his own information, investigate complaints of abandoned and/or junk vehicles on private property. The city administrator, or his appointed designee, shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this chapter, or he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that such motor vehicle violates this chapter and directing that such motor vehicle be moved to a place of lawful storage within ten days. Such notice may be served by any one or more of the following methods:
    - a. Personally delivering the notice to the owner, lessee, occupant or person having control of such real property;
    - b. Mailing the notice to the last known address of such owner, lessee, occupant or person having control of such property by first class, United States mail; or
    - c. Posting the notice on the property on which such conditions described exist. Abandoned and/or junk vehicles on publicly owned property may be labeled with an orange 72- hour notice before vehicle may be towed from publicly owned property.
  - (2) In the case of abandoned and/or junk vehicles on publicly owned property, notice to the property owner by the City of Morristown is not required
- (e) *Failure to remove.* The owner of any abandoned and/or junk vehicle who fails, neglects or refuses to remove such vehicle or to house such vehicle and abate such nuisance in accordance with the notice given pursuant to the provisions of the previous section shall be guilty of a misdemeanor and/or in violation of the city ordinance.
- (f) *Abatement and removal by city.* If the vehicle is not disposed of after the time provided for in the notice, the city administrator or his designee may report the location of such vehicle to a wrecker/towing company, designated by rotation, and may then remove such vehicle or cause it to be removed to the wrecker/towing service's storage area. At the time that the vehicle is removed by the police department using the wrecker/towing company assigned, a tow-in ticket shall be completed by the person towing such vehicle.
- (g) *Removal and storage.* Abandoned and/or junk vehicles shall be transported from the property where they are found to the assigned wrecker/towing storage area only during daylight hours.
- (h) *Return of vehicle and/or personal property to the owner.* When the vehicle is towed to a towing/wrecker service property, used car dealership/lot, or other private property, and the owner of the vehicle demands

for the return of his vehicle, and/or any personal property within the vehicle, then the owner of the vehicle shall pay any fines, storage, and tow-in fees to the owner of the property where the vehicle was towed.

- (i) *Abandoned and/or junk vehicle towed to a towing/wrecker service property.* In cases where an abandoned and/or junk vehicle is towed to a towing and/or wrecker service property and the vehicle has not been claimed, the owner of the service shall follow all state laws that pertain to abandoned vehicles.
- (j) *Penalty for violations.* Any person violating this chapter shall be subject to a civil penalty of \$50.00 and costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.
- (k) *[Reference.]* This article is referenced and adopted from The International Property Maintenance Code, 2012 Edition, published by the International Code Council, Inc.

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 the 21st day of March 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

Passed on second and final reading the 4<sup>th</sup> day of April 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

**Addendum #3:**

Attached to the original lease for office space at 1748 West Andrew Johnson Hwy, Morristown, TN dated November 1, 2011.

The parties mutually agree to extend the current lease from November 1, 2023, to December 31, 2024 at the current monthly rent of \$1,650. All other lease provisions remain unchanged.

**STP, LLC**

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

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**Hamblen County, Tennessee**

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

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**City of Morristown**

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

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

# Memorandum

To: Morristown City Council  
From: Richard DesGroseilliers, GISP  
Date: March 21, 2023  
Subject: Transit Center Study Consultant

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The Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO) is in the process of doing a public transportation transit center study for ETHRA/ Lakeway Transit.

WSP Associates is the consulting firm selected to handle this transit center feasibility study. The total amount of the contract is \$99,995.00. This cost will be broken down by federal funds being \$79,996.00, state funds being \$9,999.50, and local match being \$9,999.50. The local match will be provided by ETHRA.

Previously, the TDOT grant contracts for this project were presented to the City Council in September 2022.

LAMTPO and ETHRA received a grant from TDOT for the residual FTA 5303 funds, the total amount of the grants is for \$100,000.00, and this is in the FFY2022-2023 Unified Planning Work Program (UPWP). The breakdown of the grants is shown in the table below:

	<b>Local Funds (10%)</b>	<b>State Funds (10%)</b>	<b>Federal Funds (80%)</b>	<b>Total Funds</b>
<b>Contract 1</b>	\$6,652.00	\$6,652.00	\$53,215.00	\$66,519.00
<b>Contract 2</b>	\$3,348.00	\$3,348.00	\$26,785.00	\$33,481.00
<b>TOTALS</b>	\$10,000.00	\$10,000.00	\$80,000.00	\$100,000.00

LAMTPO TAC and LAMTPO Executive Board approved this contract with WSP unanimously at their March 2 and March 8, 2023 meetings, respectively.

Since Morristown houses LAMTPO staff, and Morristown is the “banker” for LAMTPO, the contract needs to be signed by the City of Morristown Mayor.

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

Rich DesGroseilliers, GISP, MTPO Coordinator  
100 W 1<sup>st</sup> N St  
Morristown, TN 37816-1499  
[richd@mymorristown.com](mailto:richd@mymorristown.com)



## **PRIME PROFESSIONAL SERVICES AGREEMENT**

THIS Agreement is made and entered into this 28 day of February 2023, by and between the **Lakeway Area Metropolitan Transportation Planning Organization**, (hereinafter called the "Owner"), and WSP USA Inc., a New York corporation, with offices at 2100 West End Ave., Nashville, TN 37203 (hereinafter called "WSP").

### **WITNESSETH THAT:**

WHEREAS, the Owner desires professional design services (hereinafter called the "Services");

AND

WHEREAS, the Owner has solicited the services of WSP for a Transit Center Feasibility Study (hereinafter called the "Project");

AND

WHEREAS, WSP has submitted a proposal dated January 13, 2023, which outlined an approach for such Project;

AND

WHEREAS, the Owner on February 8, 2023, selected WSP to perform the Services;

NOW, THEREFORE, for the consideration hereinafter set forth, the parties hereto do mutually agree as follows:

### **1. CONSULTATION OF**

The Owner retains WSP to represent the Owner in consulting matters involved in the performance of the Services, subject to the terms, conditions, and stipulations as hereinafter stated. WSP shall render the services consistent with the standard of care, skill and diligence exercised by members of the same profession providing similar services under similar conditions at the locale of the Project and at the time the services are to be performed.

### **2. SERVICE DESCRIPTION**

This service involves the development, study, and screening of potential sites within the Lakeway Transit service area of locations suitable for a transit center facility. The study will involve developing space and needs requirements, site selection and screening criteria, public engagement, and a concept design.

### **3. SCOPE OF SERVICES**

WSP shall perform the services set forth in Exhibit A.

### **4. COMPENSATION**

For the performance of the Services set forth in Article 3, the Owner shall compensate WSP up to a maximum amount Not-To-Exceed (NTE) of Ninety-Nine-Thousand Nine-Hundred Ninety-Five Dollars (\$99,995.00), funded as follows: Federal Funds (80%) \$79,996.00, State Funds (10%) \$9,999.50, and Local Funds (10%) 9,999.50. A breakdown of the compensation is set forth in Exhibit B.

**5. SCHEDULE**

WSP shall perform the Services in accordance with the Schedule set forth in Exhibit B, attached hereto and made part of this Agreement.

**6. PAYMENT**

Invoices for interim payments shall be prepared by WSP on WSP standard form and submitted every four (4) weeks to the Owner. Each invoice shall be prepared to request payment of the portion of the lump sum amount in proportion to the percentage of Services rendered during the invoice period to the total of Services to be provided hereunder.

Such invoices shall be paid to WSP by the Owner within fourteen (14) days of presentation to the Owner.

**7. DATA TO BE FURNISHED BY OWNER**

Data to be furnished by the Owner to WSP at no cost include:

- Studies and plans relevant to the project
- Associated geographic information system (GIS) such as terrain, utilities, right-of-way information, and aerial photography
- Traffic count and study data
- Transit agency data including, ridership, vehicle rosters, performance metrics, funding sources, and any other pertinent information readily available to the agency.

**8. INDEPENDENT CONTRACTOR**

WSP represents that it has, or will secure, at its own expense, all personnel required in performing the Services under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the Owner. WSP, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be, officers or employees of the Owner by reason of this Agreement.

**9. INSURANCE**

WSP shall effect and maintain insurance at its own cost and expense to protect itself from claims under Workers' Compensation Acts; from claims for damages because of bodily injury including sickness, disease, or death of any of its employees; from claims for damages because of injury to or destruction of tangible property; and from claims arising out of the performance of professional services caused by errors, omissions, or negligent acts for which it is legally liable, each in the amount of \$1,000,000.

WSP shall furnish the Owner with a certificate(s) of insurance showing WSP has complied with this Article, which certificates shall provide that thirty (30) days written notification of cancellation of the policies shall be given to the Owner.

**10. INDEMNITY AND LIMITATION**

WSP shall indemnify and hold harmless the Owner from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of WSP, its officers, employees, agents, or representatives in the performance of Services under this Agreement.

To the fullest extent allowed by law, WSP's liability to Owner shall not exceed the total compensation received by WSP hereunder, and WSP shall in no event be liable in contract, tort, or otherwise, for any indirect or consequential damages, including but not limited to loss of estimated profits, loss of use, loss of revenue, cost of capital, loss of good will, or similar damages arising out of its performance of the Services hereunder.

In the event of any reuse or other use by the Owner of the drawings, specifications, and other documents furnished by WSP hereunder, the Owner shall indemnify, defend, and hold harmless WSP from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused by, resulting from, or arising out of such reuse or other use.

**11. CHANGES AND EXTRA SERVICES**

The Owner may make changes within the general scope of this Agreement. If WSP is of the opinion that any proposed change causes an increase or decrease in the cost and/or the time required for performance of this Agreement, WSP shall so notify the Owner of that fact. An agreed-upon change will be reduced to writing signed by the parties hereto and will modify this Agreement accordingly. WSP may initiate such notification upon identifying a condition which may change the Services agreed to on the effective date of this Agreement, as set forth in Exhibit A.

Any such notification must be provided within thirty (30) days from the date of receipt by that party of the other party's written notification of a proposed change. In the event that agreement cannot be reached by the parties hereto as to a particular change, the issue shall be resolved pursuant to Article 18.

The Owner may request WSP to perform extra services not covered by the SCOPE OF Services as set forth in Exhibit A, and WSP shall perform such extra services and will be compensated for such extra services when they are reduced to a writing mutually agreed to and signed by the parties hereto amending this Agreement accordingly.

The Owner shall not be liable for payment of any extra services nor shall WSP be obligated to perform any extra services except upon such written amendment.

**12. DELAYS**

WSP shall perform its Services with due diligence upon receipt of a written Notice to Proceed from the Owner. The Owner may authorize costs to be incurred prior to such written Notice to

Proceed. In the event that performance of its Services is delayed by causes beyond the reasonable control of WSP, and without the fault or negligence of WSP, the time and total compensation for the performance of the Services shall be equitably adjusted by written amendment to reflect the extent of such delay. WSP shall provide the Owner with written notice of delay, including therein a description of the delay and the steps contemplated or actually taken by WSP to mitigate the effect of such delay.

### **13. TERMINATION**

This Agreement may be terminated by either party hereto upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the Owner for its convenience or because the Project has been permanently abandoned, but only upon fourteen (14) days written notice to WSP.

In the event of termination, WSP shall be compensated for all services performed and costs incurred up to the effective date of termination for which WSP has not been previously compensated, plus termination expenses reasonably incurred.

Upon receipt of notice of termination from the Owner, WSP shall discontinue the Services unless otherwise directed and upon final payment from the Owner deliver to the Owner the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by WSP in the performance of this Agreement, whether completed or in process.

### **14. OWNERSHIP OF DOCUMENTS**

The parties hereto agree that WSP shall retain possession of all drawings, specifications, and other documents when its services have been completed. The Owner will be provided two (2) sets of reproducible drawings, specifications, and other documents so furnished and they shall not be reused either for additional services on this Project to be done by others, or on other projects, without the prior written consent of WSP. Such consent shall stipulate what, if any, additional compensation shall be paid to WSP for such reuse of documents by the Owner. In no event shall the receipt of such additional compensation operate as a waiver of WSP's rights under Article 10.

### **15. SUCCESSORS AND ASSIGNS**

WSP shall not assign, sublet, sell, transfer, or otherwise dispose of any interest in this Agreement without the prior approval of the Owner.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not inure to the benefit of any third party or other person.

### **16. NONWAIVER**

No failure or waiver or successive failures or waivers on the part of either party hereto, their successors or permitted assigns, in the enforcement of any condition, covenant, or article of this



Agreement shall operate as a discharge of any such condition, covenant, or article nor render the same invalid, nor impair the right of either party hereto, their successors or permitted assigns, to enforce the same in the event of any subsequent breaches by the other party hereto, its successors or permitted assigns.

**17. NOTIFICATION**

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO Owner:  
Rich DesGroseilliers, GISP  
MTPO Coordinator  
100 W 1st N St  
PO Box 1499  
Morristown, TN 37816-1499

TO WSP USA:  
Paul Nelson  
WSP USA Inc.  
2100 West End Avenue  
Suite 630  
Nashville, TN 37203

**18. DISPUTES**

Any and all claims, disputes, and other matters in question arising out of or relating to this Agreement or the breach thereof which are not disposed of by mutual agreement of the parties hereto shall be submitted to non-binding mediation unless the parties mutually agree otherwise. In the event resolution of any conflict cannot be settled as a result of non-binding mediation, claims, disputes, or other matters, will be redressed in an appropriate court of proper jurisdiction.

**19. APPLICABLE LAW**

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

**20. FEDERAL AND STATE REQUIRMENTS**

WSP will abide by all appropriate state and federal requirements and regulations as listed in Exhibit C.

**21. RESERVED**

**22. EXTENT OF AGREEMENT**

This Agreement represents the entire and integrated agreement between the Owner and WSP and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to this Project.

IN WITNESS WHEREOF, this Agreement has been executed by the Owner and WSP, effective from the day and year first written above.

OWNER

\_\_\_\_\_  
Name:  
Title:

WSP USA Inc.

  
\_\_\_\_\_  
Name: Andrew Sonner  
Title: TN Transportation Local Business Leader

## Exhibit A

### Scope of Services

#### PROJECT UNDERSTANDING

This study analyzes and develops a feasibility plan for a multimodal public transportation center within the LAMTPO metropolitan planning area. This study will complete an alternatives analysis, high-level environmental overview, facility needs and space study, and public involvement. The final site(s) is desired to be within the LAMTPO Urbanized Area. The ideal location will be large enough to hold an ADA-accessible facility containing a light-maintenance area, passenger amenities, parking, administration offices, training and break rooms, and customer service/dispatch. LAMTPO/ETHRA/Lakeway Transit will use the final plan to advance toward the goal of final construction, including grant applications and discussion with the FTA and TDOT.

#### SCOPE OF WORK

##### TASK 1 PROJECT MANAGEMENT AND ADMINISTRATION

General project management will include one virtual kickoff meeting, client coordination, monthly virtual progress meetings, invoicing, project tracking, project progress reports, and quality assurance.

*Deliverables: Monthly invoicing and progress reports*

##### TASK 2 SPACE AND FUNCTIONAL NEEDS ASSESSMENT

This process is to develop a Facility Functional Needs Assessment (FFNA) for the proposed facility. This assessment will include anticipating future growth and future expansion needs

###### TASK 2.1 SPACE/NEEDS REQUIREMENTS WORKSHOP

WSP will host a workshop to define the desired amenities at the proposed transit center, such as passenger amenities, the number of bus bays and bus parking, operator restroom and break facilities, and warehouse operations.

###### TASK 2.2 FACILITY FUNCTIONAL NEEDS ASSESSMENT

The workshop will serve as a way to develop an understanding and agreement of the overall facility requirements. WSP will create detailed facility space and functional requirements using the workshop information.

###### TASK 2.3 SITE SELECTION CRITERIA

Following the space/needs assessment, WSP will establish the criteria by which all potential sites will be screened. The selection criteria will be weighted by relative importance as agreed to by LAMTPO/ETHRA/Lakeway Transit.

*Deliverables: Site selection criteria and relative weights*

##### TASK 3 SITE ANALYSIS

This task will identify, assess, and screen potential locations for the transit center facility.

###### TASK 3.1 POTENTIAL SITE IDENTIFICATION

Our team, including Greenbrier Real Estate, will identify several sites that meet the defined selection criteria. Individual parcels, groups of parcels, and municipally owned properties will be considered.

###### TASK 3.2 SITE ASSESSMENT AND GIS SURVEYING

Sites will be screened against the site selection criteria and ranked. This process will reduce the number of sites to two that will be further evaluated.

WSP will survey potential sites that pass initial screening using sub-meter accuracy to identify utility locations, collect field and parcel boundaries, identify affected rights-of-way, and screen for potential mitigation areas. The final survey results will include the adjacent roads to be used when designing access and mobility

### **TASK 3.3 NEPA RED FLAG SCREENING**

As federal funding may be used in future phases of the project, the team will conduct a NEPA “red flag” environmental screening of the top two sites to identify resources within or proximate to the study area that could be affected by the implementation of the project and would be subject to federal, local, or state permit. Our NEPA memorandum outline will be limited to existing and available data and will be organized to differentiate those permits and approvals associated with a formal NEPA environmental approval.

*Deliverables: NEPA memorandum*

### **TASK 4 PUBLIC ENGAGEMENT**

WSP will conduct a public workshop to present the top sites and the process used in our evaluation and gather and incorporate feedback. Social media and survey software will also be used to gather input and advertise the workshop. Additionally, WSP will present the draft findings to the ETHRA and LAMTPO boards. Feedback will then be incorporated into the final report. The final report will also be presented to the ETHRA and LAMTPO boards.

*Deliverables: Public workshop and board presentations*

### **TASK 5 CONCEPTUAL DESIGN**

#### **TASK 5.1 CONCEPTUAL DESIGN WORKSHOP**

Once the top two sites are identified, WSP will work with staff to develop the design criteria for the test fit conceptual drawings.

#### **TASK 5.2 PREFERRED DESIGN CONCEPT**

Using the workshop information gathered for the two potential viable options, we will perform high-level layouts or “test fits” on each site. Using the space program identified, our design team will develop concept layouts of the significant components of a multimodal facility on the two candidate sites.

*Deliverables: Concept layouts of the significant components of a multimodal facility on the two candidate sites*

### **TASK 6 COST ANALYSIS**

WSP will develop planning-level cost estimates for the transit facility and operations and maintenance of the facility. We will also create planning-level estimates for the phases of full construction. Phases include planning, environmental, design, land acquisition, and construction.

*Deliverables: Planning-level cost estimates*

### **TASK 7 FINAL REPORT**

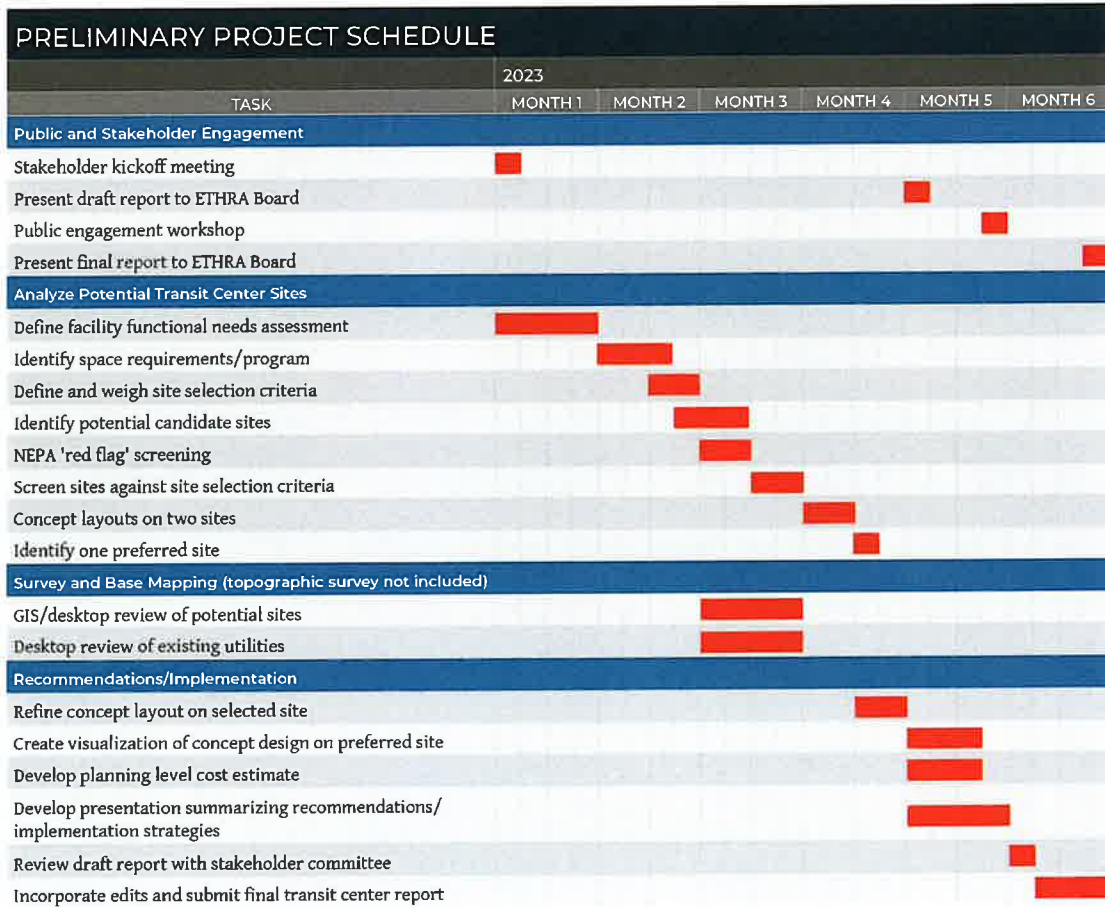
WSP will develop a draft report and present the report as outlined in TASK 4. The comments received will be incorporated into the final report as needed. The final report will be presented as outlined in TASK 4.

*Deliverables: Draft and Final Report*



## Exhibit B

### Schedule and Compensation



<b>BUDGET</b>	
<b>Category</b>	<b>Cost</b>
Task 1 - Project Management	\$ 11,754
Task 2 - Space and Functional Needs Assessment	\$ 14,393
Task 3 - Site Analysis	\$ 17,590
Task 4 - Public Engagement	\$ 2,659
Task 5 - Concept Design	\$ 19,517
Task 6 - Cost Analysis	\$ 4,989
Task 7 - Final Report	\$ 7,251
Sub Consultants- Fairpointe Planning DBE (Public Engagement)	\$ 11,000
Sub Consultants-Greenbrier Real Estate (Site Selection)	\$ 6,000
Other Direct Costs	\$ 4,842
<b>TOTAL</b>	<b>\$ 99,995</b>

Federal and State Requirements

## 1. Incorporation of Federal Transit Administration (FTA) Terms

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

## 2. Federal Changes

49 CFR Part 18 Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

## 3. Civil Rights Laws and Regulations

The following Federal Civil Rights laws and regulations apply to all contracts.

1. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:
  - a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
  - b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
2. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
3. **Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

## Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
5. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not



limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

## **4. Disadvantaged Business Enterprise (DBE)**

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

## **5. No Government Obligation to Third Parties**

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **6. Program Fraud and False or Fraudulent Statements and Related Acts**

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."

## **7. Prompt Payment**

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE

subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

## 8. Access to Records and Reports

- a) **Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.
- b) **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c) **Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d) **Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

## 9. Energy Conservation

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

## 10. Safe Operation of Motor Vehicles

### Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Agency.

### Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

## 11. Termination

### Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

### Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

### Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

### Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

### Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

### Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

#### Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

#### Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.
3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

#### Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the



Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency.

#### Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds

received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

## **12. Debarment and Suspension**

a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

## 13. Notification to FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third-Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub-agreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if  
  
a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

## 14. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency.”

## 15. Contract Work Hours and Safety Standards Act

- a) Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b) Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c) Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer

on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

- d) The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e) The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

## **16. Clean Air Act and Federal Water Pollution Control Act**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387).

Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in

whole or in part with Federal assistance provided by FTA.

#### Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole

or in part with Federal assistance provided by FTA.”

## **17. Buy America Requirements**

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

## **18. Violation and Breach of Contract**

#### Rights and Remedies of the Agency

The Agency shall have the following rights in the event that the Agency deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

For purposes of this Contract, breach shall include.

#### Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Agency, the Contractor expressly agrees that no default, act or omission of the Agency shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the Agency directs Contractor to do so) or to suspend or abandon performance.

#### Remedies



Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, the Agency will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Contract by the Contractor before the Agency takes action contemplated herein, the Agency will provide the Contractor with sixty (60) days written notice that the Agency considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

#### Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of Agency. This decision shall be final and conclusive unless within [10] days

from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Agency's authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Agency's authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the Agency's direction or decisions made thereof.

#### Performance during Dispute

Unless otherwise directed by Agency, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

#### Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

#### Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Agency and the Contractor arising out of or relating to this Contract or its

breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

#### Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall

be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Agency or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## **19. Simplified Acquisition Threshold**

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C.

§ 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where

contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America’s eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)

## **20. Davis Bacon Act and Copeland Anti-Kickback Act**

- a) In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- b) The Non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

#### “Compliance with the Copeland Anti-Kickback” Act.

1. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such

other clauses as the FTA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

3. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

## 21. Contract Work Hours and Safety Standards Act

- f) Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- g) Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- h) Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- i) The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- j) The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

### Compliance with the Contract Work Hours and Safety Standards Act.

5. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

6. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
7. Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
8. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

## 22. Seismic Safety

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

## 23. Special DOL EEO Clause

Applies to construction contracts > \$10,000; This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion,



sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

## **24. Veterans Hiring Preference**

Veterans Employment - Recipients of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

## **25. Bond Requirements**

**Bid Guarantee.** Bidders shall furnish a bid guaranty in the form of a bid bond, or certified treasurer's or cashier's check issued by a responsible bank or trust company, made payable to the Agency. The amount of such guaranty shall be equal to the value or a percentage of the total bid price.

In submitting this bid, it is understood and agreed by bidder that the Agency reserves the right to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [90] days subsequent to the opening of bids, without the written consent of Agency.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the undersigned bidder agrees to indemnify Agency

and pay over to Agency the difference between the bid guarantee and Agency's total damages so as to make Agency whole.

The undersigned understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

**Performance Guarantee.** A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in

full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten (10) business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a

Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-

By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand-By

Letter of Credit will only be accepted by the Agency if:

1. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The Agency is identified as the Beneficiary.
5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of the contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and

draft to the issuing bank's representative at a location and time to be determined by the parties.

This documentation will indicate that the Contractor is in default under the Contract.

**Payment Bonds.** A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

## 26. Cargo Preference Requirements

The contractor agrees:

- a) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities
- b) pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- c) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- d) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

## 27. Fly America

- a) Definitions. As used in this clause—
  - 1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.
  - 2) "United States" means the 50 States, the District of Columbia, and outlying areas.
  - 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S. – Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

- e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

## **28. Patent Rights and Rights in Data**

### Intellectual Property Rights

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes.

As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 C.F.R. part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by FTA or U.S. DOT.

The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions:

Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution.

For purposes of this Contract, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.



1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license

to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

- a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
- b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.

2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.

6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

## **29. Procurement of Recovered Materials**

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered

materials that are EPA- designated items unless the product cannot be acquired—

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - ii. Meeting contract performance requirements; or
  - iii. At a reasonable price.
- (2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

## **30. Conformance with its National Architecture**

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards.

Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

## **31. Prohibition on certain telecommunications and video surveillance services or equipment**

Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the

Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

## **32. PROVISIONS FOR RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION**

The Recipient understands and agrees that:

- (1) FTA Interest. FTA has a vested interest in the settlement of any disagreement involving the Project including, but not limited to:
  - (a) A major dispute,
  - (b) A breach,
  - (c) A default, or
  - (d) Litigation,
- (2) Notification to FTA. If a current or prospective legal matter that may affect the Federal Government emerges:
  - (a) The Recipient agrees to notify immediately:
    - 1. The FTA Chief Counsel, or
    - 2. The FTA Regional Counsel for the Region in which the Recipient is located,
  - (b) The types of legal matters that require notification include, but are not limited to:
    - 1. A major dispute,
    - 2. A breach,
    - 3. A default,
    - 4. Litigation, or
    - 5. Naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason, and
  - (c) The types of matters that may affect the Federal Government include, but are not limited to:
    - 1. The Federal Government's interests in the Project, or
    - 2. The Federal Government's administration or enforcement of Federal laws or regulations,
- (3) Federal Interest in Recovery
  - (a) General. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the Federal share for the Project, but
  - (b) Liquidated Damages. Notwithstanding the preceding section XI.(1) of this document, the Recipient may return all liquidated damages it receives to its Project Account rather than return the Federal share of those liquidated damages to the Federal Government,
- (4) Enforcement. The Recipient agrees to pursue its legal rights and remedies available under:
  - (a) Any third party agreement,
  - (b) Any Federal law or regulation,
  - (c) Any State law or regulation, or (d) Any local law or regulation,

### **33. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

### **34. SOLID WASTES**

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

### **35. SOLID WASTES**

The Consultant agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations, 49 C.F.R Part 41, and will certify to compliance to the extent required by the Regulation. The Consultant also agrees to ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

### **36. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS**

The following transactions are prohibited and Third-Party Participant certifies that -

(1) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely

manner pursuant to an agreement with the authority responsible for collecting the tax liability; and  
(2) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

**Conflicts of Interest.**

The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract

**Lobbying.**

The Grantee certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

**Nondiscrimination.**

The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon



request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

**Public Accountability.**

If the Grantee is subject to Tenn. Code Ann. § 8-4-401 et seq., or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

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

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

**Public Notice.**

All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee, Department of Transportation." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

**Records.**

The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

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

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

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

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

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

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

#### **Environmental Tobacco Smoke.**

Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn Code Ann. §§39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract."

## **Inspection and Maintenance Agreement**

### **(I&M Agreement)**

City of Morristown, TN

100 West 1<sup>st</sup> North Street

Morristown, TN 37814

(423) 581-0100

**Inspection and Maintenance Agreement (I&M Agreement)**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Merchants Greene Partners 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 Merchants Greene Phase 2  
Map 040, parcel 30.03 as recorded by deed in the last land records of  
(Insert Hamblen County Tax & Parcel Number)

Hamblen County, TN, Deed Book 1609 Page 098, hereafter called the "Property".

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

WHEREAS, the Site Plan/Subdivision known as Merchants Greene Phase 2  
(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:

Merchants Greene Partners

Company/Corporation/Partnership Name (Seal)

By:

Shannon W. Greene

(Type Name)

Owner

(Type Title)

State of TN

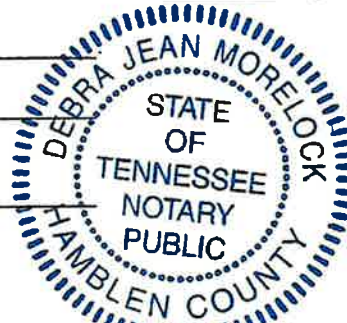
County of Hamblen

The foregoing Agreement was acknowledged before me this 9 day of March, 2023.

by Shannon Greene  
Debra Jean Morelock

Notary Public

My Commission Expires 03-04-24



Approved as to form:

Approved by the City:

City Attorney

Date

Mayor

Date



## Morristown City Council Agenda Item Summary

**Date:** March 21, 2023

**Agenda Item:** Approve Task Order No. 3 for Mattern & Craig with a base amount of \$61,030 to perform civil engineering services relative to site construction plans for the construction of a new Fire Station No. 3 and training facility.

**Prepared By:** Andrew Ellard

**Subject:** Work Authorization for civil engineering/site construction plans for Fire Station No. 3

**Background:** Mattern & Craig was identified as a qualified eligible engineering firm for City projects last year. The firm is actively working with the City on Thompson Creek improvements, and it is intended that civil engineering and certain earthwork for both Thompson Creek Phase 2 and new Fire Station No. 3 could benefit from running in tandem.

**Findings/Current Activity:**

Mattern & Craig will work in conjunction with Sonja Shannon, the architect selected by the City for this Fire Station project. The task order allows the flexibility for the City to engage Mattern & Craig directly for bidding, negotiation, and construction administration services or to allow for those services to be incorporated into the contract with Sonja Shannon.

**Financial Impact:**

The task order at hand continues on the conceptual layout established by the prior task order and will result in final construction plans & specifications for the site. The cost of these services are within the amount allocated in FY 2023 in pursuit of this new fire station.

**Action options/Recommendations:**

Approve Task Order No. 3.

**Attachment:** Proposal and Task Order No. 3

Randy W. Beckner  
Bradley C. Craig  
Wm. Thomas Austin  
James B. Voso  
Chad M. Thomas  
Jason A. Carder  
Brian R. Newman  
D. Jason Snapp  
Ryan P. Kincer



Edwin K. Mattern, Jr. (1949-1982)  
Gene R. Cress (1935-2014)  
Sam H. McGhee, III (1940-2018)  
Stewart W. Hubbell (Retired)  
J. Wayne Craig (Retired)  
Michael S. Agee (Retired)  
Steven A. Campbell (Retired)  
Randy Dodson (Retired)

March 15, 2023

Mr. Andrew Ellard  
Assistant City Administrator  
City of Morristown  
100 West First North Street  
Morristown, TN 37814  
(423) 585-4614  
[aellard@mymorristown.com](mailto:aellard@mymorristown.com)

Re: Morristown Fire Station #3  
Supplement for Final Construction Documents  
Commission No. 4325B

Dear Mr. Ellard:

Mattern & Craig understands that you have requested a supplemental proposal for full civil/site design documents for the proposed Fire Station #3 located along the proposed Thompson Creek Road near Frank Lorino Park in Morristown, Tennessee.

This letter shall establish our understanding of your project needs. The site design shall be based on the previously developed and attached "*Morristown Fire Station #3 – Site Grading Concept*". We will define the scope of services for this project, providing you a fee for each phase of the project. Our understanding is that you require Construction Documents for development of the overall site following the conceptual layout and grading.

The below outlines the scope of services and fees for the above services.

#### **Survey & Base Sheet**

It is expected that the base sheet utilized for the conceptual design phase and completed as part of the adjacent Thompson Creek Roadway Project is adequate for the site's final design. For this reason, survey services are not included for the purposes of this proposal. If at any point during the design process it becomes necessary to collect additional survey field data to supplement the existing base sheet a separate fee proposal will be submitted at that time for consideration, or the additional data can be collected on an hourly basis at the rates specified in the included hourly rate schedule below.

Mattern & Craig has included one day of onsite survey to collect the necessary existing utility data required to connect the proposed fire station sanitary sewer service to the existing manhole located across Spring Creek from the site.

#### **Site/Civil Final Construction Plans & Specifications**

Based on the Site Grading Concept approved by the Owner, Mattern & Craig will design and provide final construction documents for approval to the City. The following will be provided within the construction documents:

*Permitting:* It is anticipated that the construction of the overall site will require permits including a TDEC Stormwater Pollution Prevention Plan “SWPPP” for the overall site and an Aquatic Resources Alteration Permit for the required sanitary sewer utility creek crossing of the adjacent Spring Creek as well as site plan approval granted through the City. These applications and submissions will be compiled and submitted to TDEC and the City for approval. Any additional permits that may become apparent and/or required during the course of design will be additional services and an additional fee proposal provided at that time.

*Site Plan:* These plans will include proposed footprints and spot elevations necessary to construct the entrances, drives, sidewalks, and parking lots.

*Preliminary Plat:* Preliminary Plat services are not included for the purposes of this proposal.

*Grading/Drainage Plan and Profile:* This will show existing and proposed grading contours for entrances, drives, parking areas, and building lots. Detailed plan and profile information will be prepared identifying any stormwater quality measures, detention ponds, bio-retention cells, control structures, drainage inlets, storm sewers, and endwalls, in addition to any ditchlines necessary to provide storm water conveyance. Detention basin and stormwater quality requirements and locations will be verified and provided.

*Erosion and Sediment Control & SWPPP:* An Erosion and Sediment Control and Storm Water Pollution Prevention Plan will be developed specifically for this site. This plan will be prepared in accordance with the requirements of the State of Tennessee and the City of Morristown, TN and will include both temporary and permanent erosion and sediment control measures. The SWPPP and Notice of Intent application will be submitted to TDEC for their review and approval. Any associated permit fees will be paid by the owner.

*Utility Plan:* This will include plan/profile drawings of the proposed water and sanitary sewer mains required to serve the site. It is assumed gravity sewer service can serve this site, any required pump station design would be considered additional services. Upon the City’s acceptance, these plans will be submitted to the applicable agencies for permitting/approval as necessary. Any associated permit fees will be the responsibility of the owner. Off-site utility improvements beyond the sanitary sewer connection to the manhole located on the adjacent park property are not included for the purposes of this proposal.

Natural Gas, electrical, and communications utilities are anticipated to be designed by each respective utility and constructed during the overall development of the site. For these reasons construction design plans for Natural Gas, Electrical, and Communications are not included in this proposal. Mattern & Craig will provide coordination services with each of these respective utilities throughout the preliminary design and final design phases to ensure timing of utility construction coincides with the overall site construction.

*Construction Details:* Construction details will be provided as necessary for the improvements shown on the Construction Plans. Mattern & Craig’s and/or TDOT standard details as well as any applicable City standards will be included as required.

*Construction Specifications:* The plans will reference TDOT standards and City of Morristown construction specifications for site construction. Mattern & Craig will provide standard utility specifications as needed as part of the construction documents.

The Construction Plans will be prepared and submitted to the City for review. The fees stated herein assume one round of comment and revision. Further revisions that are required for any reason other than an error or omission on the part of Mattern & Craig will be provided on a time and materials or negotiated fee basis as desired by the Owner. All review, impact, and permitting fees shall be paid directly by others.

### **Bidding & Negotiation (Additional Services at Owner's Request)**

Mattern & Craig will perform all necessary bidding phase services including preparing Advertisement for Bids; receiving and addressing Contractor questions during the bidding process; conducting pre-bid meeting; issuing addenda as necessary; conducting bid opening; evaluation of bids; preparing and issuing a recommendation of award; and preparing and issuing the construction Contract.

### **Construction Administration (Additional Services at Owner's Request)**

Mattern & Craig will schedule and conduct a project preconstruction meeting, review all shop site/civil drawings/material submittals (it is noted building related shop drawing material submittals review would be the responsibility of the project architect), review and recommend for payment all payment applications, conduct monthly progress meetings, schedule and conduct a project final inspection, and deliver project closeout files to the OWNER. A construction time of 3 months is assumed for the purposes of this proposal.

### **Production Schedule**

Upon receipt of notice to proceed, Mattern & Craig will begin work on the Final Site Design and Construction Documents and provide for review and approval within 90 days. Total engineering time for this project is estimated at 90 days.

Upon your authorization to proceed, we will submit the plans to the appropriate City Staff for approval. We will prepare required permits and submittals needed for approval. Any required permit or filing fees for any phase included in the above proposal will be the responsibility of the owner. It is noted 30 days are typically required for City review and comment.

While Mattern & Craig can control our production schedule, response time for coordination with other consultants and the review periods required by City and State officials are beyond our control. We will make every effort to expedite all coordination and to address review comments in the timeliest manner possible, but the overall review process timeline will ultimately be controlled by the reviewing authorities.

### **Professional Service Fees**

Our basic engineering lump-sum fee for the above scope of services are as follows:

Utilities Survey	\$ 2,600
<b><u>Site/Civil Final Construction Plans &amp; Specifications</u></b>	<b><u>\$ 58,430</u></b>
<b>Total Basic Engineering Lump Sum Fees</b>	<b>\$ 61,030</b>

<b>Additional Service Lump Sum Fees</b>	
<b>Bidding &amp; Negotiation (At Owners Request)</b>	<b>\$ 6,750</b>
<b>Construction Administration (At Owners Request)</b>	<b>\$ 13,300</b>

### **Additional Services**

While not included in this scope, Mattern & Craig can offer a wide variety of other services either by in-house staff or by association with other professionals. Commonly required services include: boundary survey; prelim and final plat services; construction administration; bidding & negotiation services; construction inspection services; field compaction testing; construction staking; landscape architecture; environmental engineering; structural engineering (retaining walls); cost estimates; as-builts; planning commission meetings/coordination; traffic impact analysis; and preparation of marketing materials. We will be happy to provide you with more detailed information on any other services that you may require.



#### HOURLY RATE SCHEDULE

Sr. Principal	\$245.00
Principal	\$215.00
Sr. Project Manager	\$160.00
Survey Manager	\$120.00
Construction Manager	\$120.00
Project Engineer	\$105.00
Associate Engineer	\$ 95.00
Sr. Design Technician	\$ 95.00
Resident Project Representative	\$ 85.00
Graduate Engineer	\$ 85.00
Survey Crew Chief	\$ 80.00
Survey Field Technician II	\$ 65.00
Survey CAD Technician	\$ 60.00
Administrative Assistant	\$ 60.00

We appreciate the opportunity to work with you on this site, and look forward to starting work. Should the terms of this supplemental proposal be acceptable to you, please sign below and return a copy to me. The receipt of a signed copy of this agreement will serve as your acceptance of the above scope and fee, and will authorize Mattern & Craig to begin work. Should you have any questions or comments regarding this proposal, please do not hesitate to contact me for clarification.

Sincerely,  
MATTERN & CRAIG



D. Jason Snapp, P.E.  
Principal

DJS/djs

Accepted

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print)

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

**Task Order**

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated June 21, 2022 ("Agreement"), Owner and Engineer agree as follows:

**1. Background Data**

- a. Effective Date of Task Order:
- b. Owner: \_\_\_\_\_  
City of Morristown
- c. Engineer: \_\_\_\_\_  
Mattern & Craig, Inc.
- d. Specific Project (title): \_\_\_\_\_  
Fire Station #3 Survey and Final Civil/Site Design
- e. Specific Project (description): \_\_\_\_\_  
Civil Engineering Services for the design of Fire Station #3

**2. Services of Engineer**

A. The specific services to be provided or furnished by Engineer under this Task Order are as follows:

1. **Survey & Base Sheet:** It is expected that the base sheet utilized for the conceptual design phase and completed as part of the adjacent Thompson Creek Roadway Project is adequate for the site's final design. For this reason, full site survey services are not included for the purposes of this proposal. If at any point during the design process it becomes necessary to collect additional survey field data to supplement the existing base sheet a separate fee proposal will be submitted at that time for consideration, or the additional data can be collected on an hourly basis at the rates specified in the master agreement dated June 21, 2022.

Mattern & Craig has included one day of onsite survey to collect the necessary existing utility data required to connect the proposed fire station sanitary sewer service to the existing manhole located across Spring Creek from the site.

2. **Site/Civil Final Construction Plans and Specifications:** Based on the Site Grading Concept approved by the Owner, Mattern & Craig will design and provide final construction documents for approval to the City. The following will be provided within the construction documents:

**Permitting:** It is anticipated that the construction of the overall site will require permits including a TDEC Stormwater Pollution Prevention Plan "SWPPP" for the overall site and an Aquatic Resources Alteration Permit for the required sanitary sewer utility creek crossing of the adjacent Spring Creek as well as site plan approval granted through the City. These applications and submissions will be compiled and submitted to TDEC and the City for approval. Any

additional permits that may become apparent and/or required during the course of design will be additional services and an additional fee proposal provided at that time.

**Site Plan:** These plans will include proposed footprints and spot elevations necessary to construct the entrances, drives, sidewalks, and parking lots.

**Grading/Drainage Plan and Profile:** This will show existing and proposed grading contours for entrances, drives, parking areas, and building lots. Detailed plan and profile information will be prepared identifying any stormwater quality measures, detention ponds, bio-retention cells, control structures, drainage inlets, storm sewers, and endwalls, in addition to any ditchlines necessary to provide storm water conveyance. Detention basin and stormwater quality requirements and locations will be verified and provided.

**Erosion and Sediment Control & SWPPP:** An Erosion and Sediment Control and Storm Water Pollution Prevention Plan will be developed specifically for this site. This plan will be prepared in accordance with the requirements of the State of Tennessee and the City of Morristown, TN and will include both temporary and permanent erosion and sediment control measures. The SWPPP and Notice of Intent application will be submitted to TDEC for their review and approval. Any associated permit fees will be paid by the owner.

**Utility Plan:** This will include plan/profile drawings of the proposed water and sanitary sewer mains required to serve the site. It is assumed gravity sewer service can serve this site, any required pump station design would be considered additional services. Upon the City's acceptance, these plans will be submitted to the applicable agencies for permitting/approval as necessary. Any associated permit fees will be the responsibility of the owner. Off-site utility improvements beyond the sanitary sewer connection to the manhole located on the adjacent park property are not included for the purposes of this proposal.

Natural Gas, electrical, and communications utilities are anticipated to be designed by each respective utility and constructed during the overall development of the site. For these reasons construction design plans for Natural Gas, Electrical, and Communications are not included in this proposal. Mattern & Craig will provide coordination services with each of these respective utilities throughout the preliminary design and final design phases to ensure timing of utility construction coincides with the overall site construction.

**Construction Details:** Construction details will be provided as necessary for the improvements shown on the Construction Plans. Mattern & Craig's and/or TDOT standard details as well as any applicable City standards will be included as required.

**Construction Specifications:** The plans will reference TDOT standards and City of Morristown construction specifications for site construction. Mattern & Craig will provide standard utility specifications as needed as part of the construction documents.

The Construction Plans will be prepared and submitted to the City for review. The fees stated herein assume one round of comment and revision. Further revisions that are required for any reason other than an error or omission on the part of Mattern & Craig will be provided on a time and materials or negotiated fee basis as desired by the Owner. All review, impact, and permitting fees shall be paid directly by others.

All design efforts will be coordinated with the Project Architect.

- B. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.
- C. Additional Services to be provided by Engineer at Owner's request:
1. **Bidding & Negotiation Phase (Additional Services at Owner's Request):** Mattern & Craig will perform all necessary bidding phase services including preparing Advertisement for Bids; receiving and addressing Contractor questions during the bidding process; conducting pre-bid meeting; issuing addenda as necessary; conducting bid opening; evaluation of bids; preparing and issuing a recommendation of award; and preparing and issuing the construction Contract.
  2. **Construction Phase (Additional Services at Owner's Request):** Mattern & Craig will schedule and conduct a project preconstruction meeting, review all shop site/civil drawings/material submittals (it is noted building related shop drawing material submittals review would be the responsibility of the project architect), review and recommend for payment all payment applications, conduct monthly progress meetings, schedule and conduct a project final inspection, and deliver project closeout files to the OWNER. A construction time of 3 months is assumed for the purposes of this proposal.

### 3. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B.

### 4. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule:

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Furnish Site/Civil Final Construction Plans and Specifications	Within 90 days of the receipt of Owner's Notice to Proceed.
Owner	Review Construction Document Submission and Provide Comments	Within 15 days of the receipt of Plans & Specs from Engineer
Engineer	Furnish Revised Plans & Specs per Review Comments	Within 30 days of the receipt of Owner's Comments.

## 5. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation
1. Basic Services		
a. Survey & Base Sheet	\$2,600	Lump Sum
b. Site/Civil Final Construction Plans and Specifications	\$58,430	Lump Sum
<b>TOTAL COMPENSATION (lines 1.a-b)</b>	<b>\$61,030</b>	<b>Lump Sum</b>
2. Additional Services		
a. Bidding & Negotiation Phase (At Owner's Request)	\$6,750	Lump Sum
b. Construction Phase (At Owner's Request)	\$13,300	Lump Sum

Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Consultants' charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

## 6. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.



The Effective Date of this Task Order is \_\_\_\_\_.

OWNER: **City of Morristown**

ENGINEER: **Mattern & Craig, Inc.**

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

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

Print Name: \_\_\_\_\_

Print Name: Jason A. Carder, P.E.

Title: \_\_\_\_\_

Title: Vice President/Project Manager

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Larry Clark

Name: Jason Carder

Title: Assistant City Administrator

Title: Vice President/Project Manager

Address: 100 West First North Street  
Morristown, TN 37814

Address: 429 Clay Street  
Kingsport, TN 37660

E-Mail [lclark@mymorristown.com](mailto:lclark@mymorristown.com)

E-Mail [jacarder@matternandcraig.com](mailto:jacarder@matternandcraig.com)

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: 423-585-4617

Phone: 423-245-4970

Proposed Settlement Agreement – Jeff & Peggy Wisecarver Properties

ROW Acquisition Thompson Creek Road Phase 2

March 15, 2023 Tract Numbers: 6 & 8

Tract 6 (Pasture Tract)

Land acquisition: 10,304sq.ft. @ \$4.50 per sq. ft. = \$46,400.00 \*

Utility Easement: 2346 sq. ft. @ \$4.50 per sq. ft. x 90% = \$9,500.00 \*

Temporary Const. Esmt: 47,726 sq. ft. @ \$4.50 per sq. ft. x 10% = \$21,500.00 \*

Farm Fencing acquired: = \$6,050.00

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Total this tract \$83,450.00

Tract 8 – (Residence Tract)

Land acquisition: 1135 sq.ft. @ \$4.50 per sq. ft. = \$5100.00\*

Utility Easement: 801 sq. ft. @ \$4.50 per sq. ft. x 90% = \$3250.00 \*

Temporary Const. Esmt. : 3321 sq. ft. @ \$4.50 per sq. ft. x 10% = \$1500.00\*

Business Sign & Landscaping : = \$1500.00

Dog Lot: = \$10,600.00

Pressure washing of Residence: = \$300.00

Proposed security fencing & gates = \$59,950.00

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Total this Tract \$82,200.00

TOTAL Proposed Settlement = \$165,650.00

NOTES: The City will not be doing any excavation on former Pond Site. Grading for the proposed Dog lot will be done by the Roadway Contractor, including bringing any fill dirt needed to level the site.\*\* This agreement is contingent upon formal approval by the Morristown tn. City Council.

Prepared by: D. Phil Addison, ROW Mgr. TELICS, Consultant for the City of Morristown Tn.

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CITY OF MORRISTOWN TN.

TRACTS 6 & 8

- Sellers agree to retain improvements under the terms and conditions stated in the attached agreement to this document and made a part of this Agreement of Sale.

- The Sellers agree to make at his expense the below listed repair, relocation or adjustment of utilities owned by him. The purchase price offered includes \$ 0.00 to compensate the owner for their expenses.

ADDENDUM PAGE FOR AGREEMENT OF SALE – TRACTS 6 & 8

Thompson Creek Road Phase 2 – Jeffrey & Peggy Wisecarver- Grantors

Grantee: City of Morristown Tn. March 15, 2023

Agreement Provisions:

- A. Thompson Creek Road name will not change in this area, no change in current address.
- B. Any topsoil disturbed on the Wisecarver's property will remain on their property.
- C. The driveway leading into the residence on Tract 8 will be paved as a part of the roadway construction contract.
- D. Cost to cure damages to construct new fencing and gates in front of the residence as well as in farm fencing disturbed is included in the purchase price paid, also included in the purchase price is money to pressure wash the residence after construction is completed, construction of a K-9 dog lot needed for the continuation of the owner's existing K-9 training center. The excavation for this proposed dog lot will be a part of the roadway contract. A moving expense of \$1500.00 is also included in the purchase price to relocate the existing K-9 business sign and landscaping.
- E. A 24 foot paved driveway will be constructed into Tract 6 at approximately Station 123+43 based on the revised construction plans by Mattern & Craig Engineering.
- F. Any proposed street lighting in front of the residence will be modified as much as possible so as to keep direct light from shining into the residence.
- G. The roadway contractor is to coordinate with the owners as to their construction work schedule so the owners know in advance as much as possible, when to relocate any cattle or horses they need to relocate on a temporary basis from Tract 6 during the construction process.
- H. The roadway contractor is to relocate the owner's existing mailbox to a point chosen by the owners and approved by the Postal Service.
- I. The Roadway contractor and/or its subcontractors will be responsible for any physical damages that they may cause to the Wisecarver property during the construction process such as blasting, water damage etc.
- J. Any existing property line pins disturbed during construction shall be replaced by the City Engineering division or their engineering consultant, Mattern & Craig.
- K. The contractor will make minor adjustments to the fill & cut slopes during the construction process if minor changes are seen needed and are acceptable with the property owners and the Contractor.
- L. Any area seeded or sodded by the contractor that fails to survive within a one year period, will be replaced by the Roadway Contractor or another Contractor retained by the City.
- M. This Agreement is contingent upon acceptance by the Morristown City Council.
- N. Misc. Notes:

**PROPERTY of JEFFREY WISECARVER AND PEGGY WISECARVER**

**FEE SIMPLE**

TRACT 6

**SITUATED**, lying and being in Civil District No. 4 of Hamblen County, Tennessee and being more particularly described as follows:

**AREA #1 – RIGHT-OF-WAY**

**BEGINNING** at a point at the intersection of the existing east right of way line of Thompson Creek Road and north property line of the Grantor(s) herein; thence with the said property line N 46° 03' 59" E, a distance of 24.42 feet to a point; thence S 42° 59' 13" E, a distance of 307.40 feet to a point; thence S 38° 27' 06" E, a distance of 86.56 feet to a point; thence along a curve to the right having an arc length of 3.51 feet, radius of 532.00 feet, and a chord bearing of S 39° 44' 50" E, to a point in the existing property line of the Grantor(s) herein; thence with the said property line S 58° 11' 29" W, a distance of 19.04 feet to a point in the existing right of way line; thence with the said existing right of way line N 42° 48' 01" W, a distance of 393.10 feet to the Point of the **BEGINNING**.

Containing 9,597 square feet, more or less.

**AREA #2 – RIGHT-OF-WAY**

**BEGINNING** at a point at the intersection of the existing east right of way line of Thompson Creek Road and south property line of the Grantor(s) herein; thence with the said right of way line N 19° 40' 41" W, a distance of 70.99 feet to a point in the existing property line of the Grantor(s) herein; thence with the said property line N 58° 11' 29" E, a distance of 9.10 feet to a point; thence along a curve to the right having an arc length of 12.61 feet, radius of 532.00 feet, and a chord bearing of S 21° 18' 41" E, thence S 20° 44' 24" E, a distance of 48.50 feet to a point, thence S 42° 31' 44" E, a distance of 10.07 feet to a point on the south property line of the Grantor(s) herein; thence with the said property line S 60° 08' 19" W, a distance of 14.29 feet to the Point of the **BEGINNING**.

Containing 707 square feet, more or less.

The above described tract of land is conveyed to the grantee in fee simple.

**UTILITY EASEMENT**

**AREA #1** being a parcel of land lying outside and adjacent to the said Area #1 proposed east right of way line of Thompson Creek Road and being a width of 5 feet, more or less.

Containing 1,990 square feet, more or less.



**AREA #2** being a parcel of land lying outside and adjacent to the said Area #2 proposed east right of way line of Thompson Creek Road and being a width of 5 feet, more or less.

Containing 356 square feet, more or less.

## **CONSTRUCTION EASEMENT**

**AREA #1** being a parcel of land lying outside and adjacent to the said Area #1 proposed east right of way line of Thompson Creek Road and being of varying width of 58.76 feet to 28.06 feet, more or less.

Containing 16,278 square feet, more or less.

**AREA #2** being a parcel of land lying outside and adjacent to the said Area #2 proposed east right of way line of Thompson Creek Road and being of varying width of 53.39 feet to 62.92 feet, more or less.

Containing 3,894 square feet, more or less.

By this instrument the grantors hereby convey an easement for the construction of a work area and erosion controls outside of the proposed right of way line. The title to the above described land remains vested in the grantor and is to be used by the City of Morristown, its contractors or its assigns for a period of 1 year from and after the commencement of construction.

The grantors acquired title to said land under deed of record in Deed Book 924, Page 236, in the Register's Office of Hamblen County, Tennessee.

The consideration mentioned herein included payment for all the property taken, also payment for any and all incidental damages to the remainder compensable under eminent domain.

The above described property is a portion of Parcel 20.02, Tax Map 34.

**PROPERTY of JEFFREY WISECARVER AND PEGGY WISECARVER**

**FEE SIMPLE**

TRACT 8

**SITUATED**, lying and being in Civil District No. 4 of Hamblen County, Tennessee and being more particularly described as follows:

**BEGINNING** at a point at the intersection of the existing east right of way line of Thompson Creek Road and north property line of the Grantor(s) herein; thence with the said property line N 58° 11' 29" E, a distance of 13.95 feet to a point; thence along a curve to the right having an arc length of 163.12 feet, radius of 532.00 feet, and a chord bearing of S 30° 46' 28" E, to a point in the south property line of the Grantor(s) herein; thence with the said property line S 58° 11' 29" W, a distance of 3.99 feet to a point in the existing right of way line; thence along the said right of way a curve to the left having an arc length of 122.01 feet, radius of 304.99 feet, and a chord bearing of N 31° 20' 24" W, to a point; thence with the said existing right of way line N 42° 48' 01" W, a distance of 42.03 feet to the Point of the **BEGINNING**.

Containing 1,135 square feet, more or less.

**UTILITY EASEMENT**

Being a parcel of land lying outside and adjacent to the said proposed east right of way line of Thompson Creek Road and being a width of 5 feet, more or less.

Containing 801 square feet, more or less.

**CONSTRUCTION EASEMENT**

Being a parcel of land lying outside and adjacent to the said proposed east right of way line of Thompson Creek Road and being of varying width of 28.06 feet to 31.01 feet, more or less.

Containing 3,321 square feet, more or less.

By this instrument the grantors hereby convey an easement for the construction of a work area and erosion controls outside of the proposed right of way line. The title to the above described land remains vested in the grantor and is to be used by the City of Morristown, its contractors or its assigns for a period of 1 year from and after the commencement of construction.

The grantors acquired title to said land under deed of record in Deed Book 914, Page 310, in the Register's Office of Hamblen County, Tennessee.

The consideration mentioned herein included payment for all the property taken, also payment for any and all incidental damages to the remainder compensable under eminent domain.

The above described property is a portion of Parcel 20.02, Tax Map 34.



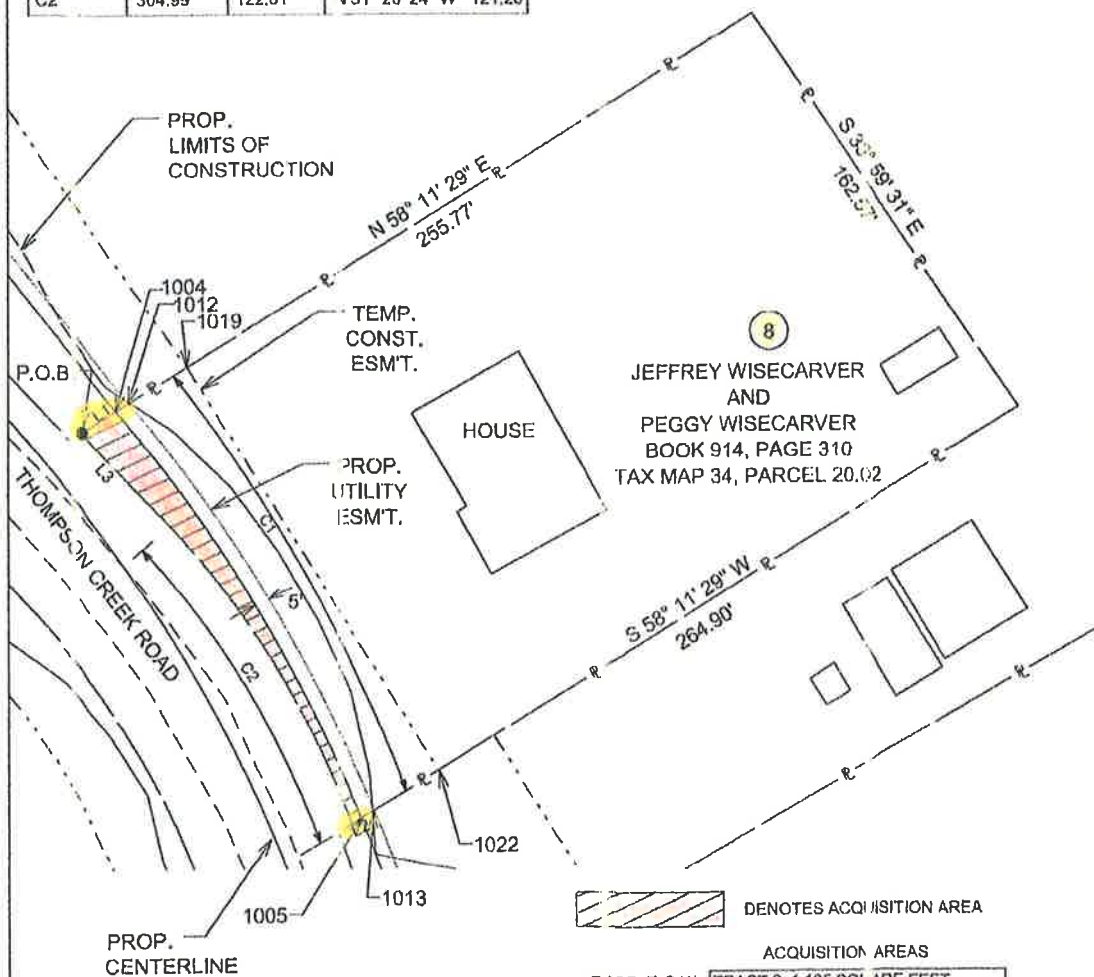


⑥  
JEFFREY WISE CARVER  
AND  
PEGGY WISE CARVER  
BOOK 924, PAGE 236  
TAX MAP 34, PARCEL 20.02



LINE	DIRECTION	DISTANCE
L1	N 58° 11' 29" E	13.95'
L2	S 58° 11' 29" W	3.99'
L3	N 42° 48' 01" W	42.03'

CURVE	RADIUS	LENGTH	CHORD
C1	532.00'	163.12'	S 30° 46' 28" E 162.48'
C2	304.99'	122.01'	N 31° 20' 24" W 121.20'



I HEREBY CERTIFY THAT THIS DRAWING WAS  
PREPARED UNDER MY DIRECT SUPERVISION AND  
THAT THE INFORMATION SHOWN IS TRUE AND  
CORRECT TO THE BEST OF MY KNOWLEDGE

NOTES:

This drawing is not intended to represent a  
Boundary Survey/General Property Survey  
compliant with the minimum standard  
detail requirements of the State of  
Tennessee Rule 0820-03-07. A complete  
Boundary Survey has not been completed  
for this property.

The purpose of this drawing is to identify  
the acquisition areas shown on plans entitled  
"THOMPSON CREEK ROAD RECONSTRUCTION",  
prepared by Mattern & Craig  
429 Clay St., Kingsport, Tennessee 37660.

**Mattern & Craig**  
ENGINEERS SURVEYORS

429 CLAY STREET  
KINGSPORT, TENNESSEE 37660  
(423) 245-4970  
FAX (423) 245-5932



PROJECT THOMPSON CREEK ROAD RECONSTRUCTION  
COMMISSION NUMBER 22386  
DATE: 01-23-2023 SHT. 8 OF 10

JEFFREY WISE CARVER AND PEGGY WISE CARVER  
BOOK 914, PAGE 310  
CIVIL DISTRICT OF HAMBLIN COUNTY, TENNESSEE  
DRAWN BY \_\_\_\_\_ DRAWING NO. \_\_\_\_\_

NONE

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SELLERS:

Jeff Wisecarver 3-15-23

Jeffrey Wisecarver

Date:

Peggy Wisecarver 3-15-23

Peggy Wisecarver

Date:

Thompson Creek Road Project

Tracts 6 & 8



## PHOTOGRAPHY CONTRACT

This Photography Contract (“Contract”) is entered into this \_\_\_\_ day of \_\_\_\_\_ 2023 by and between **THE CITY OF MORRISTOWN, TENNESSEE** (“City”), a municipal corporation, and **LORI HORNER**, a photographer and sole proprietor, authorized to do business in the State of Tennessee (“Horner”).

### WITNESSETH

Whereas, the City had previously contracted with a photographer to serve as the photographer for the City’s Parks & Recreation Department’s sporting events, but that photographer can no longer fulfill the remaining term of its contract, and

Whereas, the City issued a Request for Proposals for photography services for the Parks & Recreation events and did not receive any responses, but was later put in contact with Horner, and

Whereas, the City and Horner do hereby intend to enter into this Photography Contract for photography services for the Parks & Recreation Department.

### NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. **Scope of Services.** Horner shall serve as the photographer for the City’s Parks & Recreation Department. She shall be provided with a schedule of events where she shall serve as the photographer. Horner shall be required to take individual photos, team photos, and live action photos and to make these photos available for purchase to the participants.
2. **Term of Agreement.** The initial term of this Agreement shall run from the date noted above until July 31, 2023. Prior to the end of the initial term, the City may seek new proposals. However, in the event that the City is satisfied with Horner’s performance and the parties agree, this Contract can be extended for another Parks & Recreation sports season, said extension to be agreed upon in a written addendum.
3. **Insurance and Indemnification.** In the event Horner is able to obtain General Liability coverage, she shall obtain such coverage with limits of liability of \$1,000,000.00 naming the City as an additional insured. Horner shall provide proof of said insurance policy to the City. Regardless of whether or not Horner is able to obtain such insurance, she shall indemnify and hold harmless the City, and its

employees, from and against all claims and lawsuits, including reasonable attorney fees and costs, asserted against the City with regards to Horner's performance and all services covered under this Contract.

4. **Compensation.** The City shall be compensated by Horner based on a eighty percent (80%)/twenty percent (20%) revenue sharing, with twenty percent (20%) of Horner's revenues being paid to the City. Horner shall submit a report to the City by the end of each month with a detailed list of that month's revenues. She shall then submit the City's portion to the City on or before the 10<sup>th</sup> day of the following month.
5. **Binding Effect.** This Contract shall be binding upon the undersigned, their successors and assigns unless modified by an agreement in writing executed by the parties hereto. Horner shall not be permitted to assign her rights and obligations under this Agreement without the prior written consent of the City.
6. **Disputes.** Should any disputes arise between the parties, Tennessee law shall govern and venue shall lie in Hamblen County, Tennessee.
7. **Termination.** The City reserves the right to terminate this Agreement at any time for Horner's poor performance or failure to submit the required revenue share to the City.

Witness the day and year first above written.

**City of Morristown, Tennessee      Lori Horner**

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

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

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

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