

MURFREESBORO CITY COUNCIL
Regular Meeting Agenda
Council Chambers – 6:00 PM
June 26, 2025

Public Comment on Actionable Agenda Items

PRAYER

Mr. Kirt Wade

PLEDGE OF ALLEGIANCE

CEREMONIAL ITEMS

STARS Award: Michael Nevills

Consent Agenda

1. Fountains at Gateway Phase 2 Construction Extension (Administration)
2. Proposed Event and Meeting Space Rental Rate Update (Airport)
3. Second Amendment to Restated Contract for Professional Management & Administrative Services (Community Development)
4. Master Services Agreement - ELI (Engineering)
5. Cannonsburgh Village Museum Roof Replacement (Facilities)
6. Wine Sales Certificate of Compliance – United Grocery Outlet #12 (Finance)
7. FY25 City Manager Approved Budget Amendments (Finance)
8. Donation of Used Equipment to Various Law Enforcement Agencies (Police)
9. Magnet Forensics Software License Renewal (Police)
10. Third Amendment to SaaS Agreement with Utility Associates (Police)
11. Robert Rose HVAC and Roof Renovations Project Final Change Order (Project Development)
12. Murfreesboro Transit Center Contingency Allowance Allocation CCF12 (Project Development)
13. Bradyville Pike Reconstruction Design Contract Addendum #3 (Transportation)
14. Old Fort Parkway Technical Report Amendment No. 3 (Transportation)
15. Asphalt and Concrete Purchase Report (Street)

Minutes

16. City Council Meeting Minutes (Finance)

New Business

Land Use Matters

17. Rezoning Property Along Old Lascassas Road (Planning)
 - a. Public Hearing: Rezone 14.81 acres
 - b. First Reading: Ordinance 25-OZ-21

18. Plan of Services, Annexation, and Zoning for Property Along Yeargan Road (Planning)
 - a. Public Hearing: Plan of Services and Annexation for 13.74 acres
 - b. Plan of Services and Annexation: Resolution 25-R-PSA-22
 - c. Public Hearing: Zone 13.74 acres simultaneous with annexation
 - d. First Reading: Ordinance 25-OZ-22

Ordinance

19. Amending the Zoning Ordinance – School and Institutional Group Assembly Uses (Planning)
 - a. Public Hearing: Amending the Zoning Ordinance
 - b. First Reading: Ordinance 25-O-20

Resolution

20. Resolution 25-R-23 Designated Representative FY25 COPS Hiring Program (Police)

On Motion

21. Contract with Insight for LPR Cameras and Services (Police)
22. Consolidated Plan & First Year Action Plan for 2025-2029 (Community Development)
23. Thompson Ln Widening-Easement Offers (Water Resources)
24. State Maintenance Contract FY 2025 - 2027 (Street)
25. Agreement for Body Shop Services for City Vehicles (Fleet Services)
26. Purchase of Property and Liability Insurance (Human Resources)
27. HVAC Preventive Maintenance Contract (Facilities)
28. Generator Preventive Maintenance Agreement (Facilities)
29. Revised Safe Streets and Roads For All Grant Agreement with Federal Highway Administration (Transportation)
30. Safe Street For All Action Plan Professional Services Contract (Transportation)
31. City Concrete and Storm Drainage Annual Contract Renewal (Engineering)
32. City Paving Contract Renewals (Engineering)

Board & Commission Appointments

Licensing

33. Beer Permits (Finance)

Payment of Statements

Other Business

Adjourn

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Fountains at Gateway Phase 2 Construction Extension

Department: Administration

Presented by: Darren Gore, City Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

Summary

Notification to extend deadline for Fountains at Gateway to begin construction on Phase 2 until December 31, 2026.

Staff Recommendation

Council communication is for information only.

Background Information

In September 2024 the City and Scott Graby executed a Fifth Amendment to the Agreement for Conveyance of Real Estate to extend the date by which Mr. Graby was to have started actual construction on Phase 2. As a reminder, Phase 2 of the Fountains at Gateway is a five-story structure with more than 200,000 feet of Class A office space plus three floors of luxury condominiums known as Atrium at Fountains. The Fifth Amendment provided for the City Manager to grant a further extension after notice to Council. Attached is a letter to Mayor and Council further explaining the rational for an additional extension and a copy of a letter I will send to Mr. Graby after this meeting. The financial lending market challenges are the primary cause of the extension. Mr. Graby is fully committed to his continuing investment with over \$5.0M in soft costs and pre-pays.

Council Priorities Served

Improve Economic Development

Phase 1 of the Fountains is very successful and we expect the same when Phase 2 is completed.

Fiscal Impact

No fiscal impact

Attachment

Notification Letter to Mayor and Council

Notification Letter to Mr. Scott Graby



... creating a better quality of life

June 10, 2025

Mayor and Council:

On September 5, 2024, the City and Scott Graby for the Fountains executed a Fifth Amendment to the Agreement for Conveyance of Real Estate to extend the Phase 2 construction deadlines.

That Fifth Amendment provides, in part, that "The City Manager may, for good cause shown, and after an informational notice to the City Council on an advertised agenda at a regular meeting, extend this 30-month deadline to a date certain."

As we all know, the financial markets have been in flux for some time. Scott has been working diligently and appears to be on track for commencement of construction in the near future. In accord with the Fifth Amendment, I plan to send the attached letter to Mr. Graby this week.

Please do not hesitate to contact me if you have any questions.

A handwritten signature in blue ink that reads "Darren W. Gore". The signature is fluid and cursive, with the first name "Darren" being the most prominent.

Darren W. Gore

City Manager

Administration

111 W. Vine St. * Murfreesboro, Tennessee 37130 * Phone 615 615-849-2629 * www.murfreesborotn.gov



... creating a better quality of life

June 10, 2025

Scott Graby
4925 Veterans Parkway
Murfreesboro, TN 37128

Dear Scott:

Responding to your email of May 19, 2025, be advised that, in accord with Sec. B.1. of the Fifth Amendment to the Agreement to Convey Property, I am extending the deadline for the start of construction on Phase 2 of the Fountains at Gateway until December 31, 2026.

Best wishes for the continuing development of the Fountains Project.

Sincerely,

A handwritten signature in blue ink that reads "Darren W. Gore". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Darren W. Gore
City Manager

CC: Mayor Shane McFarland
Greg McKnight
Ben Newman
Adam Tucker
David Ives

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Proposed Event and Meeting Space Rental Rate Update

Department: Airport

Presented by: Ryan Hulsey, Airport Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider a proposed update to the event and meeting space rental rates.

Staff Recommendation

Approve an increase to event and meeting space rental rates at the Murfreesboro Municipal Airport Terminal-Business Center starting July 1, 2025. The Airport Commission recommended approval in this matter on May 19, 2025.

Background Information

The hourly rental rates for the Airport Business Center and Conference room were established in 2022. Since then, the City, Airport businesses and organizations, and community have all enjoyed the wonderful meeting and event space including the available audio-visual equipment. During that time the Airport Staff have gathered a great deal of experience and knowledge managing these facilities. While the revenue from the rent of this space has generated nearly \$48,000 this year, it is prudent that the hourly rental rates be adjusted with inflation. The updated hourly rental rates include the addition of the classroom on the south side of the Terminal which will be used predominantly for meetings and training.

Council Priorities Served

Responsible budgeting

Review and adjustment of rental rates is necessary to maintain a financially viable and well-maintained airport.

Fiscal Impact

The proposed adjustments to rental rates are as follows: Conference Room from \$50 to \$75 per hour, Business Center from \$150 to \$175, and Training Room to \$140 per hour.

Attachment

Schedule of Revised Fees

Schedule of revised fees for space in Airport Business Center- Terminal

Conference Room	\$50 per hour	Adjusted to \$75 per hour 7-1-2025
Training Room	New for City use	Start at \$140 per hour 9-1-2025
Business Center	\$150 per hour	Adjusted to \$175 per hour 7-1-2025

COUNCIL COMMUNICATION

Meeting Date: 6/26/2025

Item Title: Second Amendment to Restated Contract for Professional Management & Administrative Services

Department: Community Development

Presented by: Jessica Cline, Assistant Director of Community Development

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider a contract amendment to provide management and administrative services by BluLynx to assist Community Development in FY26 CBDG and HOME Grant activities.

Staff Recommendation

Approve Amended and Restated Agreement with BluLynx.

Background Information

In 2021, BluLynx was contracted to assist Community Development in management and administrative services for both the CBDG and HOME Grant Programs. The services provided by BluLynx continue to be valuable to the Community Development staff. Therefore, it is proposed to extend the contract with BluLynx for an additional three months.

Council Priorities Served

Responsible Budgeting

Utilizing federal funds to provide community-based assistance is a cost-effective means of addressing the needs of the community.

Fiscal Impact

The expenditure, \$18,975, is funded by CDBG and Home funds allocated for Administration of these grants.

Attachment

Contract Amendment and Proposal.

**SECOND AMENDMENT
TO THE AMENDED AND RESTATED CONTRACT
BETWEEN THE CITY OF MURFREESBORO
AND
BLULYNX SOLUTIONS, LLC**

This Second Amendment ("Second Amendment") to the Amended and Restated Contract entered into May 5, 2023 ("First Restated Contract"), is effective as of _____, by and between the **City of Murfreesboro** ("City"), a municipal corporation of the State of Tennessee and **Blulynx Solutions, LLC** ("Contractor"), a Limited Liability Company of the State of Georgia.

RECITALS

WHEREAS, on May 5, 2023, the City entered into the First Restated Contract with Contractor for professional management and administrative services related to the implementation of the Community Development Block Grant program and other programs; and,

WHEREAS, on June 7, 2024, the City and Contractor entered into the First Amendment to the Amended and Restated Contract; and,

WHEREAS, the term of the First Amendment between the City and Contractor is currently from June 7, 2024, to June 30, 2025, and,

WHEREAS, the City and Contractor wish to extend the First Restated Contract term pursuant to provision 2 of the First Restated Contract for an additional three months, and,

WHEREAS, the City agrees to a Cost Proposal for additional services of Contractor for \$18,975.00 for 165 hours of services as outlined in the Cost Proposal (Exhibit A);

NOW THEREFORE, the City and Contractor mutually agree as follows:

1. **Extension:** The term of the current Contract is hereby extended for a period from June 30, 2025 until September 30, 2025.
2. **Cost Adjustment:** The cost in provision 3 of the Contract is hereby amended to include an additional \$18,975.00, for a total of \$192,050.00.
3. **No Other Amendment or Modification:** Except as provided herein, the parties make no other modifications or amendments, and all other terms of the Contract and First Amendment shall continue in full force and effect.

IN WITNESS WHEREOF, the parties enter into this Second Amendment as of the Effective date first written above.

CITY OF MURFREESBORO

BLULYNX, LLC

By: _____
Shane McFarland, Mayor

DocuSigned by:
Kimberly Roberts
By: _____
Kimberly Roberts, Principal

Approved as to form:

Signed by:
Adam F. Tucker

Adam F. Tucker, City Attorney

COST PROPOSAL

PROFESSIONAL MANAGEMENT & ADMINISTRATIVE SERVICES RELATED TO THE COMMUNITY DEVELOPMENT BLOCK GRANT for Murfreesboro, TN

For Submission To

Jessica Cline
Assistant Director
Community Development
P.O. Box 1139
211 Bridge Ave.
Murfreesboro, TN 37133

BluLynx Solutions

8343 Roswell Rd, Suite 154, Atlanta, GA30350
Phone: 404-907-1802
info@blulynxsolutions.com

BluLynx Solutions Cost Proposal

For the performance of the scope of services detailed below, should the City engage BluLynx to perform the services

SCOPE OF SERVICES

The consultant's scope of services shall include the following activities. The Consultant shall, as authorized, undertake the necessary analyses, applications, and related activities to accomplish the following activities:

1. Assist City in preparing Annual Action Plan and CAPER

- Undertake necessary grant planning activities related to CDBG to update City's Annual Action Plan and CAPER to include additional CARES funding and new program objectives, budgets for the completion of final document for submission to IDIS.
- Conduct all public hearings and public notice postings related to Annual Action Plan and CAPER

2. Provide General Consulting and Technical Assistance Training

- Provide CDBG general consulting and advisory services throughout the term of the contract relative to management practices remotely and onsite.
- Provide IDIS training to include project setup, project funding, program income, and beneficiary compliance eligibility documentation in accordance with CDBG regulations.
- Provide assistance in preparing or revising written CDBG procedures manual outlining implementation procedures.
- Provide CDBG programmatic training for City's CD staff and subrecipients to ensure full compliance with CDBG regulations to include, Environmental Review, Davis Bacon, Project Service Area Determination, etc.
- Assist the City in developing files, expenditure plans, financial status reports, and other tracking mechanisms to ensure grant compliance.

FEE SCHEDULE

BluLynx proposes to provide following itemized services to the City of Murfreesboro. Based on the scope of work as identified in this Proposal for July 1, 2025 – September 30, 2025.

TASK NO.	SERVICE DESCRIPTION	PERSON PERFORMING TASK	HOURLY RATE	NO. OF HOURS SPENT ON CDBG PROJECT	NO. OF HOURS SPENT ON HOME PROJECT	TOTAL HOURS	TOTAL COST
1	Reporting - Monthly and Annual Reporting (CAPER)	Principal	\$115.00	80	30	110	\$12,650
2	Provide General Consulting and Technical Assistance	Principal	\$115.00	30	25	55	\$6,325
TOTAL				110	55	165	\$18,975

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Master Services Agreement – Energy Land and Infrastructure

Department: Engineering

Presented by: Joe Ehleben, Project Coordinator

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider a Master Services Agreement between the City and Energy Land and Infrastructure (ELI).

Staff Recommendation

Approve the Master Services Agreement between the City and ELI.

Background Information

The City currently has several Master Service Agreements with professional consultants providing a variety of services. ELI has provided professional services for the City in several areas for many years. Services include, but are not limited to, Civil Design, Environmental Studies and Traffic Studies. This Master Services Agreement would allow City Staff to use ELI periodically in the development of smaller, specialized projects.

Council Priorities Served

Expand infrastructure

Improvements to City streets enhances the safety and livability of neighborhoods and the City's roadway system.

Fiscal Impact

The primary funding source of the City's professional service task orders is from State Street Aid, which is our local share of the State's gasoline tax; budgeted for FY26 in the amount of \$75,000. Additional funding is provided through CIP Funds.

Attachments

Master Services Agreement from ELI.

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

MAIN AGREEMENT

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

MAIN AGREEMENT

This Main Agreement is a part of the Agreement between the **City of Murfreesboro, Tennessee** (Owner) and **Energy Land & Infrastructure, LLC** (Engineer). Other terms used in the Agreement are defined in Article 7.

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

Owner and Engineer further agree as follows:

ARTICLE 1—SERVICES OF ENGINEER

1.01 General

- A. Engineer's services will be detailed in a duly executed Task Order for each Specific Project, or for a portion of a Specific Project.
- B. The Main Agreement is not a commitment by Owner to issue any Task Orders.
- C. Engineer will not be obligated to perform any prospective Task Order unless and until (1) Owner and Engineer agree to the particulars of the assignment, including the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters, and include such particulars in the Task Order, and (2) Owner and Engineer both sign the Task Order.
- D. Each duly executed Task Order will be subject to the terms and conditions of (a) this Main Agreement; (b) the Main Agreement's exhibits; (c) any executed written amendments of the Main Agreement (see Exhibit C); (d) the specific Task Order itself; (e) the specific Task Order's exhibits; and (f) any amendments or modifications of the specific Task Order.

1.02 Task Order Procedure

- A. The general recommended format of a Task Order is presented in the accompanying Task Order Form. Commonly used Task Order exhibits are presented in the accompanying Exhibits to Task Order document.
- B. Each specific Task Order will indicate:
 - 1. Project Background Data;
 - 2. Specific services to be performed by Engineer ("Scope"), including key deliverables;
 - 3. Additions or Modifications to Owner's Responsibilities;
 - 4. Task Order Schedule;

Main Agreement.

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5. Engineer's Compensation for Task Order; and
 6. Primary Subconsultants, if any.
- C. With respect to the Engineer's scope of services under a specific Task Order, each specific Task Order will either (1) be accompanied by and incorporate an Exhibit A, "Engineer's Services Under Task Order," and Exhibit B, "Deliverables Schedule," prepared for the specific Task Order, or (2) state a customized scope of services and deliverables schedule in the Task Order document itself or in an attachment.
- D. Upon signature of the Task Order by both parties (but no earlier than the Effective Date of the specific Task Order), Engineer will commence performance and furnish, or cause to be furnished, the services authorized by the Task Order.
- E. Task Orders may be amended as set forth in Paragraph 8.05.B of this Main Agreement.

1.03 Management of Engineering Services

- A. All phases of Engineer's services under each Task Order will include management of Engineer's Specific Project responsibilities, including but not limited to the following management tasks, whether separately tracked and itemized or included as being incidental to other phase and scope task items.
1. Develop and submit an Engineering Services Schedule. The Engineering Services Schedule will:
 - a. be consistent with and serve as a supplement to the Schedule of Deliverables set forth in Exhibit B to Task Order.
 - b. be updated on a regular basis, and as required to reflect any programmatic decisions by Owner.
 - c. include, but not be limited to, an anticipated sequence of tasks; estimates of task duration; interrelationships among tasks; milestone meetings and submittals; anticipated schedule of construction; and other pertinent Project events.
 2. Develop and submit detailed work plans from Exhibit A to Task Order tasks.
 3. Coordinate services within Engineer's internal team, and with Subconsultants and Engineer's Subcontractors.
 4. Prepare for and participate in meetings with consultants and contractors working on other parts of the Specific Project that may affect, or be affected by, Engineer's services
 5. If requested by owner, prepare and submit monthly engineering services progress reports to the Owner. Include a summary of services performed in period, expected progress in next period, percent completion of current tasks, and a description of major issues or concerns.
 6. Special Invoicing: In addition to, or as a substitute for, Engineer's standard invoicing, for each invoice provide the specified additional information or documentation, following the invoicing procedures indicated: NOT APPLICABLE.
 7. Conduct ongoing management tasks, including:



- a. Maintaining communications records and files pertaining to or arising from Engineer's services;
 - b. With respect to Engineer's services and other directly relevant parts of the Specific Project, prepare for and participate in periodic progress meetings with Owner to discuss progress, schedule, budget, issues, potential problems and their resolution; and
 - c. Preparing agendas prior to and minutes following all Engineer-led meetings.
- B. Unless a different standard is expressly set forth in a specific Task Order, in all phases of Engineer's services, Engineer shall prepare draft and final Drawings in accordance with Engineer's CAD standards, using Autodesk Civil 3D or Bentley OpenRoads Designer software.
- C. The source documents for the draft and final Specifications in all phases of Engineer's services will be Owner's standard specifications unless a different source document is expressly identified in the specific Task Order.

1.04 Sequencing and Coordination

- A. For each Task Order, the Work to be designed or specified by Engineer, upon which the Engineer's scope has been established, will be performed or furnished under one prime Construction Contract, unless specified otherwise in the Task Order.
- B. If the Work designed or specified by Engineer under a specific Task Order is to be performed or furnished under more than one prime Construction Contract, or if Engineer's services are to be separately sequenced with the work of one or more of Owner's consultants or contractors (such as in the case of fast-tracking), then:
- 1. the Task Order's Deliverables Schedule will account for the need to sequence and properly coordinate Engineer's services as applicable to the Work under the Construction Contracts; or
 - 2. If the Task Order does not address such sequencing and coordination, then Owner and Engineer will jointly develop a schedule for sequencing and coordination of services prior to commencement of final design services; this schedule is to be prepared and included in or become an amendment to the authorizing Task Order, whether the work under such contracts is to proceed concurrently or sequentially.

ARTICLE 2—OWNER'S RESPONSIBILITIES

2.01 Application of Owner's Responsibilities

- A. The responsibilities of Owner set forth in Article 2 apply to each Specific Project and each specific Task Order. Supplemental responsibilities of Owner applicable only to a specific Task Order may be stated in the specific Task Order.

2.02 Project Information

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of the Specific Project, including Owner's:



1. design objectives and constraints;
 2. space, capacity, and performance requirements;
 3. flexibility and expandability needs;
 4. design and construction standards;
 5. budgetary limitations; and
 6. any other available information pertinent to the Specific Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- B. Following Engineer's assessment of initially-available information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services under the Task Order; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services. Such additional information or data may include the following:
1. Property descriptions.
 2. Zoning, deed, and other land use restrictions.
 3. Surveys, Mapping, and Utility Documentation.
 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Specific Project, the Site, and adjacent areas.
 7. Data or consultations as required for the specific Task Order but not otherwise identified in this Agreement.
- C. Owner shall examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- D. If a specific Task Order requires Engineer to assist Owner in collating the various cost categories that comprise Total Project Costs, Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice).



- E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications prepared or furnished under a Task Order will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.
- F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A to Task Order.
- G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Specific Project.

2.03 Owner's Instructions Regarding Bidding and Construction Contract Documents

- A. Owner shall give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
 - 1. Owner's standard contract forms, general conditions (if other than the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in draft Construction Contract Documents;
 - 2. insurance and bonding requirements;
 - 3. protocols for electronic transmittals during bidding and construction;
 - 4. Owner's safety and security programs applicable to Contractor and other Constructors;
 - 5. diversity and other social responsibility requirements;
 - 6. bidding and contract requirements of funding, financing, or regulatory entities;
 - 7. other specific conditions applicable to the procurement of construction or contract documents;
 - 8. any other information necessary for Engineer to assist Owner in preparing, for each Specific Project, bidding-related documents (or requests for proposals or other construction procurement documents) and Construction Contract Documents.
- B. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise) and other engineering or technical matters.
 - 1. Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Owner shall place and pay for advertisements for Bids in appropriate publications.



2.04 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, Owner shall obtain, as required for each Specific Project:
 - 1. Accounting, bond and financial advisory services (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 - 2. Legal services, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
 - 3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- C. Owner shall acquire or arrange for acquisition of the Site(s) and any temporary or permanent rights of access, easements, or property rights needed for each Specific Project.
- D. With respect to the portions or phases of each Specific Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:
 - 1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, and
 - 2. such reviews, approvals, and consents from others as may be necessary for completion of each portion or phase of the Specific Project.
- E. Owner may delegate to a Contractor or others the responsibilities set forth in Paragraphs 2.04.C and D.

2.05 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement and under each Task Order.
- B. Owner will provide Engineer with Owner's budget for each Specific Project, including type and source of funding to be used and will promptly inform Engineer if the budget or funding sources change.



- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement and under each Task Order.
- D. Owner shall arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement and under each Task Order.
- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement or any Task Order. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement or any Task Order, subject to any express limitations or reservations applicable to the furnished items.
- G. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or
 - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.
- H. Owner shall advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to a Specific Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, then Owner shall define and set forth, in an exhibit to the governing Task Order, the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- J. Owner shall:
 - 1. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
 - 2. Primarily communicate with Engineer's Subcontractors and Subconsultants through the Engineer.
 - a. Promptly inform Engineer of the substance of any communications between Owner and Engineer's Subcontractors or Subconsultants.

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- b. Refrain from directing the services of Engineer's Subcontractors or Subconsultants.
- 3. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of each Task Order, as required.
- 4. Perform or provide the following:
 - a. All other Owner responsibilities expressly identified in any Task Order, not otherwise set forth in this Agreement.
 - b. **[List any other Owner responsibilities here].**

2.06 Payment

- A. Owner shall pay Engineer as set forth in each Task Order, pursuant to the applicable terms of Article 4.

ARTICLE 3—TERM AND TIMES FOR RENDERING SERVICES

3.01 Term

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

3.02 Commencement

- A. Engineer is authorized to begin rendering services under a Task Order as of the Effective Date of the Task Order.

3.03 Time for Completion

- A. The Effective Date of the Task Order and the times for completing services or providing deliverables will be stated in each Task Order.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of a Specific Project, or of Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- D. If the Contract Times to complete the Work under a Construction Contract are extended beyond the period stated in the governing Task Order, Owner will pay Engineer for the additional services during the extension based on the Standard Hourly Rates Method of Payment.
- E. If Engineer fails, for reasons within the control of Engineer, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages to the extent, if any, resulting from such failure by Engineer.



ARTICLE 4—INVOICES AND PAYMENTS

4.01 Invoices

- A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices; the terms of any progress reporting and special invoicing requirements in Paragraph 1.03, or as otherwise required in Exhibit A to the Task Order; and with the applicable terms of Appendix 1 to Main Agreement, Reimbursable Expenses Schedule, and Appendix 2 to Main Agreement, Standard Hourly Rates Schedule. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 Payments

- A. Application to Interest and Principal: Payment will be credited first to any interest owed to Engineer and then to principal.
- B. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion, subject to the terms of Article 4. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.
- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and
 - 2. Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.
- D. Sales or Use Taxes: Owner is exempt from State sales tax and will issue a tax exemption certificate to Engineer upon request. Owner shall not be responsible for any taxes that are imposed on Engineer. Furthermore, Engineer understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to Owner.

4.03 Basis of Compensation

- A. The bases of compensation (compensation methods) for Basic Services (including if applicable the bases of compensation for individual phases of Basic Services) and for Additional Services must be identified in each specific Task Order (Task Order Form, Paragraph 6). Owner shall pay Engineer for services in accordance with the applicable basis of compensation.
- B. The three following bases of compensation are used for services under Task Orders, as identified in each specific Task Order:
 - 1. Lump Sum (plus any expenses expressly eligible for reimbursement)
 - 2. Standard Hourly Rates (plus any expenses expressly eligible for reimbursement)
 - 3. Direct Labor Costs Times a Factor (plus any expenses expressly eligible for reimbursement)

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- C. The terms and conditions applicable to each of the three compensation methods are set forth in Paragraph 4.04.

4.04 Explanation of Compensation Methods

A. Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services.
2. The Lump Sum will include compensation for Engineer's services and services of Engineer's Subcontractors and Subconsultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Engineer's Subcontractor and Subconsultant charges.
3. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services in the specified category (see Appendix 1 for rates or charges):
 - a. **Fees associated with reviews and permits from agencies having jurisdictional authority for approval of the project.**
4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services completed during the billing period to the Lump Sum.

B. Standard Hourly Rates

1. For the specified category of services, the Owner shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class. Under this method, Engineer shall also be entitled to reimbursement from Owner for the expenses identified in Paragraph 4.05 below, and Appendix 1.
2. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
3. Engineer's Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Agreement as Appendices 1 and 2.
4. The total estimated compensation for the specified category of services will be stated in the Task Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, and reimbursable expenses (including Engineer's Subcontractor and Subconsultant charges, if any). The total estimated compensation will be provided on a "not to exceed" basis, and Engineer will notify Owner prior to performing work or charging expenses in excess of said estimate. Owner will promptly direct Engineer to cease work under the Task Order and/or seek approval for additional funding to complete the Task Order. A notice to cease work will operate according to the provisions of Paragraph 6.05 below.
5. The amounts billed will be based on the cumulative hours charged to the specified category of services on the Specific Project during the billing period by each class of

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Engineer's employees times Standard Hourly Rates for each applicable billing class, plus reimbursable expenses (including Engineer's Subcontractor and Subconsultant charges, if any).

6. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of January 1st) to reflect equitable changes in the compensation payable to Engineer.

C. Direct Labor Costs Times a Factor

1. For the specified category of services, the Owner shall pay Engineer an amount equal to Engineer's Direct Labor Costs times a factor equivalent to Engineer's current Federal Acquisition Regulation (FAR) Overhead Rate (currently 165.54%) times a fee or profit commensurate with the services provided (typically 10%-14%) for the services of Engineer's employees engaged on the Specific Project. Direct Labor Costs means salaries and wages paid to employees but does not include payroll-related costs or benefits. Under this method, Engineer shall also be entitled to reimbursement from Owner for the expenses identified in Paragraph 4.05 below.
2. Engineer's Reimbursable Expenses Schedule is attached to this Exhibit as Appendix 1.
3. The total estimated compensation for the specified category of services must be stated in the Task Order. This total estimated compensation incorporates all labor, overhead, profit, and reimbursable expenses (including Consultant's charges, if any).
4. The amounts billed will be based on the applicable Direct Labor Costs for the cumulative hours charged to the specified category of services on the Specific Project during the billing period times the above-designated Factor, plus reimbursable expenses (including Engineer's Subcontractor and Subconsultant charges, if any).
5. The Reimbursable Expenses Schedule will be adjusted annually (as of January 1st). The Direct Labor Costs will be adjusted periodically to reflect actual costs and the factor applied to Direct Labor Costs will be adjusted once annually (around July 1st) to reflect adjustments to the Engineer's FAR Overhead Rate.

4.05 Reimbursable Expenses

- A. Under the Lump Sum method basis of compensation to Engineer, unless expressly indicated otherwise the Lump Sum amount includes the following categories of expenses: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone services, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; and Engineer's Subcontractor and Subconsultant charges. These expenses are not reimbursable under the Lump Sum method, unless expressly indicated otherwise in Paragraph 4.04.A.3 above.
- B. Expenses eligible for reimbursement under the Direct Labor Costs Times a Factor and Standard Hourly Rate methods of compensation include the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Task Order:
 1. Transportation (including mileage), lodging, and subsistence incidental thereto;

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2. Providing and maintaining field office facilities including furnishings and utilities;
 3. Toll telephone calls, mobile phone services, and courier services; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items;
 4. Consultant charges; and
 5. Other expenses identified in Appendix 1.
- C. Reimbursable expenses reasonably and necessarily incurred in connection with services provided under the Direct Labor Costs Times a Factor and Standard Hourly Rate methods must be paid at the rates set forth in Appendix 1, Reimbursable Expenses Schedule, subject to the factors set forth below.
- D. The amounts payable to Engineer for reimbursable expenses will be the Project-specific internal expenses actually incurred or allocated by Engineer, plus all invoiced external reimbursable expenses allocable to the Specific Project, the latter multiplied by a factor of **1.00**.
- E. Whenever Engineer is entitled to compensation for the charges of its Consultants, those charges will be the amount billed by such Consultants to Engineer times a factor of **1.00**.
- F. The external reimbursable expenses and Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

4.06 Other Provisions Concerning Payment

A. Estimated Compensation Amounts

1. Engineer's estimate of the amounts that will become payable for services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
2. When estimated compensation amounts have been stated in a Task Order and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination for Owner's convenience of Engineer's services under the Task Order. Upon notice, Owner and Engineer will promptly review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services under the Task Order for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer will be paid for all services rendered.



ARTICLE 5—OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions of probable Construction Cost (if any) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs will be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6—GENERAL CONSIDERATIONS

6.01 Standards of Performance

- A. Standard of Care: The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. Technical Accuracy: Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. Engineer's Subcontractors and Subconsultants: Engineer may retain such Engineer's Subcontractors and Subconsultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. Reliance on Others: Subject to the standard of care set forth in Paragraph 6.01.A, Engineer may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. Compliance with Laws and Regulations, and Policies and Procedures
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in



Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.

3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date of the Task Order to Laws and Regulations,
 - b. the receipt by Engineer after the Effective Date of the Task Order of Owner-provided written policies and procedures, and
 - c. changes after the Effective Date of the Task Order to Owner-provided written policies or procedures.
- F. General Conditions of Construction Contract: The general conditions for any construction contract documents prepared hereunder are to be the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract, prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in this Agreement.
- G. Copies of Drawings and Specifications: If Engineer is required to prepare or furnish Drawings or Specifications under a specific Task Order, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence the Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- J. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- K. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer.
- L. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- M. Engineer's services do not include providing legal advice or representation.

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- N. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer. Engineer shall continue to own the Documents and all associated rights whether or not the Specific Project is completed.
 - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project.
 - 2. Engineer grants Owner a limited license to use the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations:
 - a. Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
 - b. any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Subconsultants;
 - c. To the extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and
 - d. such limited license to Owner shall not create any rights in third parties.
- B. If Engineer, at Owner's request, verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.



- C. Engineer shall inform Owner if Engineer is aware of any invention, design, process, product, or device specified in the Drawings, Specifications, or other Documents that is subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights. If Engineer's good-faith inclusion in the Drawings, Specifications, or other Documents of new, innovative, or non-standard technologies, for the benefit of Owner and the Project, results in third-party claims of infringement or violation of intellectual property rights, then Engineer shall indemnify and hold harmless Owner in full for and from the costs of defending against, settling, or paying such claims.
- D. Engineer will obtain Owner's consent, which will not be unreasonably withheld, prior to releasing any publicity, including news and press releases, promotional publications, award and prize competition submittals, and other advertising regarding the subject matter of this Agreement. Nothing herein will limit the Engineer's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and accept, all correspondence, Documents, text, data, drawings, information, and graphics related to each Specific Project, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with Exhibit F, Electronic Documents Protocol (EDP).
 - 1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP or in a specific Task Order.
 - 2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.
- B. If this Agreement does not include Exhibit F, or a specific Task Order expressly excludes the application of Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and Engineer may operate without specific protocols or may jointly develop such protocols at a later date.
- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents, or from those established in applicable protocols.
- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.



- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:
 - 1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
 - 2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
 - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
 - 4. not seek contribution from insurance maintained by the additional insured.
- C. Owner shall procure and maintain insurance as set forth in Exhibit G.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.
- E. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
 - 1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any documentation made available for review under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.
- F. All construction contracts entered into by Owner with respect to a Specific Project must require builder's risk or similar property insurance.
- G. All policies of property insurance relating to a Specific Project, including but not limited to any builder's risk or similar policy, must allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against each other, Contractor, Engineer's Subcontractors and Subconsultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any such builder's risk or similar policy and any other property insurance relating to the Specific Project. Owner and Engineer shall take



appropriate measures in other Specific Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.

- H. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.
- I. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so, requested by Owner, and if commercially available, Engineer shall obtain and shall require Engineer's Subcontractors or Subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 Suspension and Termination

A. Suspension

- 1. By Owner: Owner may suspend Engineer's services under a specific Task Order for up to 90 days upon 7 days' written notice to Engineer.
- 2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under a Task Order:
 - a. if Owner has failed to pay Engineer for invoiced services and expenses under that Task Order, as set forth in Paragraphs 4.02.B and 4.02.C;
 - b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
 - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under the Task Order.
- 3. A suspension under a specific Task Order, whether by Owner or Engineer, does not affect the duty of the two parties to proceed with their obligations under other Task Orders.

B. Termination for Cause—Task Order

- 1. Either party may terminate a Task Order for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement and the specific Task Order, through no fault of the terminating party.
 - a. Notwithstanding the foregoing, the Task Order will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period

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provided for herein will extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate a Task Order for cause upon 7 days' written notice:
 - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;
 - b. if the Engineer's services under the Task Order are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
 - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
 3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.
- C. Termination for Cause—Main Agreement: In the case of a default by Owner in its obligation to pay Engineer for its services under more than one specific Task Order, Engineer may request immediate payment of all amounts invoiced on other Task Orders, and may invoice Owner for continued services on such Task Orders on a two-week billing cycle, with payment due within one week of an invoice. If Owner fails to make such payments, then upon 7 days' notice Engineer may terminate this Main Agreement and all Task Orders.
- D. Termination for Convenience by Owner: Owner may terminate a Task Order or this Main Agreement for Owner's convenience, effective upon Engineer's receipt of notice from Owner.
- E. Effective Date of Termination: If Owner terminates the Main Agreement for cause or convenience, Owner may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files. Engineer shall be entitled to compensation for such tasks.
- F. Payments Upon Termination: In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services that have been performed or furnished in accordance with this Main Agreement and the specific Task Order, and all reimbursable expenses incurred through the effective date of termination. Upon making such payment, Owner will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
1. If Owner has terminated a Task Order for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Main Agreement or as otherwise agreed in writing.
 2. If Owner has terminated the Main Agreement for convenience, or if Engineer has terminated a Task Order for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and

Main Agreement.



after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in this Main Agreement.

6.06 Successors, Assigns, and Beneficiaries

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.06.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Main Agreement and any Task Order issued under this Main Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or money that is due or may become due) in this Main Agreement, or in any Task Order, without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Main Agreement or any Task Order.
- C. Unless expressly provided otherwise in this Main Agreement:
 - 1. All duties and responsibilities undertaken pursuant to this Main Agreement or any Task Order will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 - 2. Nothing in this Main Agreement or in any Task Order will be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in all Construction Contracts associated with this Main Agreement and its Task Orders.

6.07 Dispute Resolution

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to invoking mediation.
- B. Mediation: Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Main Agreement or any Task Order hereunder, or to any breach of this Main Agreement or any Task Order ("Disputes") to mediation. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
- C. If the parties fail to resolve a dispute through mediation under Paragraph 6.07.B, then either or both may invoke the applicable dispute resolution procedures of Exhibit H. If Exhibit H is not included, or if no applicable dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.



6.08 Controlling Law; Venue

- A. This Main Agreement and all Task Orders (unless expressly stated otherwise) are to be governed by the Laws and Regulations of the state in which the principal office of the Owner is located: **Tennessee**.
- B. Venue for any exercise of rights at law will be the state court having jurisdiction at the location of Owner's principal office; or at the choice of either party, and if federal jurisdictional requirements can be met, in federal court in the district in which Owner's principal office is located.

6.09 Environmental Condition of Site

- A. With respect to each specific Task Order, Specific Project, and Site (unless indicated otherwise in a specific Task Order), Owner represents to Engineer that, as of the Effective Date of the Task Order, to the best of Owner's knowledge, no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. Undisclosed Constituents of Concern. For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as "undisclosed" Constituents of Concern.
 - 1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.
 - 2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under a Task Order are not undisclosed Constituents of Concern.
 - 3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that for all Task Orders the Engineer's scope of services does not include any services related to undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Specific Project adversely affected



thereby until such portion of the Specific Project is no longer so affected; and Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.

- E. If the presence at a Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer's services under a specific Task Order, then:
 - 1. if the adverse effects do not preclude Engineer from completing its Specific Project services in general accordance with the Task Order on unaffected or marginally affected portions of the Specific Project, Engineer may accept an equitable adjustment in its compensation or in the time of completion, or both; and the Task Order will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or
 - 2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its Specific Project services without significant changes to the scope of services, time of completion, and compensation, then Engineer may terminate the Task Order for cause on 7 days' written notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 Indemnification and Mutual Waiver

- A. Indemnification by Engineer: To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to a Specific Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."
- B. Environmental Indemnification: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorney's fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under a Site, provided that:



1. any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and
 2. nothing in this paragraph obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- C. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- D. Percentage Share of Negligence: To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, will not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- E. Mutual Waiver: To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Task Order, or a Specific Project, from any cause or causes. Such excluded damages include but are not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.

6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services under a specific Task Order, or such other period as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under the Task Order. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Main Agreement or a Task Order will be in writing, and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line. All notices must be effective upon the date of receipt.
- B. Survival: Subject to applicable Laws and Regulations, all express representations, waivers, indemnifications, and limitations of liability included in this Main Agreement or in a Task Order will survive completion or termination for any reason.
- C. Severability: Any provision or part of the Main Agreement or any Task Order held to be void or unenforceable under any Laws or Regulations will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.



- D. No Waiver: A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Agreement.
- E. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Main Agreement and any Task Order will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if Engineer's services do not include Construction Phase services, or the Specific Project is not completed, then no later than the date of Owner's last payment to Engineer under the applicable Task Order.

ARTICLE 7—DEFINITIONS

7.01 Defined Terms

- A. Wherever used in this Agreement (as defined herein), terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
 - 1. Addenda—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 - 2. Additional Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 2 of Exhibit A of a specific Task Order.
 - 3. Agreement—This written contract for professional services between Owner and Engineer, including the Main Agreement, all exhibits and appendices to the Main Agreement identified in Paragraphs 8.01 and 8.02, all duly executed amendments, and all Task Orders, including all exhibits and duly executed amendments to such Task Orders.
 - a. Main Agreement—See definition at Paragraph 7.01.A.28 below.
 - 4. Application for Payment—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
 - 5. Basic Services—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of a specific Task Order.
 - 6. Bidding/Proposal Documents—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
 - 7. Change Order—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.



8. Change Proposal—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
9. Constituents of Concern—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
10. Construction Contract—The entire and integrated written contract between the Owner and Contractor concerning the Work.
11. Construction Contract Documents—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. Construction Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. Construction Contract Times—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. Construction Cost—The cost to Owner of the construction of those portions of a Specific Project designed or specified by or for Engineer under a Task Order, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
15. Constructor—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer’s Subcontractors), performing or supporting construction activities relating to a Specific Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. Contractor—The entity or individual with which Owner enters into a Construction Contract.
17. Documents—All documents expressly identified as deliverables in this Main Agreement or in any Task Order, whether in printed or Electronic Document form, required to be provided or furnished by Engineer to Owner. Such specifically required deliverables may



include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.

18. Drawings—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. Effective Date of the Main Agreement—The date indicated in this Main Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Main Agreement is signed and delivered by the last of the two parties to sign and deliver.
20. Effective Date of the Task Order—The date indicated in a specific Task Order on which the Task Order becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.
21. Electronic Document—Any Specific Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
22. Electronic Means—Electronic mail (email), upload/download from a secure Specific Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
23. Engineer—The individual or entity named as such in this Main Agreement.
24. Engineer's Subcontractor—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to a Specific Project as an independent contractor.
25. Field Order—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
26. Front-End Construction Contract Documents—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
27. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.



28. Main Agreement—The portion of the Agreement containing the general terms and conditions of the contract between Owner and Engineer, applicable to all Task Orders, including but not limited to provisions regarding task order procedures, Owner responsibilities, invoice and payment procedures, standard of care, ownership of documents, suspension and termination, and definitions.
29. Owner—The individual or entity named as such in this Main Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning Specific Projects.
30. Record Drawings—Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
31. Resident Project Representative—As authorized by a specific Task Order, the representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of the RPR. The duties and responsibilities of the RPR (if any) will be as set forth in each Task Order.
32. Samples—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
33. Shop Drawings—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
34. Site—Lands or areas to be indicated in the Construction Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
35. Specifications—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
36. Specific Project—A specifically identified and defined total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Task Order are a part.
37. Subconsultant—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to a Specific Project as an independent contractor.

Main Agreement.

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38. Subcontractor—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
39. Submittal—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
40. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
41. Supplier—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
42. Task Order—A document executed under this Main Agreement by Owner and Engineer (including incorporated exhibits and amendments if any), stating the scope of services, Engineer's compensation, times for performance of services, and other relevant information.
43. Total Project Costs—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties and private utilities (including relocation if not part of Construction Cost), Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to Owner.
44. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light,



heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.

45. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
46. Work Change Directive—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Terminology

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8—EXHIBITS AND APPENDICES TO MAIN AGREEMENT; TASK ORDER FORM; EXHIBITS TO TASK ORDER; SPECIAL PROVISIONS

8.01 Exhibits to Main Agreement

The following exhibits are incorporated by reference and included as part of this Main Agreement, and as such are applicable to all Task Orders:

- A. Reserved.
- B. Reserved.
- C. Exhibit C, Amendment to Main Agreement (form).
- D. Reserved.
- E. Reserved.
- F. Exhibit F, Electronic Documents Protocol (EDP).
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution.
- I. Exhibit I, Limitations of Liability.

8.02 Appendices to Main Agreement

- A. The following appendices are incorporated by reference and made a part of this Main Agreement:
 1. Appendix 1—Reimbursable Expenses Schedule
 2. Appendix 2—Standard Hourly Rates Schedule



8.03 Resource Documents: Task Order Form and Exhibits to Task Order

- A. The parties acknowledge the accompanying documents, "Part 3 of 4: Task Order Form" and "Part 4 of 4: Exhibits to Task Order." These documents are a resource for the parties' use when a specific Task Order is issued. To the extent practical and applicable to a Specific Project, the parties will use the Task Order Form and Exhibits to Task Order as the basis for preparing the specific Task Order and its exhibits. The Task Order Form and Exhibits to Task Order are not a part of this Main Agreement or binding on the parties except to the extent they serve as the basis for a duly executed Task Order and its exhibits.

8.04 Executed Task Orders and Their Exhibits

- A. When a specific Task Order is duly executed by Owner and Engineer, the Task Order and its exhibits become an integral part of the Agreement, governed by the Main Agreement and its exhibits.

8.05 Total Agreement; Amendments to Main Agreement and Task Orders

- A. This Agreement (as defined herein) constitutes the entire contractual agreement between Owner and Engineer and supersedes all prior written or oral understandings.
- B. Amendments:
 - 1. This Main Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Such written instruments should be based whenever possible on the format of Exhibit C to this Main Agreement.
 - 2. Amendments and modifications to a Task Order may be made by execution of a new, expressly related Task Order, or by execution of a written amendment to the Task Order.
 - 3. Nothing in any Task Order will be construed as revising or modifying the terms and conditions of the Main Agreement or its exhibits, except as expressly stated in such Task Order.

8.06 Designated Representatives

- A. With the execution of this Main Agreement, Engineer and Owner shall each designate a specific individual to act as representative under the Main Agreement. Such an individual must have authority to execute Task Orders, transmit instructions, receive information, and render decisions with respect to this Main Agreement, on behalf of the party that the individual represents.
- B. With the execution of each Task Order, Engineer and Owner shall each designate a specific individual to act as representative with respect to the Task Order. Such individual must have authority to transmit instructions, receive information, and render decisions with respect to the specific Task Order, on behalf of the party that the individual represents.

8.07 Engineer's Certifications

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.07:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;



2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

8.08 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
 1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict of interest; and, if necessary and feasible, to modify this Agreement to address the conflict of interest and its consequences, such that progress under the Agreement may continue.
 2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.



This Main Agreement's Effective Date is _____.

Owner:

City of Murfreesboro, Tennessee

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name: Shane McFarland

(typed or printed)

Title: Mayor

(typed or printed)

Engineer:

Energy Land and Infrastructure, LLC

(name of organization)

By:

DocuSigned by:

Thomas L. Saunders

21790EB8D38A4F3

(individual's signature)

Date:

10/9/2024

(date signed)

Name: Thomas L. "Chuck" Saunders, PE

(typed or printed)

Title: President

(typed or printed)

Address for giving notices:

Darren Gore, City Manager

111 West Vine Street

Murfreesboro, TN 37130

Designated Representative:

Name: Darren Gore, PE

(typed or printed)

Title: City Manager

(typed or printed)

Address:

111 West Vine Street

Murfreesboro, TN 37130

Phone: 615-890-0862

Email: dgore@murfreesborotn.gov

Address for giving notices:

Energy Land & Infrastructure, LLC

745 S. Church Street, Suite 801

Murfreesboro, TN 37130

Designated Representative:

Name: Tim Haggard, PE, RLS

(typed or printed)

Title: Associate VP

(typed or printed)

Address:

745 S. Church Street, Suite 801

Murfreesboro, TN 37130

Phone: 615-438-9664

Email: tim.haggard@eli-llc.com

APPROVED AS TO FORM:

Signed by:

Adam F. Tucker

43A2035E51F9401...

Adam Tucker, City Attorney

Main Agreement.

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EXHIBIT E—RESERVED

EXHIBIT F—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

EXHIBIT F—ATTACHMENT 1: SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE

EXHIBIT G—INSURANCE

EXHIBIT H—DISPUTE RESOLUTION

EXHIBIT I—LIMITATIONS OF LIABILITY

APPENDIX 1: REIMBURSABLE EXPENSES SCHEDULE

APPENDIX 2: STANDARD HOURLY RATES SCHEDULE



EXHIBIT C—AMENDMENT TO MAIN AGREEMENT

AMENDMENT TO MAIN AGREEMENT

Amendment No. **[Enter Amendment Number]**

Owner: **[Name of Owner]**
 Engineer: **[Name of Engineer]**
 Effective Date of Agreement: **[Effective Date of Main Agreement]**

Nature of Amendment: (Check those that apply)

- ☐ Modifications to responsibilities of Owner
- ☐ Modifications of payment to Engineer
- ☐ Modifications to term of Main Agreement
- ☐ Modifications to other terms and conditions of the Main Agreement

Description of Modifications:

[Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary.]

Owner and Engineer hereby agree to modify the above-referenced Main Agreement as set forth in this Amendment. The Effective Date of the Amendment is **[Enter Effective Date of Amendment]**.

Owner

Engineer

 (typed or printed name of organization)

 (typed or printed name of organization)

By: _____
 (individual's signature)

By: _____
 (individual's signature)

(Attach evidence of authority to sign.)

(Attach evidence of authority to sign.)

Date: _____
 (date signed)

Date: _____
 (date signed)

Name: _____
 (typed or printed)

Name: _____
 (typed or printed)

Title: _____
 (typed or printed)

Title: _____
 (typed or printed)



EXHIBIT F—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

ARTICLE 1—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

Paragraph 6.03 of the Main Agreement is supplemented by the following Exhibit F Paragraph 1.01 and Exhibit F—Attachment 1: Software Requirements for Electronic Document Exchange:

1.01 Electronic Documents Protocol

A. Electronic Transmittals: The parties shall conform to the following provisions together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals. References to "Project" will mean the Specific Project, or the facilities program or other combination of projects undertaken with Engineer's involvement, as the case may be.

1. Basic Requirements

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents by Electronic Means using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Agreement.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Agreement.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between the Owner and Engineer and any third party for any portion of the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with Owner, Engineer, or any Contractor or other entity directly contracted with the Owner to furnish Project-related services. Nothing herein will modify the requirements of the Agreement and applicable Construction Contract Documents regarding communications between and among the individual third parties and their respective subcontractors and consultants, except to the extent that any respective subcontractor or consultant exchanges Electronic Documents with the Owner or Engineer.
- e. When transmitting Electronic Documents, the transmitting Party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving Party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
- f. Nothing herein negates any obligation (1) in the Agreement to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; (2) to comply with any

Exhibit F—Electronic Documents Protocol (EDP).

Exhibits to Main Agreement. EJCDC® E-505, Agreement between Owner and Engineer for Professional Services—Task Order Edition.
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and American Society of Civil Engineers. All rights reserved.



applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or (3) to comply with any notice requirements limiting or otherwise modifying the acceptance of Electronic Documents for such notice.

2. System Infrastructure for Electronic Document Exchange

- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. With the exception of minimum standards set forth in this EDP and any explicit system requirements specified by attachment to this EDP, it will be the obligation of each party to determine, for itself, its own System Infrastructure.
 - 1) The maximum size of an e-mail attachment for exchange of Electronic Documents under this EDP is 150 MB. Attachments larger than that may be exchanged using large file transfer functions or physical media.
 - 2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.
- b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project, including coordination with the party's individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.
- c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it will not be liable to the other party for any breach of system security.
- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties will cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent. If the changes cause additional cost or time to Engineer, not reasonably anticipated under the original EDP, Engineer shall be entitled to compensation as Additional Services for its costs associated with the revisions to the EDP, delayed adoption of this exhibit, or implementation of other Electronic Documents protocols.
- e. Each party is responsible for its own back-up and archive of documents sent and received during the term of any Project contract/agreement under this EDP, unless



this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the Parties may rely for document archiving during the specified term of operation of such project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of project documents, as each party deems necessary for its own purposes, after the term of contract, or termination of the project document archive, if one is established.

- f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
- g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.

B. Software Requirements for Electronic Document Exchange; Limitations

1. Each party will acquire the software and software licenses necessary to create and transmit Electronic Documents and to read and to use any Electronic Documents received from the other party (and if relevant from third parties), using the software formats required in this section of the EDP.
 - a. Prior to using any updated version of the software required in this section for sending Electronic Documents to the other party, the originating party will first notify and receive concurrence from the other party for use of the updated version or adjust its transmission to comply with this EDP.
2. The parties agree not to intentionally edit, reverse engineer, decrypt, remove security or encryption features, or convert to another format for modification purposes any Electronic Document or information contained therein that was transmitted in a software data format, including Portable Document Format (PDF), intended by sender not to be modified, unless the receiving party obtains the permission of the sending party or is citing or quoting excerpts of the Electronic Document for Project purposes.
3. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in the following Attachment 1 to this EDP, including software version, if listed.

C. Format and Distribution of Deliverables

1. By definition, "Documents" as used in this Agreement are documents expressly identified as deliverables from Engineer to Owner. Exhibit A of each specific Task Order identifies various Documents that Engineer is required to deliver to Owner as part of Engineer's services; Exhibit B of each specific Task Order is a schedule of such Documents. Engineer will transmit such Documents to Owner in the formats identified in Attachment 1 to this Protocol. If no specific format is identified for a deliverable Document, the format will be Portable Document Format (PDF).
2. If a Document will be distributed to third parties, such as prospective bidders and contractors, reviewing agencies, or lenders, the transmittal format for distribution will



be as identified in Attachment 1 to this Protocol; provided, however, that if a format for distribution of a specific Document is expressly stated in a specific Exhibit A, then the Exhibit A format will take precedence. If no specific format is identified for distribution of a deliverable Document to third parties, the format will be Portable Document Format (PDF).

- a. If a format for Document distribution other than Portable Document Format (PDF) is specified, Owner shall first obtain a written, signed release from each third party to which the deliverable Document is distributed, establishing agreement to the following conditions:
 - 1) The content included in the Electronic Documents prepared by or for Engineer and covered by the request was prepared as an internal working document for Engineer's purposes solely, and is being provided to the third party on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, the third party is advised and acknowledges that the content may not be suitable for the third party's application, or may require substantial modification and independent verification by the third party. The content may include limited resolution of models; not-to-scale schematic representations and symbols; use of notes to convey design concepts in lieu of accurate graphics; approximations; graphical simplifications; undocumented intermediate revisions; and other devices that may affect subsequent reuse.
 - 2) Electronic Documents containing text, graphics, metadata, or other types of data that are provided to the Requesting Party are only for the convenience of the third party. Any conclusion or information obtained or derived from such data will be at the third party's sole risk and the third party waives any and all claims against Engineer or Owner arising from the use of the Electronic Documents covered by the request, or of any data contained in such Electronic Documents.
 - 3) The third party shall indemnify and hold harmless Owner, Engineer, and Engineer's Subcontractors and Subconsultants, from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from the third party's use, adaptation, or distribution of any Electronic Documents provided under the request.
 - 4) The third party agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the request and is limited to the third party's subcontractors and consultants. The third party warrants that subsequent use by the third party's subcontractors and subconsultants will comply with all terms of the Construction Contract Documents and any specific instructions or conditions established by Owner.
- b. If Engineer is required to assist or participate in obtaining such releases from third parties, such services will be categorized as Additional Services.



D. Requests by Project-Related Parties for Electronic Documents in Other Formats

1. Owner may release (or direct Engineer to release) an Electronic Document version of a Document prepared by or for Engineer, including but not limited to a deliverable Document as set forth in Exhibit F Paragraph 1.01.C, in a format other than those identified in Exhibit F Paragraph 1.01.B or 1.01.C of the Electronic Documents Protocol, or elsewhere in the Agreement, only if (a) a Contractor or other Project-related party (Requesting Party) makes a good faith request for such release, (b) Owner determines in its sole discretion that such release is prudent and will be beneficial to the Project, and (c) Owner obtains Requesting Party's written consent to the four conditions set forth in Exhibit F Paragraph 1.01.C.2.a.1-4 above.
2. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under this Exhibit F Paragraph 1.01.D are Additional Services. Such services may include but are not limited to preparing the data in a manner deemed appropriate by Engineer. Owner may require reimbursement from the Requesting Party for the cost of such Additional Services, but compensation by Owner to Engineer for the Additional Services is not contingent upon Owner obtaining reimbursement from the Requesting Party.



EXHIBIT F—ATTACHMENT 1: SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE

Item	Electronic Documents	Transmittal Means	Data Format	Note (1)
a.1	General communications, transmittal covers, meeting notices, and responses to general information requests for which there is no specific prescribed form.	Email	Email	
a.2	Meeting agendas; meeting minutes; RFI's and Responses to RFI's; and Construction Contract administrative forms.	Email w/Attach	PDF	(2)
a.3	Contractor's Submittals (Shop Drawings, "Or Equal" requests, Substitute requests, documentation accompanying Sample submittals and other Submittals) to Owner and Engineer; and, Owner's and Engineer's Responses to Contractor's Submittals, Shop Drawings, Correspondence, and Applications for Payment	Email w/Attach	PDF	
a.4	Correspondence; Interim and Final Versions of reports, layouts, Specifications, Drawings, maps, calculations and spreadsheets, Construction Contract, Bidding/Proposal Documents, and Front-End Construction Contract Documents.	Email w/ Attach or LFE	PDF	(3)
a.5	Layouts, plans, maps, and Drawings to be submitted to Owner by Engineer for future use and modification	Email w/ Attach or LFE	DWG -or- DGN	(4)
a.6	Correspondence, reports, and specifications to be submitted by Engineer to Owner for future word processing use and modification	Email w/ Attach or LFE	DOC	
a.7	Spreadsheets and data to be submitted to Owner by Engineer for future data processing use and modification	Email w/ Attach or LFE	EXC	
a.8	Database files and data to be submitted to Owner for future data processing use and modification	Email w/ Attach or LFE	DB	
Notes				
(1)	All exchanges and uses of transmitted data are subject to the appropriate provisions of the Agreement and Construction Contract.			
(2)	Transmittal of written notices is governed by requirements of the Agreement and Construction Contract.			
(3)	Transmittal of Bidding/Proposal Documents and Front-End Construction Contract Documents will be in manner selected by Owner in Exhibit A, Paragraph 1.05.A.1.a. Unless otherwise expressly stated, these documents and the Construction Contract will be transmitted in PDF format, including transmittals to bidders and Contractor.			
(4)	Computer Aided Design/Drafting Software Platform and Format will be Task Order dependent.			
Key				
EMAIL	Standard Email formats (.htm, .rtf, or .txt). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies.			
LFE	Agreed upon Large File Exchange method (FTP, CD, DVD, hard drive.)			
PDF	Portable Document Format readable by Adobe® Acrobat Reader Version 10 or later.			
DWG	Autodesk® AutoCAD .dwg format Version 2018.			
DGN	Bentley® Microstation or OpenRoads Designer .dgn format			
DOC	Microsoft® Word. docx format Version 2007 o later.			
EXC	Microsoft® Excel .xlsx or .xml			
DB	Microsoft® Access .mdb			



EXHIBIT G—INSURANCE

ARTICLE 1—INSURANCE

Paragraph 6.04 of the Main Agreement, Insurance, is supplemented to include the following Exhibit G Paragraphs 1.01 and 1.02:

1.01 Insurance Policies and Limits

- A. Commencing with the performance of the Services hereunder, and continuing until the termination of the Agreement including during the performance of any warranty services, Consultant (and any tier subcontractors) shall maintain or cause to be maintained occurrence form insurance policies as follows: (a) Workers' Compensation specific to the applicable statutory requirements for the Services to be performed; provided that Consultant (or its subcontractor(s)) must notify if exempt from the statutory Workers' Compensation requirements; (b) Employer's Liability Insurance of not less than \$1,000,000 each accident/employee/disease; (c) Commercial General Liability Insurance having an available limit of at least \$1,000,000 per occurrence/\$2,000,000 in the annual aggregate for contractual liability, personal injury, bodily injury to or death of persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) years after completion), and premises and operations liability coverage (d) Commercial/Business Automobile Liability Insurance (including owned, non-owned or hired autos) having an available limit of at least \$1,000,000 each accident for bodily injury, death, property damage, with any fellow employee exclusion removed, and contractual liability; (e) Umbrella/Excess Liability insurance with available limits of at least \$4,000,000 per occurrence and follow form of the underlying Employer's Commercial General and Auto Liability insurance, and providing at least the same scope of coverages thereunder; (f) Professional Liability/Errors & Omissions (E&O) Insurance (claims-made form acceptable with reporting requirements of at least three (3) years after completion) with no resulting bodily injury or property damage exclusion with available limits of at least \$1,000,000 each claim.
- B. During the term of this Agreement the Engineer shall notify Owner of any other Subconsultant or Engineer's Subcontractor to be listed as an additional insured on Owner's and applicable Contractor's general liability policies of insurance.

1.02 Additional Insureds

- A. The Owner must be listed on Engineer's general liability policy as provided in Paragraph 6.04.B.

Exhibit G—Insurance.



EXHIBIT H—DISPUTE RESOLUTION

ARTICLE 1—DISPUTE RESOLUTION METHOD

Paragraph 6.07 of the Agreement, Dispute Resolution, is supplemented to include the following Exhibit H Paragraph 1.01:

- 1.01 Non-Binding Mediation. If a good faith effort to resolve a dispute on terms satisfactory to both parties is unsuccessful, Engineer and Owner shall submit the dispute to non-binding mediation unless the parties mutually agree otherwise. The mediation will be conducted by a mediator acceptable to Engineer and will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by the Construction Industry Mediation Procedures of the American Arbitration Association. Each party agrees to pay its own costs in connection with the mediation and its proportionate share of the fees and costs of the mediation. Any dispute not resolved within thirty days after submission to mediation may be resolved by litigation in a court of competent jurisdiction in the State of Tennessee. If Engineer's Services relate to a Project in a state that requires venue for any action related to the Project lie within the state where the Project is located, venue may also lie in a court of competent jurisdiction within that state.
- 1.02 Duty to Continue Performance. Each party shall continue to perform under this Agreement pending the final resolution of any dispute or disagreement between Engineer and Owner.



EXHIBIT I—LIMITATIONS OF LIABILITY

ARTICLE 1—LIMITATIONS OF LIABILITY

Paragraph 6.10 of the Agreement is supplemented to include Exhibit I Paragraph(s) 1.01, Limitation of Engineer's Liability

1.01 Limitation of Engineer's Liability

- A. Engineer's Liability Limited to Amount of Insurance Proceeds: Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors (hereafter "Owner's Claims"), but excluding indemnity claims, will be limited to (1) responsibility for payment of all or the applicable portion of any deductibles, either directly to the Engineer's insurers or in settlement or satisfaction, in whole or in part, of Owner's Claims; (2) total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's applicable insurance policies up to the amount of insurance required under this Agreement; or (3) for Owner's Claims not covered by an insurance policy under (1) or (2), the total amount of (i) \$250,000 or (ii) the total compensation received by Engineer under this Agreement, whichever is greater.
 1. Such limitation will not be reduced, increased, or adjusted on account of legal fees paid, or costs and expenses of investigation, claims adjustment, defense, or appeal.



APPENDIX 1: REIMBURSABLE EXPENSES SCHEDULE

Reimbursable Expenses are subject to review and adjustment on an annual basis. Rates and charges for Reimbursable Expenses as of the Effective Date of the Main Agreement are:

Photocopies (8.5"x11")	\$ 0.12/page
Copies of Drawings (half-size black & white)	\$ 0.35/sheet
Copies of Drawings (full-size black & white)	\$ 2.00/sheet
Mileage (auto)	\$ Current GSA Rate/mile
Air Transportation	at cost
Laboratory Testing	at cost
Meals and Lodging	at cost or current GSA Rates for State and/or Federally Funded Projects



APPENDIX 2: STANDARD HOURLY RATES SCHEDULE

A. Standard Hourly Rates

1. Standard Hourly Rates are set forth in this Appendix 2 and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in the Agreement and the governing Task Order.
3. The Standard Hourly Rates are subject to annual adjustment.

B. Schedule: Hourly rates for services performed on or after the date of the Agreement are:

Professional Staff Rates

Senior Principal Engineer	\$235
Operations Manager/Discipline Lead	\$235
Program Manager/Principal Engineer	\$219
Senior Project Manager	\$219
Project Manager	\$182
Assistant Project Manager	\$162
Senior Engineer/Engineer V	\$177
Engineer IV	\$162
Engineer III	\$141
Engineer II	\$125
Engineer I	\$115
Intern	\$83
CAD Manager	\$146
Senior CAD Designer	\$125
CAD Designer I	\$94
CAD Technician II	\$89
CAD Technician I	\$73

CEI Staff Rates

CEI Manager	\$219
CEI Team Leader (Specialty) Sr./RPR.	\$162
CEI Project Manager/RPR	\$141
Sr Construction Inspector	\$125
Construction Inspector	\$115
Sr Construction Support Tech	\$94
Construction Support Tech.	\$83

Appendix 2: Standard Hourly Rates Schedule.



Survey Staff Rates

Director of Survey	\$203
Survey Manager (Office Level)	\$172
Senior R/PLS Assistant Survey Manager	\$156
R/PLS Survey/SUE Team Leader	\$146
Survey /SUE Project Manager	\$136
Lead Survey Technician	\$120
Senior Survey Technician/Senior CAD Technician	\$104
Survey Technician /CAD Technician	\$94
Professional Land Surveyor (R/PLS)	\$130
Sr Survey/SUE Crew Chief	\$104
Survey/SUE Crew Chief	\$94
Sr Survey/SUE Technician	\$83
Survey/SUE Technician	\$73
Survey Crew (4-Person)	\$302
Survey Crew (3-Person)	\$234
Survey Crew (2-Person)	\$166
Survey Crew (1-Person)	\$151
UAS/UAV Photogrammetry Crew	\$291
UAS/UAV LiDAR Crew	\$296
Mobile Scan Crew	\$260

Administrative Staff Rates

Senior Administrative Professional	\$94
Administrative Professional.....	\$62



COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Change Order #1 (Final) for Cannonsburgh Village Museum Roof Replacement

Department: Facilities

Presented by: Brad Hennessee, Facilities Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider approving Change Order #1 (Final) for the correction of unknown conditions uncovered during the roof replacement work and to resolve the Owner's Contingency.

Staff Recommendation

Approve Change Order #1 (Final) with Turner Construction Services, LLC.

Background Information

This project replaces the existing metal roof and damaged deck boards, installs new ice and water shield over the roof deck, new batten boards, soffit, and gutters. This Change Order is to provide all labor and materials to correct unknown conditions uncovered during roof replacement work. They include removing 2 layers of existing asphalt shingles and 1 layer of roofing underlayment, replacement of additional deteriorated roof deck boards beyond those in the base bid, replacement of the rotten fascia boards, and resolving the Owner's Contingency.

Turner's contract was originally for \$75,485.64. The Contract Sum will be increased by this Change Order in the amount of \$9,710. A detailed list of the amounts is included in the Change Order #1 (Final) attachment. Final project costs are \$85,195.25. It is pending legal approval.

Council Priorities Served

Responsible Budgeting

Proactive maintenance of the city's largest asset classification is crucial to responsible budgeting and decreased CIP costs over the long term.

Fiscal Impact

The Change Order results in a net increase of \$9,710, resulting in a final project cost of \$85,195.

Attachments

Change Order #1 (Final) for Cannonsburgh Village Museum Roof Replacement

AIA Document G701® – 2017

Change Order

PROJECT: <i>(Name and address)</i> Roof Replacement at Cannonsburgh Village Haynes Museum	CONTRACT INFORMATION: Contract For: Roof Replacement Date: 05-08-2025	CHANGE ORDER INFORMATION: Change Order Number: 001 Date: 06-23-2025
OWNER: <i>(Name and address)</i> City of Murfreesboro, Tennessee, a Tennessee municipal corporation 111 West Vine Street Murfreesboro, TN 37130	ARCHITECT: <i>(Name and address)</i> Johnson + Bailey Architects, P.C. 100 East Vine Street, City Center Suite 700 Murfreesboro, TN 37130	CONTRACTOR: <i>(Name and address)</i> Turner Construction Services, LLC 228 Temple Ford Road Shelbyville, TN 37160

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Item 1: Replace section of deteriorated roof rafter uncovered during construction.

ADD: \$529.49

Item 2: Removal of 2 layers of existing asphalt shingles and 1 layer of roofing underlayment that was an unknown condition uncovered during roof replacement work.

ADD: \$4,300.00

Item 3: Removal and replacement of 1,094 SF of additional deteriorated roof deck boards beyond the 560 SF included in the base price. Unit price for replacement is \$4.18/square foot.

ADD: \$4,572.92

Item 4: Replacement of rotten 2x fascia boards uncovered during roof replacement work.

ADD: \$3,901.75

Item 5: Resolve Owner's contingency allowance:

DEDUCT: \$3,594.55

TOTAL ADD: \$9,709.61

The original Contract Sum was	\$ 75,485.64
The net change by previously authorized Change Orders	\$ 0.00
The Contract Sum prior to this Change Order was	\$ 75,485.64
The Contract Sum will be increased by this Change Order in the amount of	\$ 9,709.61
The new Contract Sum including this Change Order will be	\$ 85,195.25

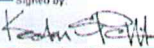
The Contract Time will be unchanged by () days.

The new date of Substantial Completion will be

NOTE:

This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Signed by


ARCHITECT (Signature)

BY: Keaton S. Pettit, President
(Printed name, title, and license
number if required)

6/23/2025

Date

Signed by


CONTRACTOR (Signature)

BY: Brady Turner, Owner
(Printed name and title)

6/23/2025

Date

OWNER (Signature)

BY: Shane McFarland, Mayor
(Printed name and title)

Date

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Wine Sales Certificate of Compliance – United Grocery Outlet #12

Department: Finance

Presented by: Erin Tucker, City Recorder

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Information pertaining to the issuance of a certificate of compliance for wine sales in a grocery store.

Background Information

State law requires that an applicant for wine sales in a retail food store obtain a certificate of compliance from the local jurisdiction to be submitted to the Tennessee Alcoholic Beverage Commission as part of the Commission's licensing process. Compliance for the certificate is based only on the applicant's criminal background information and that the location complies with local zoning ordinances.

A certificate of compliance is requested by Bryan M. Rigney for United Grocery Outlet #12 at 117 SE Broad St. This request complies with statutory requirements.

Council Priorities Served

Maintain public safety

The City's role in issuing a Certificate of Good Moral Character allows the City to be aware of locations that would like to include wine, to review zoning restrictions, review applicant background issues, and check for past problems with following City Code.

Attachments

Summary of Request for Certificate of Compliance for Sale of Wine in Grocery Store

City of Murfreesboro

Request for Certificate of Compliance for Wine in Retail Stores

Summary of information from the application:

Name of Business Entity The Bargain Barn Inc.

Type of Application:

New - wine sale in retail store

Corporation	<u>X</u>
LLC	<u> </u>
Partnership	<u> </u>
Sole Proprietor	<u> </u>

Manager

Name Bryan M. Rigney

Age 50

Home Address 411 Oliver Dr

Residency City/State Oliver Springs, TN

Race/Sex White/M

10 Year Background Check Findings:

City of Murfreesboro: None

Rutherford County: None

Nashville/Davidson County: None

TBI/FBI No indication of any record that may
preclude the applicant for consideration.

Name of Business United Grocery Outlet #12

Business Location 117 SE Broad St

Application Completed Properly? Yes

Location meets zoning requirement? Yes

The actual application is available in the office of the City Recorder.

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: FY25 City Manager Approved Budget Amendments

Department: Finance

Presented by: Amanda DeRosia, Finance Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

Summary

Notification to Council of City Manager approved budget amendments.

Background Information

Ordinance 15-O-48 requires notification to Council of City Manager approved budget amendments. The following budget amendments have been approved:

Purchasing

Finance employee transferred from the Finance department to the Purchasing department as of 4/20/2025. Move payroll cost, \$17,550.00, for the remainder of FY25 to the appropriate department.

Finance

Administration employee transferred from the Administration department to the Finance department as of 8/25/2024. Move payroll cost, \$177,590.00, from August 25, 2024, to the end of FY25 to the appropriate department.

City Court

Bank service charges came in higher than expected for City Court. Move \$25,000 from Public Safety Fees to Bank Service Charges.

Golf

Move funds to better align with Golf's operating budget needs. Move \$30,000 from Bloomfield Part-Time Wages to Supplies for Resale – Golf Shop, and \$20,000 from Bloomfield Part-Time Wages to Repair & Maintenance Other Machinery & Equipment.

Move funds from fixed assets to sufficiently cover Golf's summer part-time employee needs. Move \$10,000 from Buildings Expense to OFG Part-Time Employee Wages.

Civic Plaza

Move funds from fixed assets to Operating Contractual Services to cover the cost of repairing brick pavers and sidewalks on the Civic Plaza. Move \$10,000 from Other Improvements to Contractual Services.

Council Priorities Served

Responsible budgeting

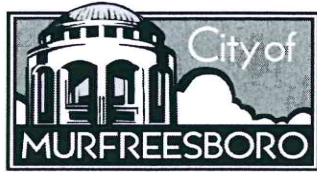
Inter-Fund budget amendments reallocate resources in an efficient manner.

Fiscal Impact

The transfers within the General Funds will have no effect on fund balance.

Attachments

Detailed Inter-Fund Budget Requests



... creating a better quality of life

Inter-Fund Budget Amendment Request

Mr. Gore,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2025

Move funds from:

Org 10112007
Object Various - See attached schedule
Acct Name Various - See attached schedule
Amount \$ 17,550.00

Move funds to:

Org 10113007
Object Various - See attached schedule
Acct Name Various - See attached schedule

Explanation: Henry McKee has transferred from the Finance department to the Purchasing department
as of 04/21/2025. Move funds from Finance to Purchasing to cover the rest of his salary and benefits
expenses for the remainder of FY25.

Amanda DeRosia
Department Head Signature

04/28/2025
Date

Shannon Gartung
Reviewed by Finance

4/25/2025
Date

Approved ☒

Declined ☐

Dan W. Gore
City Manager

4/28/25
Date

Please return to Shannon Gartung, Finance & Tax Dept., once all signatures have been obtained.

Henry McKee transferred to the Purchasing Department from the Finance Department
His transfer date was 04/20/2025

There are 5 full pay periods plus the one day accrual that he will work for the Purchasing department in FY25

	FROM		TO		Amount to transfer
Salary - Full-Time - Regular	10112007	511100	10113007	511100	14,000.00
Social Security & Medicare Tax	10112007	514100	10113007	514100	1,060.00
Hospital and Health Insurance	10112007	514200	10113007	514200	1,310.00
Dental Insurance - Delta	10112007	514203	10113007	514203	60.00
Defined Contribution Plan	10112007	514301	10113007	514301	1,120.00
LTD & Life Insurance	10112007	514500	10113007	514500	40.00
					17,550.00
					Total to be transferred



Inter-Fund Budget Amendment Request

Mr. Gore,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2025

Move funds from:

Org 10111007
Object Various - See attached schedule
Acct Name Various - See attached schedule
Amount \$ 177,590.00

Move funds to:

Org 10112007
Object Various - See attached schedule
Acct Name Various - See attached schedule

Explanation: Erin Tucker has transferred from the Administration department to the Finance department
as of 08/25/2024. Move funds from Administration to Finance to cover the rest of her salary and benefits
expenses for the remainder of FY25.

[Signature]
Department Head Signature

4-29-25
Date

[Signature]
Reviewed by Finance

4/25/2025
Date

Approved



Declined



[Signature]
City Manager

4/23/25
Date

Please return to Shannon Gartung, Finance & Tax Dept., once all signatures have been obtained.

Erin Tucker transferred to the Finance Department from the Admin Department
Her transfer date was 08/25/2024

There are 22 full pay periods plus one day accrual that she will work for the Finance department in FY25.

	FROM ACCOUNT		TO ACCOUNT		Amount to transfer
Salary - Full-Time - Regular	10111007	511100	10112007	511100	128,720.00
Social Security & Medicare Tax	10111007	514100	10112007	514100	9,490.00
Hospital and Health Insurance	10111007	514200	10112007	514200	10,700.00
Dental Insurance - Delta	10111007	514203	10112007	514203	570.00
Defined Benefit Plan	10111007	514300	10112007	514300	27,700.00
LTD & Life Insurance	10111007	514500	10112007	514500	410.00
					177,590.00
					Total to be transferred



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Inter-Fund Budget Amendment Request

Mr. Gore,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2025

Move funds from:

Org 10115008
Object 525003
Acct Name Public Safety Fees
Amount \$ 25,000.00

Move funds to:

Org 10115008
Object 555500
Acct Name Bank Service Charges

Explanation: Bank service charges have come in higher than budgeted.

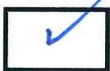
Vickie Anderson
Department Head Signature

5-16-2025
Date

Shannon Gartung
Reviewed by Finance

5/16/2025
Date

Approved



Declined



Dan W. Gore
City Manager

5/19/25
Date

Please return to Shannon Gartung, Finance & Tax Dept., once all signatures have been obtained.



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Inter-Fund Budget Amendment Request

Mr. Gore,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2025

Move funds from:

Org 10414227
Object 512100
Acct Name Bloomfield Part-Time Regular Emp Wages
Amount \$ 30,000.00

Move funds to:

Org 10414208
Object 535003
Acct Name Supplies for Resale - Golf Shop

Explanation: Funds moved to better align with operating budget needs.

Move funds from:

Org 10414227
Object 512100
Acct Name Bloomfield Part-Time Regular Emp Wages
Amount \$ 20,000.00

Move funds to:

Org 10414208
Object 526200
Acct Name Repair & Maint Other Mach & Eq

Explanation: Funds moved to better align with operating budget needs.

Inter-Fund Budget Amendment Request

Move funds from:

Org 10414209

Object 592000

Acct Name Buildings Exp

Amount \$ 10,000.00


Move funds to:

Org 10414207

Object 512100

Acct Name OFG Part-Time Regular Emp Wages

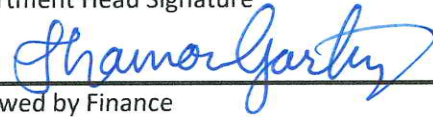
Explanation: Move funds from fixed assets to better align with Golf's summer part-time employee needs.



Department Head Signature

5/27/23

Date



Reviewed by Finance

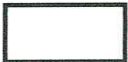
5/28/25

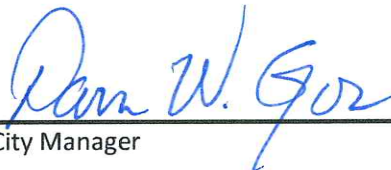
Date

Approved



Declined



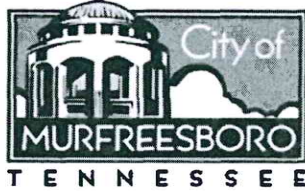


City Manager

5/29/25

Date

Please return to Shannon Gartung, Finance & Tax Dept., once all signatures have been obtained.



... creating a better quality of life

Inter-Fund Budget Amendment Request

Mr. Gore,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2025

Move funds from:

Org 10315119
Object 593900
Acct Name Civic Plaza - Other Improvements
Amount \$ 10,000.00

Move funds to:

Org 10315118
Object 520000
Acct Name Civic Plaza - Contractual Services

Explanation: Move funds from fixed assets to Operating Contractual Services to cover the cost of repairing
brick pavers and sidewalks on the Civic Plaza.

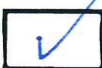
[Signature]
Department Head Signature

5/22/2025
Date

[Signature]
Reviewed by Finance

5/22/2025
Date

Approved



Declined



[Signature]
City Manager

5/22/25
Date

Please return to Shannon Gartung, Finance & Tax Dept., once all signatures have been obtained.

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Donation of Used Equipment to Various Law Enforcement Agencies

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider the donation of used equipment to various law enforcement agencies.

Staff Recommendation

Approve the donation of used equipment to the Jackson PD, Sparta PD and Coopertown PD.

Background Information

MPD has used, expired body armor sets that are no longer in use. MPD tries to assist other law enforcement agencies when possible and these various agencies can benefit from the donation of this equipment.

Council Priorities Served

Establish a Strong City Brand

Assisting other law enforcement agencies helps to develop community partnerships.

Fiscal Impact

None.

Attachments

Surplus Property Disposal Forms

Surplus Property Disposal Form

Short description of surplus property Warranty Expired Body Armor x 198 and Carriers x 98

Sell	_____	Estimated value	_____	200
	_____	Reserve value (Do not sell below this amt)	\$	_____
Trade-in	_____	Trade-in value	\$	_____
Transfer	_____	To whom?	_____	
Donate	<u>X</u>	To whom?	<u>Jackson POLICE Dept per request</u>	Estimated value \$ _____
Throw away	_____			
Recycle	_____			


Approximate age	<u>over 5 y</u>	Estimated original cost	<u>\$1,000</u>
Seized Property?	<u>no</u>	Depr value (to be completed by FA Mgr if applicable)	<u>\$ -</u>
Law Enforcement Restricted ?	<u>no</u>		

If **Sell**, complete and attach the appropriate Vehicle, Equipment, or Office Equipment, Furniture & Other Inspection Form.

Expired Point Blank Level III body armor x 198

Check the method used to determine the estimated / reserve values of the surplus property. Attach documentation if estimated value is over \$1,000.

Trade-in value	_____	Equipment dealer	_____
Appraisal	_____	Completed online auctions	_____
Kelley Blue Book	_____	Depreciated value	_____
		Other (Describe)	Ebay \$250

Signed  (Department Head) 10-5-25 Date

Signed Wicki J. Massey (Fixed Assets Manager) Date 6-10-25

Signed Adam W. Goe (City Manager or Assist. City Manager) Date 6/10/25

Admin/policy-rules-regs/surplus property policy/equipment inspectionform 2.6.07

Jackson POLICE Body Armor Donation	Front Serial #	Back Serial #	Jackson POLICE Body Armor Donation	Front Serial #	Back Serial #
5/20/2020	140000327104	140000327096	11/16/2022	170000432994	170000433004
7/1/2022	170000240466	170000240456	11/16/2022	170000432999	170000433009
7/1/2022	170000240473	170000240463	11/16/2022	170000433000	170000432990
7/28/2022	170000241944	170000241996	11/16/2022	170000433001	170000432991
7/20/2022	170000241945	170000241998	11/16/2022	170000433002	170000432992
7/28/2022	170000241949	170000242001	11/19/2022	170000433005	170000432995
7/1/2022	170000241950	170000242003	11/1/2022	170000433006	170000432996
7/28/2022	170000241957	170000242012	11/17/2022	170000433220	170000433349
7/1/2022	170000241973	170000242028	11/17/2022	170000433225	170000433354
7/1/2022	170000241974	170000242026	11/17/2022	170000433229	170000433358
7/1/2022	170000241977	170000242029	7/1/2022	170000433235	170000433363
7/1/2022	170000241981	170000242032	11/17/2022	170000433237	170000433366
7/28/2022	170000241992	170000242046	11/17/2022	170000433239	170000433370
7/1/2022	170000241994	170000242045	11/17/2022	170000433242	170000433375
7/1/2012	170000241997	170000241946	11/17/2022	170000433243	170000433373
7/1/2022	170000241999	170000241947	11/17/2023	170000433243	170000433373
7/28/2022	170000242002	170000241953	11/17/2022	170000433248	170000433378
7/20/2022	170000242004	170000241951	11/17/2022	170000433254	170000433383
7/28/2022	170000242005	170000241952	11/1/2022	170000433255	170000433382
7/1/2022	170000242006	170000241955	11/17/2022	170000433262	170000433389
7/1/2022	170000242007	170000241954	11/17/2022	170000433264	170000433398
7/20/2022	170000242009	170000241960	11/17/2022	170000433265	170000433395
7/1/2022	170000242011	170000241958	11/17/2022	170000433267	170000433392
7/22/2022	170000242013	170000241961	11/17/2022	170000433268	170000433394
7/1/2022	170000242014	170000241962	11/17/2022	170000433272	170000433402
7/28/2022	170000242015	170000241964	7/1/2022	170000433274	170000433403
7/1/2022	170000242017	170000241965	11/17/2022	170000433276	170000433405
7/20/2023	170000242019	170000241968	11/17/2022	170000433278	170000433408
7/20/2022	170000242024	170000241971	11/17/2022	170000433282	170000433411
7/1/2022	170000242025	170000241976	11/17/2022	170000433287	170000433415
7/28/2022	170000242033	170000241979	11/17/2022	170000433289	170000433416
7/20/2022	170000242034	170000241980	11/17/2022	170000433293	170000433421
7/1/2022	170000242036	170000241986	11/17/2022	170000433299	170000433423
7/20/2022	170000242041	170000241991	11/17/2022	170000433302	170000433436
7/22/2024	170000242044	170000241993	11/17/2022	170000433303	170000433433
8/27/2022	170000295468	170000295469	11/17/2022	170000433305	170000433435
8/27/2022	170000295487	170000295506	11/17/20220	170000433312	170000433443
7/1/2022	170000295497	170000295514	11/17/2022	170000433321	170000433450
8/27/2022	170000295500	170000295519	11/17/2022	170000433323	170000433452
8/27/2022	170000295503	170000295522	11/17/2022	170000433328	170000433455
8/27/2022	170000295504	170000295523	11/17/2022	170000433338	170000433466

8/27/2022	170000295513	170000295494	11/17/2022	170000433339	170000433468
8/27/2022	170000295515	170000295495	11/17/2022	170000433344	170040433474
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11/17/2022	170000431995	170000432011	11/17/2022	170000433347	170000433476
11/15/2022	170000431998	170000432015	11/17/2022	170000433351	170000433223
11/15/2022	170000432003	170000432019	11/17/2022	170000433352	170000433224
11/15/2022	170000432004	170000431988	11/17/2022	170000433355	170000433226
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11/17/2022	170000432017	170000432001	11/17/2022	170000433367	170000433238
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11/17/2022	170000433448	170000433319	11/17/2022	170000433372	170000433245
11/17/2022	170000433456	170000433326	11/17/2022	170000433376	170000433249
11/17/2022	170000433458	170000433455	11/17/2022	170000433377	170000433247
11/17/2022	170000433464	170000433332	11/17/2022	170000433384	170000433253
11/17/2022	170000433467	170000433336	11/17/2022	170000433385	170000433256
11/17/2022	170000433469	170000433341	11/17/2022	170000433388	170000433260
11/17/2022	170000433470	170000433340	7/22/2022	170000433390	170000433263
11/17/2022	170000433471	170000433342	11/17/2022	170000433391	170000433259
12/20/2022	170000484068	170000484110	11/17/2022	170000433399	170000433271
12/20/2022	170000484079	170000484124	7/1/2022	170000433407	170000433279
12/20/2022	170000484080	170000484125	11/17/2022	170000433409	170000433280
12/20/2022	170000484081	170000484121	11/17/2022	170000433410	170000433281
12/20/2022	170000484082	170000484122	11/17/2022	170000433414	170000433286
12/20/2022	170000484083	170000484126	11/17/2022	170000433419	170000433290
12/20/2022	170000484084	170000484127	11/17/2022	170000433422	170000433298
12/20/2022	170000484086	170000484129	11/17/2022	170000433424	170000433296
12/1/2022	170000484089		11/17/2022	170000433425	170000433294
12/20/2022	170000484091	170000484133	11/17/2022	170000433426	170000433295
12/20/2022	170000484092	170000484134	11/17/2022	170000433427	170000433291
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1/31/2023	180000040782	180000040783	6/7/2024	190000143788	190000143840

**CITY OF MURFREESBORO
DONATION OF UNIFORM EQUIPMENT**

MUTUAL RELEASE OF LIABILITY AND HOLD HARMLESS AGREEMENT

For and in consideration of the mutual promises and agreements between the parties and for the donation of BODY ARMOR by the City of Murfreesboro ("City") to the JACKSON POLICE DEPARTMENT

THE CITY AND JACKSON POLICE DEPARTMENT MUTUALLY AGREE AS FOLLOWS:

Each and every party to this agreement, individually and as agents for their employees, including their assigns, successors, agents, employees, and representatives, releases and discharges each and every other party to this agreement, including employees of each and every other party from any and all claims, rights, demands, covenants, agreements, duties, obligations, warranties, representations, liabilities, damages, expenses, attorneys' fees, costs, and causes of action, known or unknown of whatever kind, arising out of or related to the donation of the BODY ARMOR by the City to the JACKSON POLICE DEPARTMENT and the use of the BODY ARMOR by the JACKSON POLICE DEPARTMENT for whatever purposes the JACKSON POLICE DEPARTMENT may use them.

The JACKSON POLICE DEPARTMENT agrees to hold the City harmless in the event any claim is made against it arising from the JACKSON POLICE DEPARTMENT's ownership or use or failure to use the BODY ARMOR.

In executing this Release and Hold Harmless Agreement the JACKSON POLICE DEPARTMENT acknowledges: (1) that the City has owned, maintained, and/or used the BODY ARMOR for multiple years; (2) that the BODY ARMOR may be outside the manufacturer's warranty period; (3) that the City is making no representation as to the fitness, suitability or usability of the BODY ARMOR for their stated purpose and function; (3) the City does not know nor does it guarantee the current condition of the BODY ARMOR; and (4) the City is providing the BODY ARMOR on an "as is" basis to the JACKSON POLICE DEPARTMENT.

The JACKSON POLICE DEPARTMENT shall be solely responsible for determining whether to use said BODY ARMOR for law enforcement or any other purpose.

IN WITNESS WHEREOF:

CITY OF MURFREESBORO

By: _____


Daren Gore, City Manager

JACKSON POLICE DEPARTMENT

By: _____

Printed: _____

Title: _____

Approved as to form:


Adam F. Tucker, Murfreesboro City Attorney

City of Murfreesboro

Surplus Property Disposal Form

City Department Murfreesboro Police Department

Short description of surplus property Warranty Expired Body Armor x 14 & Ballistic Rated helmets x 20

Check the proposed method of disposal.

Sell	_____	Estimated value	_____
		Reserve value (Do not sell below this amt)	\$ _____
Trade-In	_____	Trade-in value	\$ _____
Transfer	_____	To whom? _____	
Donate	<u>X</u>	To whom? <u>Sparta Police per request</u>	Estimated value <u>\$200 per set</u>
Throw away	_____		
Recycle	_____		

Describe the Surplus Property:

Approximate age over 5 y. Estimated original cost \$1105 per set
Seized Property? no Depr value (to be completed by FA Mgr if applicable) \$ _____
Law Enforcement Restricted? no

Condition of surplus property:

If **Sell**, complete and attach the appropriate Vehicle, Equipment, or Office Equipment, Furniture & Other Inspection Form.

If **Trade-In, Transfer, Donate, or Junk** describe the condition of the surplus property below, including Make, Model, and Serial Number as appropriate:

Expired Point Blank Level III body armor x 14 and Carriers

Expired Riot Helmets x 20, not ballistic rated, no serial numbers

Check the method used to determine the estimated / reserve values of the surplus property. Attach documentation if estimated value is over \$1,000.

Trade-in value	_____	Equipment dealer	_____
Appraisal	_____	Completed online auctions	<u>X eBay</u>
Kelley Blue Book	_____	Depreciated value	_____
		Other (Describe)	_____

I request that the item described above be declared surplus property and that the disposal method be approved.

Signed [Signature]
(Department Head)

Date 052225

I have reviewed the above information and determined that it is appropriate.

Signed [Signature]
(Fixed Assets Manager)

Date 5/23/25

I approve X or disapprove _____ that the above described property be determined surplus and disposed of as indicated.

Signed [Signature]
(City Manager or Assist. City Manager)

Date 5/29/25

FIXED ASSETS MANAGER TO RETAIN ORIGINAL. COPY WILL BE SENT BACK TO DEPT.

Sparta Body Armor Donation	Front Serial #	Back Serial #	Size
11/17/2022	170000433449	170000433320	56 L3
11/17/2022	170000433476	170000433347	72 L2
11/17/2022	170000433444	170000433315	56 L1
11/17/2022	170000433420	170000433297	52 R
11/17/2022	170000433453	170000433325	58 L1
11/17/2022	170000433460	170000433333	60 L1
12/20/2022	170000484066	170000484108	40 L1
7/18/2023	180000261142	180000261114	52 L2
12/20/2022	170000484146	170000484105	58 R
12/20/2022	170000484116	170000484074	46 R
12/20/2022	170000484131	170000484090	50 R
11/17/2022	170000433380	170000433250	48 L1
11/15/2022	170000432008	170000431992	48 L1
11/17/2022	170000433397	170000433266	48 R

**CITY OF MURFREESBORO
DONATION OF UNIFORM EQUIPMENT**

MUTUAL RELEASE OF LIABILITY AND HOLD HARMLESS AGREEMENT

For and in consideration of the mutual promises and agreements between the parties and for the donation of BODY ARMOR by the City of Murfreesboro ("City") to the SPARTA POLICE DEPARTMENT

THE CITY AND SPARTA POLICE DEPARTMENT MUTUALLY AGREE AS FOLLOWS:

Each and every party to this agreement, individually and as agents for their employees, including their assigns, successors, agents, employees, and representatives, releases and discharges each and every other party to this agreement, including employees of each and every other party from any and all claims, rights, demands, covenants, agreements, duties, obligations, warranties, representations, liabilities, damages, expenses, attorneys' fees, costs, and causes of action, known or unknown of whatever kind, arising out of or related to the donation of the BODY ARMOR by the City to the SPARTA POLICE DEPARTMENT and the use of the BODY ARMOR by the SPARTA POLICE DEPARTMENT for whatever purposes the SPARTA POLICE DEPARTMENT may use them.

The SPARTA POLICE DEPARTMENT agrees to hold the City harmless in the event any claim is made against it arising from the SPARTA POLICE DEPARTMENT's ownership or use or failure to use the BODY ARMOR.

In executing this Release and Hold Harmless Agreement the SPARTA POLICE DEPARTMENT acknowledges: (1) that the City has owned, maintained, and/or used the BODY ARMOR for multiple years; (2) that the BODY ARMOR may be outside the manufacturer's warranty period; (3) that the City is making no representation as to the fitness, suitability or usability of the BODY ARMOR for their stated purpose and function; (3) the City does not know nor does it guarantee the current condition of the BODY ARMOR; and (4) the City is providing the BODY ARMOR on an "as is" basis to the SPARTA POLICE DEPARTMENT.

The SPARTA POLICE DEPARTMENT shall be solely responsible for determining whether to use said BODY ARMOR for law enforcement or any other purpose.

IN WITNESS WHEREOF:

CITY OF MURFREESBORO

By: 
Daren Gore, City Manager

SPARTA POLICE DEPARTMENT

By: _____

Printed: _____

Title: _____

Approved as to form:


Adam F. Tucker, Murfreesboro City Attorney

City of Murfreesboro**Surplus Property Disposal Form**City Department Murfreesboro Police DepartmentShort description of surplus property Warranty Expired Body Armor x 20

Check the proposed method of disposal.

Sell	<input type="checkbox"/>	Estimated value	_____
		Reserve value (Do not sell below this amt)	\$ _____
Trade-In	<input type="checkbox"/>	Trade-in value	\$ _____
Transfer	<input type="checkbox"/>	To whom? _____	
Donate	<input checked="" type="checkbox"/>	To whom? <u>Coopertown Police per request</u>	Estimated value <u>\$200 ea</u>
Throw away	<input type="checkbox"/>		
Recycle	<input type="checkbox"/>		

Describe the Surplus Property:

Approximate age	<u>over 5 y</u>	Estimated original cost	<u>\$2000 ea</u>	
Seized Property?	<u>no</u>	Depr value (to be completed by FA Mgr if applicable)		\$ -
Law Enforcement Restricted ?	<u>no</u>			

Condition of surplus property:

If **Sell**, complete and attach the appropriate Vehicle, Equipment, or Office Equipment, Furniture & Other Inspection Form.If **Trade-In, Transfer, Donate, or Junk** describe the condition of the surplus property below, including Make, Model, and Serial Number as appropriate:Expired Point Blank Level III body armor x 20 and Carriers

Check the method used to determine the estimated / reserve values of the surplus property. Attach documentation if estimated value is over \$1,000.

Trade-in value	<input type="checkbox"/>	Equipment dealer	<input type="checkbox"/>
Appraisal	<input type="checkbox"/>	Completed online auctions	<input checked="" type="checkbox"/> Ebay
Kelley Blue Book	<input type="checkbox"/>	Depreciated value	<input type="checkbox"/>
		Other (Describe)	_____

I request that the item described above be declared surplus property and that the disposal method be approved.

Signed

(Department Head)

Date

I have reviewed the above information and determined that it is appropriate.

Signed

(Fixed Assets Manager)

Date

I approve ☒ or disapprove _____ that the above described property be determined surplus and disposed of as indicated.

Signed

(City Manager or Assist. City Manager)

Date

FIXED ASSETS MANAGER TO RETAIN ORIGINAL. COPY WILL BE SENT BACK TO DEPT.

Coopertown Body Armor Donation	Front Serial #	Back Serial #	Size
7/8/2023	180000261125	180000261098	40 R
7/20/2022	170000241997	170000241946	40 S1
12/4/2024	190000305671	190000305664	40 S1
11/17/2022	170000433359	170000433230	44 L1
11/17/2022	170000433362	170000433232	44 R
12/20/2022	170000484111	170000484069	44 S1
8/27/2022	170000295511	170000295492	46 R
11/17/2022	170000433369	170000433244	46 R
11/17/2022	170000433393	170000433261	48 R
7/20/2022	170000242018	170000241966	48 R
11/17/2022	170000433404	170000433275	50 L4
11/17/2022	170000433413	170000433284	52 L1
7/20/2022	170000242030	170000241978	52 L2
8/27/2022	170000295520	170000295501	56 L1
12/17/2024	190000307861	190000307836	56 R
11/17/2022	170000433451	170000433324	58 L1
11/17/2022	170000433457	170000433327	58 L1
11/16/2022	170000433003	170000432993	LG 2 L1
4/20/2023	180000159187	180000159178	LG S1
11/17/2022	170000433007	170000432997	LG5 L1

**CITY OF MURFREESBORO
DONATION OF UNIFORM EQUIPMENT**

MUTUAL RELEASE OF LIABILITY AND HOLD HARMLESS AGREEMENT

For and in consideration of the mutual promises and agreements between the parties and for the donation of BODY ARMOR by the City of Murfreesboro ("City") to the COOPERTOWN POLICE DEPARTMENT

THE CITY AND COOPERTOWN POLICE DEPARTMENT MUTUALLY AGREE AS FOLLOWS:

Each and every party to this agreement, individually and as agents for their employees, including their assigns, successors, agents, employees, and representatives, releases and discharges each and every other party to this agreement, including employees of each and every other party from any and all claims, rights, demands, covenants, agreements, duties, obligations, warranties, representations, liabilities, damages, expenses, attorneys' fees, costs, and causes of action, known or unknown of whatever kind, arising out of or related to the donation of the BODY ARMOR by the City to the COOPERTOWN POLICE DEPARTMENT and the use of the BODY ARMOR by the COOPERTOWN POLICE DEPARTMENT for whatever purposes the COOPERTOWN POLICE DEPARTMENT may use them.

The COOPERTOWN POLICE DEPARTMENT agrees to hold the City harmless in the event any claim is made against it arising from the COOPERTOWN POLICE DEPARTMENT's ownership or use or failure to use the BODY ARMOR. In executing this Release and Hold Harmless Agreement the COOPERTOWN POLICE DEPARTMENT acknowledges: (1) that the City has owned, maintained, and/or used the BODY ARMOR for multiple years; (2) that the BODY ARMOR may be outside the manufacturer's warranty period; (3) that the City is making no representation as to the fitness, suitability or usability of the BODY ARMOR for their stated purpose and function; (3) the City does not know nor does it guarantee the current condition of the BODY ARMOR; and (4) the City is providing the BODY ARMOR on an "as is" basis to the COOPERTOWN POLICE DEPARTMENT.

The COOPERTOWN POLICE DEPARTMENT shall be solely responsible for determining whether to use said BODY ARMOR for law enforcement or any other purpose.

IN WITNESS WHEREOF:

CITY OF MURFREESBORO

By: _____


Daren Gore, City Manager

COOPERTOWN POLICE DEPARTMENT

By: _____

Printed: _____

Title: _____

Approved as to form:


Adam F. Tucker, Murfreesboro City Attorney

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Magnet Forensics Software License Renewal

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider the GrayKey software license renewals.

Staff Recommendation

Approve the twelve-month renewal of the GrayKey software license with Magnet Forensics.

Background Information

The GrayKey software is used by the Criminal Investigation Division to extract digital files and information. The department has been using this software successfully since December 1, 2020.

Council Priorities Served

Maintain Public Safety

This software is crucial to the department's investigation teams to assist in solving and preventing crimes.

Fiscal Impact

The total cost, \$57,110, is provided by the department's FY26 operating budget.

Attachments

Magnet Forensics Quote for Renewal

Q-385340 - USD 57,110.00



Quotation

Address:

Magnet Forensics, LLC
931 Monroe Drive NE
Suite A102-340
Atlanta, Georgia 30308
United States

Phone: 519-342-0195

Quote #: Q-385340-1
Issue Date: 4 Apr, 2025
Expires On: 14 Jul, 2025

Bill To

Jennifer West
Murfreesboro Police Department (TN)
1004 N. Highland Ave.
Murfreesboro, Tennessee 37130
United States
615-893-2717
0320@murfreesborotn.gov

Ship To

Jennifer West
Murfreesboro Police Department (TN)
1004 N. Highland Ave.
Murfreesboro, Tennessee 37130
United States
615-893-2717
0320@murfreesborotn.gov

End User

Jennifer West
Murfreesboro Police Department (TN)
1004 N. Highland Ave.
Murfreesboro Tennessee 37130
United States
615-893-2717
0320@murfreesborotn.gov

PREPARED BY	PHONE	EMAIL	PAYMENT TERM
Zach Witt		zach.witt@magnetforensics.com	Net 30

ITEM #	PRODUCT NAME	SMS DATES	UNIT SELLING PRICE	QTY	EXTENDED PRICE
GKL-ONF-PR-B	GrayKey License - Premier Bundle	15 Jul, 2025 to 14 Jul, 2026	USD 57,110.00	1	USD 57,110.00
GKL-ONF-PRMR	GrayKey License - Premier Excursion Credits Included: 2 Renewal for Serial Numbers: 82c21ff2d4810709	15 Jul, 2025 to 14 Jul, 2026	USD 0.00	1	USD 0.00
GKL-ONF-PRMR	GrayKey License - Premier Excursion Credits Included: 2 Renewal for Serial Numbers: b93f61d9d4a1151e	15 Jul, 2025 to 14 Jul, 2026	USD 0.00	1	USD 0.00

Sub-Total USD 57,110.00
Taxes USD 0.00
Grand Total USD 57,110.00

Prices subject to change upon quote expiry. Accurate sales tax will be calculated at the time of invoicing when applicable. If your company is tax exempt, please provide appropriate support with your signed quote. Hardware may be subject to additional fees related to delivery, import and export.

Terms & Conditions

Unless you have an existing written agreement with Magnet Forensics for the products and/or services listed in this quotation, by: (a) signing below, (b) submitting an Order to Magnet Forensics referencing this quotation, or (c) making payment for the products and/or related services listed in this quotation, you agree to the terms and conditions at <http://magnetforensics.com/legal/> applicable to such products and/or services listed in this quotation to the exclusion of any differing or additional terms which may be found on your purchase order or similar document. By signing, you certify that you have the authority to bind your organization.

Q-385340 - USD 57,110.00

Magnet Forensics may adjust the software term start and/or end date, without increasing the total software license price, based on the date Magnet Forensics activates the software and provided that the total software license term length does not change.

Signature: _____

Date: ____/____/____

Name (Print): _____

Title: _____

Please sign and email to Zach Witt at zach.witt@magnetforensics.com

DocuSigned by:
APPROVED AS TO FORM:
Kelley Blevins Baker

25/08/2017 17:42:13
Kelley Blevins Baker, Deputy City Attorney

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Third Amendment to SaaS Agreement with Utility Associates

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider the Third Amendment to SaaS Agreement with Utility Associates, Inc.

Staff Recommendation

Approve the amendment to SasS agreement with Utility Associates.

Background Information

Utility Associates has provided software services and hardware warranties for the communication devices that are installed in Police vehicles since 2018. These devices provide connectivity, vehicle location and wireless services for officers. This amendment will extend services for an additional year.

Council Priorities Served

Maintain Public Safety

Consistent, high-quality communication devices are a critical part of effective public safety.

Fiscal Impact

The expense, \$12,700, is funded by the Department's Operating Budget.

Attachments

Third Amendment to the Software as a Service and Hardware Warranty Agreement with Utility Associates, Inc.

**THIRD AMENDMENT
TO THE
SOFTWARE AS A SERVICE & HARDWARE WARRANTY AGREEMENT
BETWEEN
THE CITY OF MURFREESBORO
AND
UTILITY ASSOCIATES, INC.**

This Third Amendment ("Third Amendment") to the Contract entered August 19, 2022, ("Contract") by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee and Utility Associates, Inc., a corporation of the state of Delaware, ("Contractor") is effective as of July 1, 2025.

RECITALS

WHEREAS, on August 19, 2022, the City entered into a contract with Utility Associates, Inc. for equipment, software and services as set forth in Sales Quote #131743-R dated January 13, 2022; and,

WHEREAS Clause 2.1 states the Contract expires on June 30, 2023, unless extended annually by mutual agreement of the parties for up to four (4) additional one-year terms; and

WHEREAS, pursuant to the First Amendment, the term of the Contract expires June 30, 2024; and

WHEREAS, pursuant to the Second Amendment, the term of the Contract expired June 30, 2025; and

WHEREAS the City and Contractor wish to extend the Contract term pursuant to Clause 2.1 of the current Contract for an additional term through June 30, 2026.

NOW THEREFORE, the City and Contractor mutually agree:

1. To extend the term of the current Contract, from July 1, 2025, until June 30, 2026, for the ROCKET Communications SaaS services as set forth in Quote 134693 dated August 28, 2024.
2. All other terms of the Contract shall remain the same.

IN WITNESS WHEREOF, the parties enter into this amendment as of _____, 2025.

CITY OF MURFREESBORO

UTILITY ASSOCIATES, INC.

By: _____
Shane McFarland, Mayor

DocuSigned by:
By: Amanda Havice
686C18018E66466...
Amanda Havice, CFO

Approved as to form:

By: Adam F. Tucker
43A2033E51F9401...
Adam F. Tucker, City Attorney



Quote

Utility Associates Inc
250 East Ponce De Leon Avenue
Suite 700
Decatur GA 30030
(800) 597-4707
www.utility.com

Customer	Murfreesboro TN Police
Date	8/28/2024
Sales Quote#	134693
Expires	6/30/2025
Sales Rep	Dahlia Blake
PO#	
Terms	Net 30

Bill To

Chief Michael Bowen
Murfreesboro TN Police
1004 N Highland Avenue
Murfreesboro, TN 37130

Ship To

Murfreesboro TN Police
1004 N Highland Avenue
Murfreesboro, TN 37130

Item	Description	Quantity	Price Each	Amount
COM-H/S-1	Rocket High-Speed Data Communications System, POLARIS SaaS, Warranty, and 24/7 Technical Support, Training - 1 Year: The coverage period is 7/1/2025 through 6/30/2026 (12 mos.)	29		\$67,280.00
Signature Line	Signature: _____ Name: _____ Date: _____ PO: _____			
			Subtotal	\$67,280.00
			Discount	(\$54,580.00)
			Subtotal	\$12,700.00
			Sales Tax (%)	\$0.00
			Total	\$12,700.00

This transaction is subject to the terms and conditions laid forth in the Client's executed Agreement with Utility Associates, Inc.
Please forward all inquiries to clientsuccess@utility.com

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Robert Rose HVAC and Roof Renovations Project Final Change Order

Department: Project Development

Presented by: Scott Elliott, Manager of Project Development

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider the final balancing change order for the HVAC and Roof Renovations project to the new MWRD Administration Building located at 316 Robert Rose Dr.

Staff Recommendation

Approve the final balancing change order with Stacker Building Group.

Background Information

The City began building renovations last November on the New MWRD Administration Building located at 316 Robert Rose Dr. During the renovation project it was discovered that the roof and HVAC systems have reached their life expectancy. By replacing the roof and HVAC systems we can better maintain and preserve the new building investment.

Change Order No. 1 is to modify the contract amount to remove the remaining balance in the contingency allowance. Only \$3,355 of the \$ 66,190 contingency allowance was needed during the project. \$61,245 will be deducted from the total contract amount. The revised final total contract amount will become \$666,844. This provides the final contract work for this project.

Council Priorities Served

Responsible Budgeting

Maintaining City Facilities in an effective manner is the most responsible means of protecting the City's most significant investments.

Fiscal Impact

\$61,245 reduction to the original contracted price; resulting in a final contract price of \$666,844.

Attachments

Robert Rose HVAC and Roof Renovations Final Change Order.



AIA® Document G701® – 2017

Change Order

PROJECT: *(Name and address)*
HVAC & Roofing Renovations at
316 Robert Rose Drive
ITB-45-2024
J+B No. 2321

CONTRACT INFORMATION:
Contract For: Renovations

Date: July 11, 2024

CHANGE ORDER INFORMATION:
Change Order Number: 001

Date: May 28, 2025

OWNER: *(Name and address)*
City of Murfreesboro, Tennessee
111 West Vine Street
Murfreesboro, TN 37130

ARCHITECT: *(Name and address)*
Johnson + Bailey Architects, P.C.
100 E Vince Street, Suite 700
Murfreesboro, TN 37130

CONTRACTOR: *(Name and address)*
Stacker Building Group, LLC
1648 Westgate Circle, Suite 300
Brentwood, TN 37027

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Item 1: Relocate existing planroom wall per Owner's request as shown on the attached Construction Change Directive No. 1

- Existing electrical to be box and receptacles to be relocated to hall side of wall. Existing low voltage to remain.
- Paint new relocated wall to match existing adjacent finish and reuse existing floor base.

Add: \$3,355.00.

Item 2: HVAC subcontractor additional services calls due to Trane equipment issues and installation of 3 phase conversion kit for one air handler due to Trane sending wrong materials.

Add: \$1,589.50.

Item 3: Resolve Owner's Contingency Allowance

Deduct: \$66,189.95

TOTAL DEDUCT: \$61,245.45

The original Contract Sum was	\$	728,089.46
The net change by previously authorized Change Orders	\$	0.00
The Contract Sum prior to this Change Order was	\$	728,089.46
The Contract Sum will be decreased by this Change Order in the amount of	\$	61,245.45
The new Contract Sum including this Change Order will be	\$	666,844.01
The Contract Time will be unchanged by Zero (0) days.		
The new date of Substantial Completion will be		

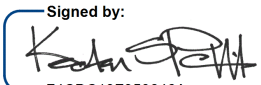
NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.


NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Johnson + Bailey Architects, P.C.
ARCHITECT *(Firm name)*

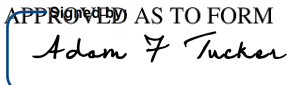
Stacker Building Group, LLC
CONTRACTOR *(Firm name)*

City of Murfreesboro, Tennessee
OWNER *(Firm name)*

Signed by:

74CDC13F950040A...
SIGNATURE
Keaton S. Pettit, President
PRINTED NAME AND TITLE
5/29/2025
DATE

DocuSigned by:

A8210FE381A9D479...
SIGNATURE
Clay Stacker, President
PRINTED NAME AND TITLE
5/29/2025
DATE

SIGNATURE
Shane McFarland, Mayor
PRINTED NAME AND TITLE
DATE

APPROVED AS TO FORM

43A2035E51F9401
Adam F. Tucker, City Attorney

CHANGE CONTROL LOG												
<div><div><div>Owner:City of Murfreesboro</div><div>Project Name:HVAC & Roofing Renovations at 316 Robert Rose Drive</div><div>Contract No.ITB-45-2024</div><div>Arch/Eng:Johnson + Bailey Architects, P.C.</div><div>Contractor:Stacker Building Group, LLC</div></div><div><div>Original Contract Amount:\$728,089.46</div><div>Adjusted Contract Amount:\$666,844.01</div><div>Contingency Allowance Amount:\$66,189.95</div><div>Adjusted Contingency Allowance Amount:\$-</div></div></div>												
CCD No./ CO No.	Brief Description of Change Item	Change Type	Initiated By	Status (Approved/ Pending/ Rejected)	Approved By:	Date From/ To Contractor	Date Submitted to Owner	Date Approved/ Rejected by Owner	Contract Time Extension (days)	Add/ Deduct (+/-) from Allowance	Cumulative Add/ Deduct (+/-) from contract	Adjusted Contingency Amount
CCD 1	Relocate existing wall per exhibit A	WCD	OWNER	APPROVED	Darren Gore	10/18/2024	10/18/2024	10/30/2024	0	\$ (3,355.00)		\$ (3,355.00)
CO 1	Finalize CCD 1, Add HVAC Scope, Resolve Contingency	WCD	ENGINEER	PENDING	Council	5/28/2025	5/28/2025		0	\$ (62,834.95)	\$ (61,245.45)	\$ (66,189.95)
Totals									0	\$ (66,189.95)	\$ (61,245.45)	\$ -
									A Contract Times Extension Requires City Council Approval	Abbreviations RFP = REQUEST FOR PROPOSAL FO = FIELD ORDER WCD = WORK CHANGE DIRECTIVE CCR = CONTRACTOR CHANGE REQUEST		

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Murfreesboro Transit Center Contingency Allowance Allocation

Department: Project Development Department

Presented by: Scott Elliott, Manager of Project Development

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

Summary

Report of Murfreesboro Transit Center contract contingency allowance.

Staff Recommendation

The contingency report of use of the allowance is provided as information only.

Background Information

The attached change control log identifies the change requests, through change control forms, and tracks the allowance allocations issued through field work change directives. Note that this work change directive no. 12 does not change the contract price or contract time. The final contract price and number of working days will be adjusted accordingly in the final balancing change order at the end of the project.

Council Priorities Served

Expand infrastructure

Constructing a Transit Center will allow for continued improvement and expansion of transit services.

Fiscal Impact

The amount of the increased expense, \$31,264, is accommodated in the contingency allowance with no change in the total contract amount of \$17,845,843.

Attachments

Change Control Log and Forms



AIA

Document G701™ – 2017

Change Order

PROJECT: (name and address)

Murfreesboro Transit Center
324 New Salem Highway
Murfreesboro, Tennessee 37129

CONTRACT INFORMATION:

Contract For: Murfreesboro Transit Center
Date:

CHANGE ORDER INFORMATION:

Change Order Number: 013
Date: 6/13/2025

OWNER: (name and address)

CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

ARCHITECT: (name and address)

HDR, INC.
120 BRENTWOOD COMMONS
WAY#525
BRENTWOOD, Tennessee 37027

TO CONTRACTOR: (name and address)

Bulley & Andrews Rock City, LLC
830 Crescent Centre Drive - Suite 140
Franklin, Tennessee 37067

THE CONTRACT IS CHANGED AS FOLLOWS:

Total Deduct of this CO= (\$31,263.61)
Owner Contingency After CO = \$9,758.43

PCO 044 Added Cameras x2 - (\$3,535.40)	\$0.00
PCO 045 Added floor outlets Conference room - (\$2,482.70)	\$0.00
PCO 046 Added Bike Racks - (\$1,572.51)	\$0.00
PCO 047 Split Systems AC at BMB - (\$27,589)	\$0.00
PCO 048 Credit for ADA sidewalk and Paint substitution - +\$3,916	\$0.00

The original Contract Sum was	\$ 17,145,843.00
The net change by previously authorized Change Orders	\$ 700,000.00
The Contract Sum prior to this Change Order was	\$ 17,845,843.00
The Contract Sum will be changed by this Change Order in the amount of	\$ 0.00
The new Contract Sum including this Change Order will be	\$ 17,845,843.00
The Contract Time will be by	
The new date Substantial Completion will be	

NOTE: This Change Order does not include adjustment in the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

HDR, INC.

ARCHITECT (Firm name)

Signed by:

0F57AE7D206B425...

SIGNATURE

Neal Corbett, Vice President

PRINTED NAME AND TITLE

6/17/2025

DATE

Bulley & Andrews Rock City, LLC

CONTRACTOR (Firm name)

Signed by:

C6E9E8166E3F402...

SIGNATURE

Joe Hyken, Project Manager

PRINTED NAME AND TITLE

6/16/2025

DATE

CITY OF MURFREESBORO

OWNER (Firm Name)

Signed by:

2430FEE75D2A4B9...

SIGNATURE

Darren W. Gore, City Manager

PRINTED NAME AND TITLE

6/17/2025

DATE

CHANGE CONTROL FORM NO. 12

Date Issued:	June 16, 2025	Project:	Murfreesboro Transit Center																				
Project No.:	ITB-07-2023	Contractor:	Rock City Construction Co LLC																				
This Document is a: <input type="checkbox"/> Request for Proposal <input type="checkbox"/> Field Order <input checked="" type="checkbox"/> Work Change Directive <input type="checkbox"/> Contractor Change Request																							
Description of Change (attach necessary supporting documentation): Add PCO 44,45,45,47 and 48. Total amount of the PCO's are \$31,263.61 which will be covered under the Owner's contingency leaving \$9,758.43.																							
Initiated By: <input type="checkbox"/> Contractor <input type="checkbox"/> Engineer <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Resident Project Representative																							
Drawing(s) Reference: N/A		Spec. Reference: N/A																					
RFI Reference: N/A		Date of RFI: N/A																					
Attachments: CO # 13																							
<p style="text-align: center;">REQUEST FOR PROPOSAL/CHANGE REQUEST</p> <p>We propose to perform the Work or make the Claim described above for the following change in Contract Cost and Contract Times:</p> <div><input checked="" type="checkbox"/> No Change in Contract Amount is Required <input type="checkbox"/> A Change in Contract Amount is Required: <input checked="" type="checkbox"/> No Change in Contract Time is required <input type="checkbox"/> A Change in Contract Time is Required:</div>																							
<p style="text-align: center;">WORK CHANGE DIRECTIVE</p> <p>You are directed to proceed to make the changes to the Work described in this Work Change Directive. Any change in Contract Price or Contract Time will be determined in accordance with the General Conditions.</p>																							
<p style="text-align: center;">FIELD ORDER</p> <p>This Field Order issued in accordance with the General Conditions for minor changes in the Work without changes in the Contract Price or Contract Time. If you consider that a change in Contract Price or Contract Times is required, notify the Engineer immediately and before proceeding with the proposed Work.</p>																							
<p style="text-align: center;">AUTHORIZING SIGNATURES</p> <table><tr><td>ENGINEER:</td><td>CONTRACTOR:</td><td>OWNER:</td><td>RESIDENT PROJECT REPRESENTATIVE:</td></tr><tr><td>_____</td><td>_____</td><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td><td>_____</td><td>_____</td></tr><tr><td>(print name)</td><td>(print name)</td><td>(print name)</td><td>(print name)</td></tr><tr><td>Date:_____</td><td>Date:_____</td><td>Date:_____</td><td>Date:_____</td></tr></table>				ENGINEER:	CONTRACTOR:	OWNER:	RESIDENT PROJECT REPRESENTATIVE:	_____	_____	_____	_____	_____	_____	_____	_____	(print name)	(print name)	(print name)	(print name)	Date:_____	Date:_____	Date:_____	Date:_____
ENGINEER:	CONTRACTOR:	OWNER:	RESIDENT PROJECT REPRESENTATIVE:																				
_____	_____	_____	_____																				
_____	_____	_____	_____																				
(print name)	(print name)	(print name)	(print name)																				
Date:_____	Date:_____	Date:_____	Date:_____																				

CHANGE CONTROL LOG												
Owner: City of Murfreesboro										Original Contract Amount: \$ 17,145,843.00		
Project Name: Murfreesboro Transit Center										Adjusted Contract Amount: \$ 17,845,843.00		
Contract No: ITB-07-2023										Contingency Allowance Amount: \$ 700,000.00		
Arch/Eng: HDR Engineering, Inc.										Remaining Contingency Allowance Amount: \$ 9,758.43		
Contractor: Rock City Construction Co LLC												
CCF No.	Brief Description of Change Item	Change Type	Initial By	Status (Approved/ Pending/ Rejected)	Approved By:	Date From/ To Contractor	Date Submitted to Owner	Date Approved/ Rejected by Owner	Contract Time Extension (days)	Add/ Deduct (+/-) from Allowance	Cumulative Add/ Deduct (+/-) from contract	Adjusted Contingency Amount
1	ADD-Owners Contingency Allowance	CO	OWNER	APPROVED	Council	1/9/2024	1/9/2024	1/26/2024	0	\$ -	\$ 700,000.00	
2	ADD-MTE Fees over Allowance	CCR	CONTRACTOR	APPROVED	Craig Tindall	12/6/2023	12/6/2023	2/14/2024	0	\$ (27,121.18)	\$ -	\$ 672,878.82
3	ADD-Irrigation Change to spray heads	CCR	CONTRACTOR	APPROVED	Craig Tindall	12/6/2023	12/6/2023	2/14/2024	0	\$ (2,676.05)	\$ -	\$ 670,202.77
4	ADD-GAS Fees over Allowance	CCR	CONTRACTOR	APPROVED	Craig Tindall	1/5/2024	1/5/2024	2/14/2024	0	\$ (17,940.00)	\$ -	\$ 652,262.77
5	ADD-Communication lines new route	WCD	CONTRACTOR	APPROVED	Craig Tindall	4/2/2024	4/17/2024	4/29/2024	0	\$ (40,240.84)	\$ -	\$ 612,021.93
6	DEDUCT-PCO 12,13 Foundation and Piping credit	WCD	CONTRACTOR	APPROVED	Craig Tindall	4/30/2024	5/14/2024	5/23/2024	0	\$ 18,166.00	\$ -	\$ 630,187.93
7	ADD-IT over allowance	WCD	CONTRACTOR	APPROVED	Council	10/1/2024	10/1/2024	11/8/2024	0	\$ (164,045.19)	\$ -	\$ 466,142.74
8	ADD- PCO's 6,8,9,10,15, 19 through 28, 30, 32,33	WCD	CONTRACTOR	APPROVED	Darren Gore	12/16/2024	3/6/2025	3/12/2025	0	\$ (34,682.69)	\$ -	\$ 431,460.05
9	ADD- PCO's 31,35,36,38	WCD	CONTRACTOR	APPROVED	Council	3/6/2025	4/10/2025	5/2/2025	31	\$ (154,058.85)	\$ -	\$ 277,401.20
10	ADD-PCO 34	WCD	ENGINEER	APPROVED	Darren Gore	3/26/2025	4/22/2025	4/25/2025	0	\$ (25,654.97)	\$ -	\$ 251,746.23
11	ADD-PCO's 39,40,41,42,43	WCD	OWNER	APPROVED	Council	5/2/2025	5/2/2025	5/23/2025	43	\$ (210,724.19)	\$ -	\$ 41,022.04
12	ADD-PCO's 44,45,46,47,48	WCD	OWNER	PENDING	Darren Gore	6/13/2025	6/13/2025		0	\$ (31,263.61)	\$ -	\$ 9,758.43
13												
14												
Totals									74	\$ (690,241.57)	\$ 700,000.00	\$ 9,758.43
										A Contract Times Extension Requires City Council Approval		
										Abbreviations RFP = REQUEST FOR PROPOSAL FO = FIELD ORDER WCD = WORK CHANGE DIRECTIVE CCR = CONTRACTOR CHANGE REQUEST		



PCO #044

Bulley & Andrews Rock City, LLC
830 Crescent Centre Drive - Suite 140
Franklin, Tennessee 37067
Phone: (615) 794-6691

Project: 6230020 - Murfreesboro Transit Center
324 New Salem Highway
Murfreesboro , Tennessee 37129

DRAFT

Prime Contract Potential Change Order #044: Added Cameras x2 - (\$3,535.40)

TO:	CITY OF MURFREESBORO 111 WEST VINE STREET MURFREESBORO, Tennessee 37130	FROM:	BULLEY & ANDREWS ROCK CITY LLC 830 Crescent Centre Drive Suite 140 FRANKLIN, Tennessee 37067
PCO NUMBER/REVISION:	044 / 0	CONTRACT:	1 - Murfreesboro Transit Center
REQUEST RECEIVED FROM:		CREATED BY:	Joe Hyken (BULLEY & ANDREWS ROCK CITY LLC)
STATUS:	Draft	CREATED DATE:	5/7/2025
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No		
LOCATION:		ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:	0 days	PAID IN FULL:	No
EXECUTED:	No	SIGNED CHANGE ORDER RECEIVED DATE:	
		TOTAL AMOUNT:	\$0.00

POTENTIAL CHANGE ORDER TITLE: Added Cameras x2 - (\$3,535.40)

CHANGE REASON: Additional Scope

POTENTIAL CHANGE ORDER DESCRIPTION: (The Contract Is Changed As Follows)
CE #072 - Added Cameras x2

ATTACHMENTS:

#	Budget Code	Description	Amount
1	16-16601.S SECURITY SYSTEMS.Commitment		\$3,214.00
2	88-83000.U FEE		\$321.40
3	88-82002.U OWNERS CONTINGENCY.Undefined		\$(3,535.40)
Grand Total:			\$0.00

Neal Corbett (HDR, INC.)
120 BRENTWOOD COMMONS WAY#525
BRENTWOOD, Tennessee 37027

CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

BULLEY & ANDREWS ROCK CITY LLC
830 Crescent Centre Drive Suite 140
FRANKLIN, Tennessee 37067

SIGNATURE DATE SIGNATURE DATE SIGNATURE DATE



Fusion Alarms, LLC
260 West Main St. STE 120B
Hendersonville, Tennessee 37075
United States

www.fusionalarms.com
J S
js@fusionalarms.com
(615) 397-3847

Adding a couple of cameras and licenses



City of Murfreesboro

Presented By

**Fusion Alarms,
LLC**

Murfreesboro Transit Center - AC, BA, FA, Verkada Parts, Verkada Licenses (P-24)

Project

Presented On

May 5, 2025

Version

2

A Different Mission

At Fusion Alarms, our mission is to prioritize our clients in every step of the process, ensuring a seamless experience from start to finish. We are committed to delivering top-tier service with a focus on simplicity and efficiency, driven by an unwavering dedication to client satisfaction.

Our team upholds the highest standards of quality, going above and beyond to get the job done right, no matter the challenge.

Why Fusion?

- Purpose built systems designed specifically for you, and with you. Each one of our clients are assigned an engineer to work directly with to ensure your system is designed exactly how you need it to be.
- Enterprise standardization through bulletproof and repeatable installation methods designed to bring order to the chaos and create a standard for you across the board.
- Convenient communication by having a single point of contact for Access Control, Electronic Security, Video and service needs.
- Get the support you need through our in-house help desk and a vast network of over 1,200 technicians across the U.S. and Canada.
- Our unwavering dedication to quality is how we stand behind our work with an industry leading warranty on parts and labor.
- Client satisfaction is our driving force. We are in the business of cultivating long lasting relationships with our clients.
- White glove service because you and your time are important and deserve it.
- Wide range of verticals including health care, banks, retail, supply chain, manufacturing and health clubs are but a few of the markets that we specialize in.
- Leverage the newest AI and analytics to enhance business intelligence and reduce time spent aggregating data manually.

Our Offering

Access Control

Simplify access to your business while gathering key operational data through keyless entry, from single site to multi-site systems.

Video Surveillance

Improve business performance with cloud-based surveillance, leveraging AI analytics for real-time insights into customer traffic, employee behavior, and more.

Commercial Fire Alarm

Our fire alarm specialists maximize protection, ensuring compliance with shifting fire codes and providing expert guidance and coordination with AHJs.

Intrusion Detection

Custom-engineered intrusion alarms help detect and reduce unauthorized access, with easy-to-use control panels and remote system management.

Alarm Monitoring

Five Diamond Monitoring 24/7, 365 days a year

System Inspections

Monthly, quarterly, semi-annual, or annual inspections of fire alarm, burglar alarm, and safety inspections, etc.

Energy & Environmental Management





Easily control lights, thermostats, and locks remotely, while sensors monitor air quality, water leaks, and other critical conditions.

Structured Cabling


Precise and clean cabling installations in new construction and retrofit applications

Products

Site > Verkada Parts

ITEM		QTY
	Verkada CD42-256E-HW Verkada CD42-E Outdoor Dome Camera, 5MP, Fixed Lens, 256GB of Storage, Maximum 30 Days of Retention	+1
	Verkada CB52-256E-HW Verkada CB52-E Outdoor Bullet Camera, 5MP, Zoom Lens, 256GB of Storage, Maximum 30 Days of Retention	+1
	Verkada ACC-MNT-SJBOX-1 Verkada Square Junction Box Mount	+1
	Verkada ACC-MNT-3 Verkada L-Bracket Mount	+1

Site > Verkada Licenses

ITEM		QTY
	Verkada LIC-CAM-1Y	+2
	1-Year Camera License	

Summary

Total Price \$3,214.00

Payment Terms	Billing Date	Due Date	Amount
<input type="radio"/> Upon Completion, Net 30 (100%)			\$3,214.00

Signature

Signature

Date



PCO #045

Bulley & Andrews Rock City, LLC
830 Crescent Centre Drive - Suite 140
Franklin, Tennessee 37067
Phone: (615) 794-6691

Project: 6230020 - Murfreesboro Transit Center
324 New Salem Highway
Murfreesboro , Tennessee 37129

DRAFT

Prime Contract Potential Change Order #045: Added floor outlets
Conference room - (\$2,482.70)

TO:	CITY OF MURFREESBORO 111 WEST VINE STREET MURFREESBORO, Tennessee 37130	FROM:	BULLEY & ANDREWS ROCK CITY LLC 830 Crescent Centre Drive Suite 140 FRANKLIN, Tennessee 37067
PCO NUMBER/REVISION:	045 / 0	CONTRACT:	1 - Murfreesboro Transit Center
REQUEST RECEIVED FROM:		CREATED BY:	Joe Hyken (BULLEY & ANDREWS ROCK CITY LLC)
STATUS:	Draft	CREATED DATE:	6/2/2025
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	#013 - PCO#'s 44-48
FIELD CHANGE:	No		
LOCATION:		ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:		PAID IN FULL:	No
EXECUTED:	No	SIGNED CHANGE ORDER RECEIVED DATE:	
		TOTAL AMOUNT:	\$0.00

POTENTIAL CHANGE ORDER TITLE: Added floor outlets Conference room - (\$2,482.70)

CHANGE REASON: Additional Scope

POTENTIAL CHANGE ORDER DESCRIPTION: (The Contract Is Changed As Follows)
CE #073 - Added floor outlets Conference room

ATTACHMENTS:

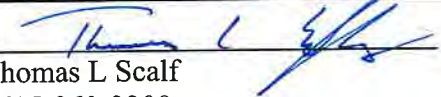
#	Budget Code	Description	Amount
1	16-16000.S ELECTRICAL		\$2,257.00
2	88-83000.U FEE		\$225.70
3	88-82002.U OWNERS CONTINGENCY.Undefined		\$(2,482.70)
Grand Total:			\$0.00

Neal Corbett (HDR, INC.)
120 BRENTWOOD COMMONS WAY#525
BRENTWOOD, Tennessee 37027

CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

BULLEY & ANDREWS ROCK CITY LLC
830 Crescent Centre Drive Suite 140
FRANKLIN, Tennessee 37067

SIGNATURE DATE SIGNATURE DATE SIGNATURE DATE

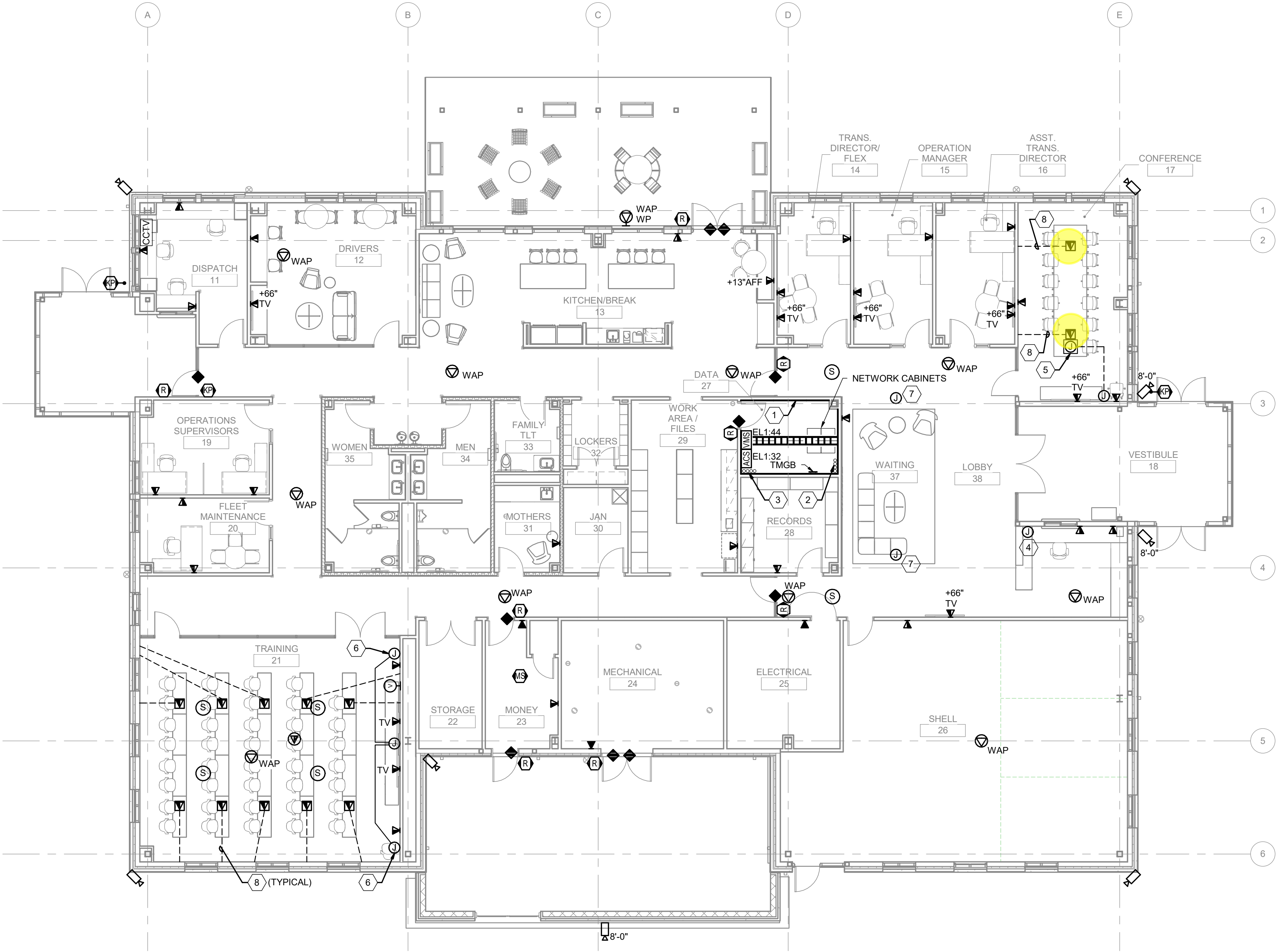
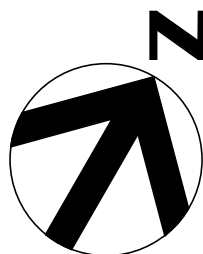
FAST ELECTRICAL CONTRACTORS, INC. 335 WILHAGAN ROAD NASHVILLE, TN 37217 (615) 360-2300 FAX (615) 399-1213	<h2 style="text-align: center;">Proposal</h2> <p style="text-align: center;">State License # 13756 Classification CE---UNLIMITED</p> <p style="text-align: center;">Expiration date 7-31-2025 Metro Nash. License # 250 Expiration date 3-31-2025</p>
TO: Rock City Construction 830 Crescent Centre Drive, Suite 140 Franklin, TN 37067 Attn: Joe Hyken	Date: 5/21/25 Phone: 615-794-6691 Email: jhyken@bulley.com Job Name: Murfreesboro Transit Center Job Location: Murfreesboro, TN
Run power to (2) existing floor boxes in Conference Room 17 of admin building.	
We Propose hereby to furnish material and labor-complete in accordance with above specifications, for the sum of..... ➔ Valid for 30 days from proposal	<h1 style="text-align: center;">\$2,257</h1>
<p style="text-align: right;">Authorized Signature:  Thomas L Scalf 615-360-2300</p>	
<p>Acceptance of Proposal - The above prices, specifications, and conditions are of this Proposal are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.</p> <p>Date: _____ Signature of Owner: _____</p>	

SECTION 01258

FORM FOR CONTRACTOR'S OR SUBCONTRACTOR'S COST ITEMIZATION

Fast Electrical Contractors Inc.	
Murfreesboro Transit Center	
Power to floorboxes in meeting room	Date: 5/21/25

[illegible]

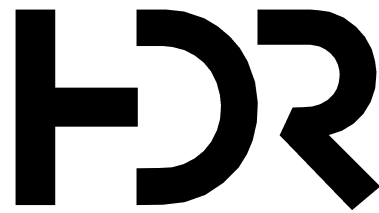


- GENERAL NOTES:**
- FOR TELECOMMUNICATIONS PLYWOOD BACKBOARDS, PROVIDE 3/4" THICK FIRE-RESISTANT A/C GRADE PLYWOOD. MOUNT PLYWOOD 6" AFF AND EXTEND TO 8'-6" AFF WITH "A" SIDE FACING OUT. ALL BACKBOARDS TO BE FINISHED WITH TWO COATS OF WHITE FIRE-RETARDANT PAINT. PROVIDE PLYWOOD AS SHOWN. TELECOMMUNICATIONS/DATA ROOM TO HAVE PLYWOOD ON A MINIMUM OF THREE FULL WALLS.
 - NO SECTION OF CONDUIT TO CONTAIN MORE THAN TWO 90 DEGREE BENDS OR EQUIVALENT BETWEEN PULL POINTS.
 - HIGH AND LOW VOLTAGE CONDUIT TO BE PROVIDED UNDER THE ELECTRICAL CONTRACT.
 - LOCATE WAP OUTLET SO THAT IT HAS A MINIMUM OF 12" OF CLEARANCE ON ALL SIDES OF OUTLET BOX.
 - COORDINATE REQUIREMENTS FOR FLOOR BOXES WITH ELECTRICAL POWER PLAN.
 - MOUNT SECURITY CAMERAS AT 15'-0" UNO. CAMERAS SHOWN ON THIS PLAN ARE TO BE POWER-OVER-ETHERNET.

- KEYNOTES:** #
- TYPICAL - TELECOMMUNICATION PLYWOOD BACKBOARD.
 - PROVIDE FOUR 4" CONDUITS. ROUTE CONDUITS UNDERGROUND TO PROPERTY LINE OR EASEMENT. CONDUITS TO BE USED TO SERVE TELECOMMUNICATIONS SERVICE ENTRANCE EQUIPMENT.
 - PROVIDE FOUR 4" CONDUITS. TWO FOR TRANSIT PAVILION BUILDING AND TWO FOR BUS WASH BUILDING. ROUTE CONDUITS UNDERGROUND TO EACH BUILDING INDICATED. CONDUITS TO BE ROUTED PARALLEL AND WITHIN THE SAME DUCTBANK OF EACH BUILDING POWER DISTRIBUTION CONDUITS.
 - BACKBOX FOR GATE ACCESS INTERCOM AND BUZZER. PROVIDE 1" CONDUIT WITH PULLSTRING. ROUTE CONDUIT OVERHEAD TO GATE ACCESS CONTROL SYSTEM HEADEND EQUIPMENT.
 - PROVIDE FLUSH FLOOR MOUNTED JUNCTION AND 1-1/4"C, W/ PULLSTRING. FOR HDMI CONNECTION. ROUTE CONDUIT BELOW GRADE TO RECESSED MOUNTED JUNCTION BOX AS SHOWN.
 - PROVIDE RECESS MOUNTED JUNCTION BPX AT LOCATION SHOWN. ROUTE 1-1/4"C W/ PULLSTRING OVERHEAD FOR HDMI CONNECTION TO JUNCTION AS SHOWN.
 - RECESSED CEILING MOUNTED JUNCTION BOX FOR WHITE NOISE DEVICE.
 - PROVIDE 1" CONDUIT FROM FLOOR BOX TO WALL AS INDICATED. CONDUIT TO RUN IN WALL VERTICALLY AND STUB-OUT 12" ABOVE ACCESSIBLE CEILING.

TELECOMMUNICATIONS FLOOR PLAN
1/8" = 1'-0"

B:\M 360\10111992_Murfreesboro_MTC_Envir_&_Dsgn_2020\10111992-10-E.rvt
4/18/2023 10:04:55 AM



B	04/19/2023	ISSUED FOR BIDS (REVISED)
A	04/11/2023	ISSUED FOR BIDS
ISSUE	DATE	DESCRIPTION

PROJECT MANAGER JON C. HOLLER	
CIVIL	M. TAYLOR
LANDSCAPE	A. SPATZ
STRUCTURAL	R. MACCAFERRI
ARCHITECTURAL	N. CORBETT
MECHANICAL	C. WORK
FIRE LIFE SAFETY	A. SENK
ELECTRICAL	E. CHINNIS
PROJECT NUMBER	10111992



CITY OF MURFREESBORO

TRANSIT CENTER

**ADMINISTRATION BUILDING
TELECOMMUNICATIONS AND SECURITY FLOOR
PLAN**



FILENAME | 10111992-10-E.rvt
SCALE | 1/8" = 1'-0"

SHEET
10E103



PCO #046

Bulley & Andrews Rock City, LLC
830 Crescent Centre Drive - Suite 140
Franklin, Tennessee 37067
Phone: (615) 794-6691

Project: 6230020 - Murfreesboro Transit Center
324 New Salem Highway
Murfreesboro , Tennessee 37129

DRAFT

Prime Contract Potential Change Order #046: Added Bike Racks - (\$1,572.51)

TO:	CITY OF MURFREESBORO 111 WEST VINE STREET MURFREESBORO, Tennessee 37130	FROM:	BULLEY & ANDREWS ROCK CITY LLC 830 Crescent Centre Drive Suite 140 FRANKLIN, Tennessee 37067
PCO NUMBER/REVISION:	046 / 0	CONTRACT:	1 - Murfreesboro Transit Center
REQUEST RECEIVED FROM:		CREATED BY:	Joe Hyken (BULLEY & ANDREWS ROCK CITY LLC)
STATUS:	Draft	CREATED DATE:	6/2/2025
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No		
LOCATION:		ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:		PAID IN FULL:	No
EXECUTED:	No	SIGNED CHANGE ORDER RECEIVED DATE:	
		TOTAL AMOUNT:	\$0.00

POTENTIAL CHANGE ORDER TITLE: Added Bike Racks - (\$1,572.51)

CHANGE REASON: Additional Scope

POTENTIAL CHANGE ORDER DESCRIPTION: (The Contract Is Changed As Follows)

CE #074 - Added Bike Racks
2 bike racks in Transit pavilion center

ATTACHMENTS:

#	Budget Code	Description	Amount
1	01-019910.M GC CO.Materials		\$1,429.56
2	88-83000.U FEE		\$142.95
3	88-82002.U OWNERS CONTINGENCY.Undefined		\$(1,572.51)
Grand Total:			\$0.00

Neal Corbett (HDR, INC.)
120 BRENTWOOD COMMONS WAY#525
BRENTWOOD, Tennessee 37027

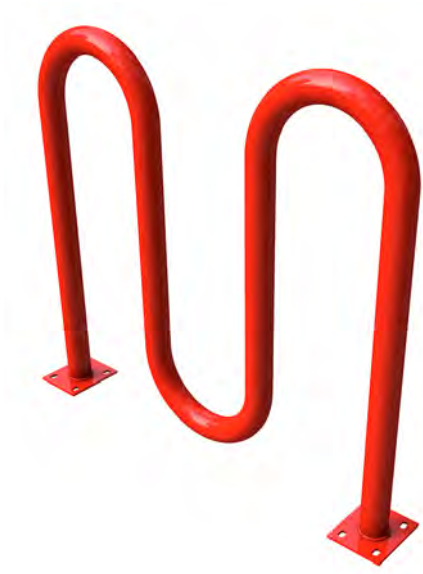
CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

BULLEY & ANDREWS ROCK CITY LLC
830 Crescent Centre Drive Suite 140
FRANKLIN, Tennessee 37067

SIGNATURE DATE SIGNATURE DATE SIGNATURE DATE

Wave 5 Rack

Made in **USA**★

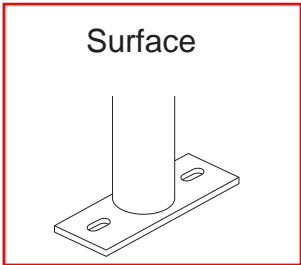


- U-lock compatible
- Parks 5 bicycles
- Easy installation
- 97% Recycled content

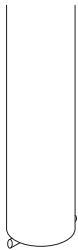
Material	2" Sched. 10 Steel Pipe
Height	36"
Width	38"
Weight	40 lbs

MOUNT OPTIONS

Surface



In-Ground

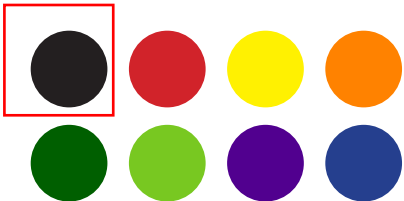


FINISH OPTIONS

Galvanized

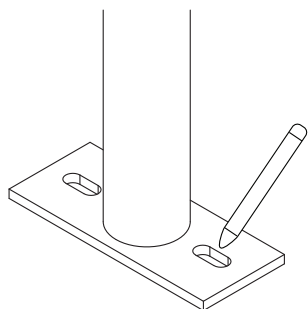


Powder Coat

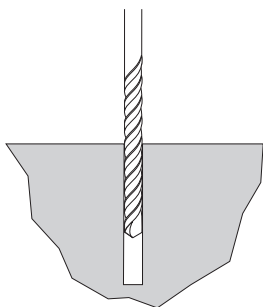


Wave 5 Rack

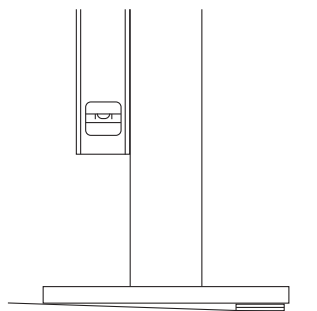
Installation



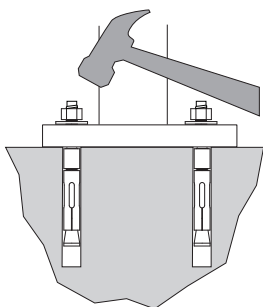
1. Place the rack in the desired location. Use a marker or pencil to outline the holes of the flange onto the base material.



2. Drill 3/8" diameter holes 3" deep into surface. Make sure the holes are at least 3" away from any cracks in the base material.



3. Place rack (and washers to level rack if necessary) over holes.



4. Thread nuts onto anchors, leaving approximately 1/4" of the anchor protruding, and tap into surface. Tighten nuts down to secure rack.

Wave 5 Rack

In-Ground Installation

Tools Needed

Level

Cement mixing tub

Shovel

Trowel

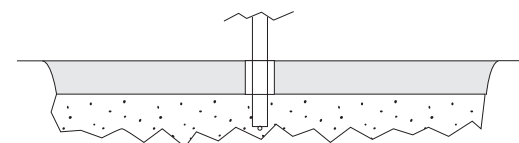
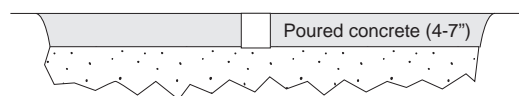
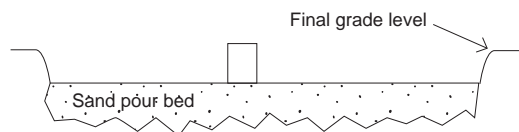
Hole coring machine with 4" bit

Access to water hose

Installing into existing concrete

Core holes no less than 3" diameter (4" recommended) and 10" deep into sidewalk. Fill holes with Por-Rok or epoxy grout. Place rack into holes, making sure the rack is level. 33"-36" of the rack should remain above the surface. If the rack is less than 33" high, it will not support the bike adequately. Make sure the rack is level and held in place until the grout has set.

Installing into new concrete



1. Place corrosion resistant sleeve (min. 3" inside diameter) in sand pour bed in exact location where rack will be installed. Make sure top of sleeve is at same level as desired finished concrete surface. Fill sleeve with sand to keep it in place and prevent it from filling with concrete.

2. Pour concrete and allow to cure

3. After appropriate cure time, dig out sand from sleeves and insert racks, making sure they are level and at the appropriate height. Pour in Por-Rok or epoxy grout and allow to set.



PCO #047

Bulley & Andrews Rock City, LLC
830 Crescent Centre Drive - Suite 140
Franklin, Tennessee 37067
Phone: (615) 794-6691

Project: 6230020 - Murfreesboro Transit Center
324 New Salem Highway
Murfreesboro , Tennessee 37129

DRAFT

Prime Contract Potential Change Order #047: Split Systems AC at BMB - (\$27,589)

TO:	CITY OF MURFREESBORO 111 WEST VINE STREET MURFREESBORO, Tennessee 37130	FROM:	BULLEY & ANDREWS ROCK CITY LLC 830 Crescent Centre Drive Suite 140 FRANKLIN, Tennessee 37067
PCO NUMBER/REVISION:	047 / 0	CONTRACT:	1 - Murfreesboro Transit Center
REQUEST RECEIVED FROM:		CREATED BY:	Joe Hyken (BULLEY & ANDREWS ROCK CITY LLC)
STATUS:	Draft	CREATED DATE:	6/13/2025
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No		
LOCATION:		ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:		PAID IN FULL:	No
EXECUTED:	No	SIGNED CHANGE ORDER RECEIVED DATE:	
		TOTAL AMOUNT:	\$0.00

POTENTIAL CHANGE ORDER TITLE: Split Systems AC at BMB - (\$27,589)

CHANGE REASON: Additional Scope

POTENTIAL CHANGE ORDER DESCRIPTION: (The Contract Is Changed As Follows)
CE #076 - Split Systems AC BMB

ATTACHMENTS:

[Transit BM Split AMS.pdf](#) , [BMB Power to Split Air Unit-Fast.pdf](#)

#	Budget Code	Description	Amount
1	15-15351.S MECHANICAL SUBCONTRACTOR		\$22,500.00
2	16-16000.S ELECTRICAL		\$2,581.00
3	88-83000.U FEE		\$2,508.00
4	88-82002.U OWNERS CONTINGENCY.Undefined		\$(27,589.00)
Grand Total:			\$0.00

Neal Corbett (HDR, INC.)
120 BRENTWOOD COMMONS WAY#525
BRENTWOOD, Tennessee 37027

CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

BULLEY & ANDREWS ROCK CITY LLC
830 Crescent Centre Drive Suite 140
FRANKLIN, Tennessee 37067

SIGNATURE DATE SIGNATURE DATE SIGNATURE DATE

ONE VISION. PROVEN SOLUTIONS.



Proposal

June 11, 2024

To: Rock City Construction

Project: Murfreesboro Transit

Reference: Email

Subject: Adding a Mini Split to BMB

Our Budget price for below scope of work..... \$ 22,500.00

Sincerely,

AMS Mechanical Systems, Inc.

Jonathan Collins

Project Estimator

331-280-9275

jcollins@ams-pmt.com




ONE VISION. PROVEN SOLUTIONS.



Proposal

HVAC - Scope of Work

- Furnish & Install Cooling Only Mini-Split and Condenser
- Refrigeration Piping
- Insulation
- Coring for pipes
- Misc. Hanger's, Tags
- Labor
- Startup
- Controls
- Sales Tax
- Standard Work Hours (7:00am – 3:30pm) M-F

FAST ELECTRICAL CONTRACTORS, INC. 335 WILHAGAN ROAD NASHVILLE, TN 37217 (615) 360-2300 FAX (615) 399-1213	Proposal State License # 13756 Classification CE---UNLIMITED Expiration date 7-31-2025 Metro Nash. License # 250 Expiration date 3-31-2025
TO: Rock City Construction 830 Crescent Centre Dr #140 Franklin, TN 37067 Attn: Joe Hyken	Date: 5/28/25
	Phone: 615-794-6691 Email: jhyken@bulley.com
	Job Name: Murfreesboro Transit Center Job Location: Murfreesboro, TN
<p>Add power circuit for split air unit in Bus Maintenance Shop.</p>	
We Propose hereby to furnish material and labor-complete in accordance with above specifications, for the sum of..... ➔ Valid for 30 days from proposal	\$2,581
<p style="text-align: right;">Authorized Signature:  Thomas L Scalf 615-360-2300</p>	
<p>Acceptance of Proposal - The above prices, specifications, and conditions are of this Proposal are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.</p> <p>Date: _____ Signature of Owner: _____</p>	

FORM FOR CONTRACTOR'S OR SUBCONTRACTOR'S COST ITEMIZATION

01258-1



PCO #048

Bulley & Andrews Rock City, LLC
830 Crescent Centre Drive - Suite 140
Franklin, Tennessee 37067
Phone: (615) 794-6691

Project: 6230020 - Murfreesboro Transit Center
324 New Salem Highway
Murfreesboro , Tennessee 37129

DRAFT

Prime Contract Potential Change Order #048: Credit for ADA sidewalk and Paint substitution - +\$3,916

TO:	CITY OF MURFREESBORO 111 WEST VINE STREET MURFREESBORO, Tennessee 37130	FROM:	BULLEY & ANDREWS ROCK CITY LLC 830 Crescent Centre Drive Suite 140 FRANKLIN, Tennessee 37067
PCO NUMBER/REVISION:	048 / 0	CONTRACT:	1 - Murfreesboro Transit Center
REQUEST RECEIVED FROM:		CREATED BY:	Joe Hyken (BULLEY & ANDREWS ROCK CITY LLC)
STATUS:	Draft	CREATED DATE:	6/13/2025
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No		
LOCATION:		ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:		PAID IN FULL:	No
EXECUTED:	No	SIGNED CHANGE ORDER RECEIVED DATE:	
		TOTAL AMOUNT:	\$0.00

POTENTIAL CHANGE ORDER TITLE: Credit for ADA sidewalk and Paint substitution - +\$3,916

CHANGE REASON: Additional Scope

POTENTIAL CHANGE ORDER DESCRIPTION: (The Contract Is Changed As Follows)
CE #077 - Owner Credit for ADA sidewalk and Paint substitution

ATTACHMENTS:

#	Budget Code	Description	Amount
1	09-09900.S PAINTING		\$(500.00)
2	02-02000.S SITEWORK		\$(3,416.00)
3	88-82002.U OWNERS CONTINGENCY.Undefined		\$3,916.00
Grand Total:			\$0.00

Neal Corbett (HDR, INC.)
120 BRENTWOOD COMMONS WAY#525
BRENTWOOD, Tennessee 37027

CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

BULLEY & ANDREWS ROCK CITY LLC
830 Crescent Centre Drive Suite 140
FRANKLIN, Tennessee 37067

SIGNATURE DATE SIGNATURE DATE SIGNATURE DATE

ADDs - \$3,654
Credits - \$7,070
Total Credit - \$3,416

Cumberland Welding and Fabrication
4219 Hwy 49 W Springfield TN,37172
CUMBERLANDWELDINGFABRICATION.COM



Change Order Request - 003

Cost Summary of Railing Change

Company: **Bulley & Andrews** - Rock City
Job: **Transit Center**

4/21/2025

Original Contract 13'0" Railing	
\$220 Cost per Ln/ft	\$2,860.00
New Railing - 30'-0"	
\$150 Cost per Ln/ft	\$4,500.00
Deduct from Original Contract	
	\$2,860.00
Add from Original Contract	
	\$1,640.00
Extra Costs Due to Railing Change	
Pipe	\$0.00
Shop Labor	\$0.00
Galvanizing	\$0.00
Detailing for Shop Drawing	\$195.00
Equipment - Core Drill and Bit 5 Extra holes	\$285.00
Hydrolic cement	\$80.00
Labor extra holes	\$500.00
Total Change Order Add to Contract	
	\$2,700.00

Additional Cost for 17' of
additional Hand Rail

DBE | WBE | SBE

Josh LeFevre Construction

115 Thompson Rd
Shelbyville, TN 37160
Office: (931) 294-2505

Bid Report

Date: 05/08/2025

Time: 04:33:04 PM

ProEstimate.NET

Project: Murfreesboro Transit	Project No.:
Location: Murfreesboro, TN	Bid Date: 05/25/2023

Pay Item	Description	Quantity	Unit	Unit Price	Extension
Revised Change Order #35					
CO35-1	Demo Existing Sidewalk & Curb	1.000	L.S.	1,500.00	1,500.00
CO35-2	Form & Pour New Sidewalk	950.000	S.F.	6.50	6,175.00
CO35-3	Landings	3.000	EACH	950.00	2,850.00
CO35-4	Curb Wall	16.000	L.F.	65.00	1,040.00
CO35-5	Retaining Wall	12.000	L.F.	350.00	4,200.00
CO35-6	North Sidewalk Deduct	615.000	S.F.	-6.50	-3,997.50
CO35-7	Retaining Wall Deduct	1.000	L.S.	-5,200.00	-5,200.00
CO35-8	Import Material	48.000	C.Y.	35.00	1,680.00
CO35-9	Remove Landscaping	1.000	L.S.	3,000.00	3,000.00
Category Total: Revised Change Order #35					11,247.50
					\$8,247.50
TOTAL:					11,247.50
					\$8,247.50

Notes:

- This is not to exceed 250 C.Y. We will be keeping up with the truck loads for the haul off.

Exclusions:

- No Tap Fees
- No Rock Excavation
- No Permits
- No Asphalt Repair
- No Undercut
- No Bond
- No Soil Testing
- No TDOT Section
- No Building Foundations
- No Retaining Wall
- No DDCVA
- No Signage
- No Retaining Wall

Original PCO #35 had included 250 C.Y. Only 48 C.Y. were imported. (4 Loads and 12 C.Y. a Load)

Difference of 202 C.Y.

PCO #35 amount

\$15,317.50 - \$8,247.50 = **\$7,070.00 Credit**



Accepted

Acceptance of this paint substitution request is granted with the understanding that the substituted product fully adheres to all specified project requirements, standards, and regulations. The contractor is entrusted with ensuring the product's performance, compatibility, and compliance throughout its application, as well as addressing any compliance issues that may arise from its use. 12/14/2024

SUBSTITUTION REQUEST

(After the Bidding/Negotiating Phase)

Project: Murfreesboro Transit Center Substitution Request Number: _____
 To: HDR From: Rock City Construction
 Date: 11/26/24
 Re: _____ A/E Project Number: _____
 Contract For: _____

Specification Title: Canopy underside paint Description: _____
 Section: _____ Page: _____ Article/Paragraph: _____

Proposed Substitution: Pro Industrial Multi-Surface Acrylic Gloss
 Manufacturer: Sherwin Williams Address: _____ Phone: _____
 Trade Name: _____ Model No.: _____
 Installer: _____ Address: _____ Phone: _____
 History: ☐ New product ☐ 1-4 years old ☐ 5-10 years old ☒ More than 10 years old

Differences between proposed substitution and specified product: _____
Multi-surface is capable of being applied down to 40 degrees.
Acrolon 100 needs surfaces temps of 55 or above.

☐ Point-by-point comparative data attached — REQUIRED BY A/E

Reason for not providing specified item: Winter is upon us. Surface temps won't rise above 55 again this year

Similar Installation:
 Project: Middle Tennessee Electric Architect: CT Consultants
 Address: 555 New Salem Hwy, Owner: _____
Murfreesboro, TN 37129 Date Installed: 7/25/22

Proposed substitution affects other parts of Work: ☒ No ☐ Yes; explain _____

Savings to Owner for accepting substitution: \$500 DEDUCT (\$ _____).

Proposed substitution changes Contract Time: ☒ No ☐ Yes [Add] [Deduct] _____ days.

Supporting Data Attached: ☐ Drawings ☒ Product Data ☐ Samples ☐ Tests ☐ Reports ☐ _____

Comparison between Acrolon 100 and PI Multi-surface acrylic

Pro Industrial™ Acrolon™ 100 Waterbased Urethane

B65-700 Series

CHARACTERISTICS

Pro Industrial Waterbased Acrolon 100 is an advanced technology, less than 100 grams per litre V.O.C., waterbased, acrylic urethane. It provides performance properties comparable to premium quality solvent based urethanes. This is a high gloss, abrasion resistant urethane that has excellent weathering properties.

Features:

- Can be applied directly to water based and solvent based organic zinc rich primers
- Suitable for use in Canadian Food Processing facilities (B65W721, B65T724, B65R720, B65Y720 & B65V720): Non-Food contact areas.
- Suitable for use in USDA inspected facilities
- Clear Tint Base (B65T00724) can be used as clear coat

Pro Industrial™ Multi-Surface Acrylic Gloss

B66–1500 Series

CHARACTERISTICS

Pro Industrial Multi-Surface Acrylic is a waterborne acrylic for interior and exterior use on marginally prepared metal or masonry surfaces. Features multiple sheens, fast dry, easy application and dry fall properties.

Features:

- Self-priming directly to multiple surfaces
- Excellent one-coat hide and stain blocking
- Abrasion resistant
- Optimized for spray application
- Good exterior color and gloss retention
- Dries fast and dry falls in 10-15 feet
- Suitable for use in USDA inspected facilities

113.68

Pro Industrial™ Acrolon™ 100

Waterbased Urethane

B65-700 Series


**SHERWIN
WILLIAMS®**

CHARACTERISTICS

Pro Industrial Waterbased Acrolon 100 is an advanced technology, less than 100 grams per litre V.O.C., waterbased, acrylic urethane. It provides performance properties comparable to premium quality solvent based urethanes. This is a high gloss, abrasion resistant urethane that has excellent weathering properties.

Features:

- Can be applied directly to water based and solvent based organic zinc rich primers
- Suitable for use in Canadian Food Processing facilities (B65W721, B65T724, B65R720, B65Y720 & B65V720): Non-Food contact areas.
- Suitable for use in USDA inspected facilities
- Clear Tint Base (B65T00724) can be used as clear coat

Finish: 80+ @60° High Gloss
Color: Many colors

Recommended Spreading Rate per coat:

Wet mils: 4.0-8.0
Dry mils: 1.8-3.6

Coverage: sq.ft. per gallon 200-400

Theoretical Coverage: 721
sq. ft. per gallon @1 mil dry

Approximate spreading rates are calculated on volume solids and do not include any application loss.

Note: Brush or roll application may require multiple coats to achieve maximum film thickness and uniformity of appearance.

Drying Schedule @ 5.0 mils wet, @ 50% RH:

Drying, and recoat times are temperature, humidity, and film thickness dependent.

	@55°F	@77°F	@120°F
To touch:	3 hrs.	1.5 hrs.	45 min.
To handle	12 hrs.	6 hrs.	2 hrs.
Minimum recoat:	16 hrs.	8 hrs.	2-4 hrs.
Maximum recoat: *3 months	3 months	3 months	3 months
To cure	14 days	10 days	2 days
Pot Life	2.5 hrs.	2 hrs.	45 min.
Sweat-In-Time	none required		

Mix Ratio: 2 components, 4:1 by volume

*If maximum recoat time is exceeded, abrade surface before recoating.

Tinting part A with CCE: Use the 100% tint strength formula pages. Five minutes minimum mixing on a mechanical shaker is required for complete mixing of color.

Extra White B65W00721/B65V00720
(may vary by color)

V.O.C. (less exempt solvents):

As mixed 4:1 unreduced
98 grams per litre; 0.82 lbs. per gallon

As per 40 CFR 59.406

Volume Solids: 45 ± 2%
Weight Solids: 52 ± 2%
Weight per Gallon: 9.54 lb
Flash Point: 105°F TCC
Vehicle Type: Acrylic urethane
Shelf Life: 24 months unopened

COMPLIANCE

As of 05/18/2021, Complies with:

OTC	Yes
OTC Phase II	Yes
S.C.A.Q.M.D.	Yes
CARB	Yes
CARB SCM 2007	Yes
CARB SCM 2020	Yes
Canada	Yes
LEED® v4 & v4.1 Emissions (CDPH v1.2-B65W721/B65V720)	Yes
LEED® v4 & v4.1 V.O.C.	Yes
EPD-NSF® Certified	No
MIR-Manufacturer Inventory	No
MPI®	N.A.

APPLICATION

Temperature:

minimum	55°F
maximum	120°F
air, surface, and material	
At least 5°F above dew point	

Relative humidity: 85% maximum

The following is a guide. Changes in pressures and tip sizes may be needed for proper spray characteristics. Always purge spray equipment before use with listed compatible compliant reducer. Any reduction must be compatible with the existing environmental and application conditions. Reduction over 15% of material can affect film build, appearance, and adhesion.

Reducer: Water
In order to avoid blockage of spray equipment, clean equipment before use or before periods of extended downtime with water.

Airless Spray: 30:1 pump
Pressure 2700-3000 p.s.i.
Hose 1/4 inch I.D.
Tip .013-.015 inch
Filter 60 mesh

Reduction As needed up to 15% by volume

Brush Nylon-polyester

Roller Cover 3/8 inch woven

Reduction As needed up to 15% by volume with water, 5-15% minimum reduction required for brush and roll

If specific application equipment is listed above, equivalent equipment may be substituted.

Apply paint at the recommended film thickness and spreading rate as indicated. Application of coating above maximum or below minimum recommended spreading rate may adversely affect coating performance. Spreading rates are calculated on volume solids and do not include an application loss factor due to surface profile, roughness, or porosity of the surface, skill, and technique of the applicator, method of application, various surface irregularities, material lost during mixing, spillage, over thinning, climatic conditions, and excessive film build.

Mix separate components thoroughly with low speed agitation before use. Make certain no pigment remains on the bottom of the can. Then combine 4 parts by volume of Part A with 1 part by volume of Part B. Mix thoroughly with low speed agitation. Reduce 5% - 15% by volume with water for brush and roll application. Re-stir before using. If reducer is used, add only after both components have been thoroughly mixed together. Do not apply the material beyond recommended pot life. Do not mix previously catalyzed material with new.

Stripe coat crevices, welds, and sharp angles to prevent early failure in these areas. When using spray application, use a 50% overlap with each pass of the gun to avoid holidays, bare areas, and pinholes. If necessary, cross spray at a right angle.

SPECIFICATIONS

Steel:

1 coat Pro Industrial Pro-Cryl Primer
or
1 coat Kem Bond HS
1-2 coats Pro Industrial Waterbased Acrolon 100

Steel:

1 coat Zinc-Clad IV Primer
1-2 coats Pro Industrial Waterbased Acrolon 100

Steel:

1 coat Zinc-Clad IV Primer
1 coat Macropoxy 646-100
1-2 coats Pro Industrial Waterbased Acrolon 100

Aluminum and Galvanizing:

1 coat DTM Wash Primer
1-2 coats Pro Industrial Waterbased Acrolon 100

Concrete Block (CMU):

1 coat Pro Industrial Heavy Duty Blockfiller
1-2 coats Pro Industrial Waterbased Acrolon 100

Concrete (high performance):

1 coat Kem Cati-Coat HS Epoxy Filler-Sealer
1-2 coats Pro Industrial Waterbased Acrolon 100

Concrete and Masonry Smooth:

1 coat Loxon Concrete and Masonry Primer
1-2 coats Pro Industrial Waterbased Acrolon 100

Drywall:

1 coat ProMar 200 Zero V.O.C. Primer
1-2 coats Pro Industrial Waterbased Acrolon 100

Pre-Finished Siding:(Baked-on finishes)

1 coat Bond-Plex Waterbased Acrylic
1-2 coats Pro Industrial Waterbased Acrolon 100

The systems listed above are representative of the product's use, other systems may be appropriate.

Pro Industrial™ Acrolon 100

Waterbased Urethane

SURFACE PREPARATION

WARNING! Removal of old paint by sanding, scraping or other means may generate dust or fumes that contain lead. Exposure to lead dust or fumes may cause brain damage or other adverse health effects, especially in children or pregnant women. Controlling exposure to lead or other hazardous substances requires the use of proper protective equipment, such as a properly fitted respirator (NIOSH approved) and proper containment and cleanup. For more information, call the National Lead Information Center at **1-800-424-LEAD** (in US) or contact your local health authority.

When cleaning the surface per SSPC-SP1, use only an emulsifying industrial detergent, followed by a water rinse. Do not use hydrocarbon solvents for cleaning.

Surface must be clean, dry, and in sound condition. Remove all oil, dust, grease, dirt, loose rust, and other foreign material to ensure adequate adhesion. Recognize that any surface preparation short of total removal of the old coating may compromise the service length of the system.

Iron & Steel - Remove all oil and grease from surface by Solvent Cleaning per SSPC-SP1. Minimum surface preparation is Commercial Blast Cleaning per SSPC-SP6/NACE 3. For better performance, use Near White Blast Cleaning per SSPC-SP10/NACE 2. Blast clean all surfaces using a sharp, angular abrasive for optimum surface profile (2 mils / 50 microns). Prime any bare steel the same day as it is cleaned or before flash rusting occurs.

Aluminum - Remove all oil, grease, dirt, oxide and other foreign material per SSPC-SP1. Primer required.

Galvanizing - Allow to weather a minimum of six months prior to coating. Solvent Clean per SSPC-SP1. When weathering is not possible, or the surface has been treated with chromates or silicates, first Solvent Clean per SSPC-SP1 and apply a test patch. Allow paint to dry at least one week before testing adhesion. If adhesion is poor, brush blasting per SSPC-SP16 is necessary to remove these treatments. Rusty galvanizing requires a minimum of Hand Tool Cleaning per SSPC-SP2, prime the area the same day as cleaned. Primer required.

Concrete Block - Surface should be thoroughly clean and dry. Air, material and surface temperatures must be at least 50°F before filling. Use Pro Industrial Heavy Duty Block Filler or Loxon Acrylic Block Surfacer. The filler must be thoroughly dry before topcoating.

Concrete and Masonry - For surface preparation, refer to SSPC-SP13/NACE 6, or ICRI No.310.2R, CSP 1-3. Surfaces should be thoroughly cleaned and dry. Concrete and mortar must be cured at least 28 days @ 75°F (24°C). Surface temperatures must be at least 55°F (12.8°C) before filling. Surface must be free of laitance, concrete dust, dirt, form release agents, moisture curing membranes, loose cement and hardeners. Fill bug holes, air pockets and other voids. Primer required.

Pre-Finished Siding: (Fluorocarbon, Silicone Polyester, and Polyester Polymers) Remove oil, grease, dirt, oxides, and other contaminants from the surface by cleaning per SSPC-SP1 or water blasting per NACE Standard RP-01-72 (caution: excessive blasting pressure may cause warping, use caution). Always check for compatibility of the previously painted surface with the new coating by applying a test patch of 2 - 3 square feet. Allow to dry thoroughly for 1 week before checking adhesion. Use recommended primer.

SURFACE PREPARATION

Mildew- Prior to attempting to remove mildew, it is always recommended to test any cleaner on a small, inconspicuous area prior to use. Bleach and bleaching type cleaners may damage or discolor existing paint films. Bleach alternative cleaning solutions may be advised.

Mildew may be removed before painting by washing with a solution of 1 part liquid bleach and 3 parts water. Apply the solution and scrub the mildewed area. Allow the solution to remain on the surface for 10 minutes. Rinse thoroughly with water and allow the surface to dry before painting. Wear protective eyewear, waterproof gloves, and protective clothing. Quickly wash off any of the mixture that comes in contact with your skin. Do not add detergents or ammonia to the bleach-water solution.

PERFORMANCE

Extra White B65W00721/B65V00720

System Tested: (unless otherwise indicated)

Substrate: Steel

Surface Preparation: SSPC-SP10

Finish: 1 coat Kem Bond H.S. Primer @ 3.0 mils D.F.T.

1 coat Pro Industrial Waterbased Acrolon 100 @ 3.6 mils D.F.T.

Dry Time: 7 day ambient cure

Abrasion Resistance:

Method: ASTM D4060

Result: 28.9 mg loss

Adhesion:

Method: ASTM D4541

Result: 1365 p.s.i.

Corrosion Weathering: 1000 hours

Method: ASTM D5894

Result: Rating 8, per ASTM D714 for Blistering. Rating 10 per ASTM D1654 for corrosion

Salt Fog Resistance: 1000 hours

Method: ASTM B117

Result: Rating 10, per ASTM D714 for Blistering. Rating 10 per ASTM D1654 for corrosion

Direct Impact Resistance:

Method: ASTM D2794

Result: 136 inch lbs.

Flexibility:

Method: ASTM D522, 1/8 inch mandrel

Result: Pass

Pencil Hardness:

Method: ASTM D3363

Result: 6 H

Moisture Condensation Resistance: 1000 hrs

Method: ASTM D4585

Result: Rating 10, per ASTM D714 for Blistering. Rating 10 per ASTM D1654 for corrosion

Chemical Resistance Rating:

B65W00721/B65V00720

(1 hour direct exposure to dry film incidental contact)

5% Phosphoric Acid- Pass

10% Hydrochloric Acid- Pass

25% Sodium Hydroxide- Pass

50% Sulfuric Acid- Pass

Isopropyl Alcohol- Pass

Ammonia- Pass

Peridox RTU®- Pass

Chlorox® Dispatch®-Slight color change or gloss loss

Methanol- Pass

Mineral Spirits- Pass

Motor Oil- Pass

Vegetable Oil- Pass

WVP Perms (US):

Method: ASTM D1653 grains/(hr ft² in Hg)

Result: 10.32 perms

SAFETY PRECAUTIONS

Before using, carefully read **CAUTIONS** on label.

Refer to the Safety Data Sheets (SDS) before use.

FOR PROFESSIONAL USE ONLY.

Published technical data and instructions are subject to change without notice. Contact your Sherwin-Williams representative for additional technical data and instructions.

CLEANUP INFORMATION

Clean spills, spatters, hands and tools immediately after use with soap and warm water. After cleaning, flush spray equipment with compliant cleanup solvent to prevent rusting of the equipment. Follow manufacturer's safety recommendations when using solvents.

HOTW 05/18/2021 B65W721/B65V720 16 98
FRC

113.04GL

Pro Industrial™

Multi-Surface Acrylic Gloss

B66-1500 Series


**SHERWIN
WILLIAMS.**

CHARACTERISTICS

Pro Industrial Multi-Surface Acrylic is a waterborne acrylic for interior and exterior use on marginally prepared metal or masonry surfaces. Features multiple sheens, fast dry, easy application and dry fall properties.

Features:

- Self-priming directly to multiple surfaces
- Excellent one-coat hide and stain blocking
- Abrasion resistant
- Optimized for spray application
- Good exterior color and gloss retention
- Dries fast and dry falls in 10-15 feet
- Suitable for use in USDA inspected facilities

For use on properly prepared:

Steel, Galvanized & Aluminum, Concrete and Masonry

Finish: 70+ units @ 60°
Color: Most Colors

Recommended Spreading Rate per coat: B66W00671 (may vary by base)

Wet mils: 3.75-6.0
Dry mils: 1.5-2.3
Coverage: 272-417 sq. ft. per gallon
Theoretical Coverage: 626 sq. ft. per gallon
@ 1 mil dry

Approximate spreading rates are calculated on volume solids and do not include any application loss.

Note: Brush or roll application may require multiple coats to achieve maximum film thickness and uniformity of appearance.

Drying Schedule @ 5.0 mils wet, @ 50% RH:

Drying and recoat times are temperature, humidity, and film thickness dependent. Dryfall characteristics will be affected at temperatures below 77°F (25°C) or above 50% RH.

	@40°F	@77°F	@100°F
To touch	1 hour	30 minutes	15 minutes
To handle	2 hours	1 hour	30 minutes
To recoat	4 hours	2 hours	1 hour
To dryfall	10-15 ft.	10 ft.	10 ft.

Tinting with CCE only:

Base	oz. per gallon	Strength
Extra White	0-6	SherColor
Ultra Deep Base	10-14	SherColor

Extra White B66W01501

(may vary by color)

V.O.C. (less exempt solvents):

less than 50 grams per litre; 0.42 lbs. per gallon
As per 40 CFR 59.406

Volume Solids: 39 ±2%
Weight Solids: 52 ±2%
Weight per Gallon: 10.31 lbs
Flash Point: N/A
Vehicle Type: Acrylic
Shelf Life: 24 months, unopened

COMPLIANCE

As of 07/18/2024, Complies with:

OTC	Yes
OTC Phase II	Yes
S.C.A.Q.M.D.	Yes
CARB	Yes
CARB SCM 2007	Yes
CARB SCM 2020	Yes
Canada	Yes
LEED® v4 & v4.1 Emissions	Yes
LEED® v4 & v4.1 V.O.C.	Yes
EPD-NSF® Certified	Yes
MIR-Manufacturer Inventory	No
MPI®	Yes

APPLICATION

Temperature:

minimum	40°F / 4.4°C
maximum	100°F / 37.7°C

air, surface and material

At least 5°F above dew point

Relative humidity: 85% maximum

The following is a guide. Changes in pressures and tip sizes may be needed for proper spray characteristics. Always purge spray equipment before use with listed reducer. Any reduction must be compatible with the existing environmental and application conditions.

Reducer: Water

Airless Spray:

Pressure	2000 p.s.i.
Hose	¼ inch I.D.
Tip	.013-.017 inch
Filter	60 mesh

Conventional Spray:

Gun	Binks 95
Fluid Nozzle	63 C
Air Nozzle	63 FB
Atomization Pressure	60 p.s.i.
Fluid Pressure	50 p.s.i.
Reduction	Not recommended

Brush: Nylon-polyester

Roller Cover: 1/4 inch woven

If specific application equipment is listed above, equivalent equipment may be substituted.

Apply paint at the recommended film thickness and spreading rate as indicated. Application of coating above maximum or below minimum recommended spreading rate may adversely affect coating performance.

When using spray application, use a 50% overlap with each pass of the gun to avoid holidays, bare areas, and pinholes. If necessary, cross spray at a right angle.

Overspray landing on hot surfaces may adhere to these surfaces. Immediately remove overspray from hot surfaces before adhesion occurs.

No painting should be done immediately after a rain or during foggy weather.

Do not paint on wet surfaces.

Check adhesion by applying a test strip to determine the readiness for painting.

SPECIFICATIONS

Steel*

2 coats Pro Industrial Multi-Surface Acrylic

Steel:

1 coat Pro Industrial Pro-Cryl Primer
or Pro Industrial DTM Primer/Finish
or Pro Industrial Kem Bond HS
or Zinc Clad Primer
1-2 coats Pro Industrial Multi-Surface Acrylic

Aluminum:

1-2 coats Pro Industrial Multi-Surface Acrylic

Aluminum (Water Based Primer):

1 coat Pro Industrial Pro-Cryl Primer
1-2 coats Pro Industrial Multi-Surface Acrylic

Concrete Block (CMU):

1 coat Pro Industrial Heavy Duty Block Filler
or Loxon Acrylic Block Surfacers
1-2 coats Pro Industrial Multi-Surface Acrylic

Concrete-Masonry:

1 coat Loxon Concrete & Masonry Primer (if needed)
or 1 coat Loxon Conditioner (if needed)
2 coats Pro Industrial Multi-Surface Acrylic

Drywall:

1 coat ProMar 200 Zero V.O.C. Primer
1-2 coats Pro Industrial Multi-Surface Acrylic

Galvanizing:

2 coats Pro Industrial Acrylic

Pre-Finished Siding: (Baked-on finishes)

1 coat Pro Industrial Bond-Plex Waterbased Acrylic
or Pro Industrial DTM Bonding Primer
1-2 coats Pro Industrial Multi-Surface Acrylic

Wood, exterior:

1 coat Exterior Wood Primer
1-2 coats Pro Industrial Multi-Surface Acrylic

Wood, interior:

1 coat Premium Wall & Wood Primer
1-2 coats Pro Industrial Multi-Surface Acrylic

*Primer recommended for best performance.

Pro Industrial™

Multi-Surface Acrylic Gloss

SURFACE PREPARATION

WARNING! If you scrape, sand or remove old paint, you may release lead dust. LEAD IS TOXIC. EXPOSURE TO LEAD DUST CAN CAUSE SERIOUS ILLNESS, SUCH AS BRAIN DAMAGE, ESPECIALLY IN CHILDREN. PREGNANT WOMEN SHOULD ALSO AVOID EXPOSURE. Wear a NIOSH-approved respirator to control lead exposure. Clean up carefully with a HEPA vacuum and a wet mop. Before you start, find out how to protect yourself and your family by contacting the National Lead Information Hotline at 1-800-424-LEAD or log on to www.epa.gov/lead.

Do not use hydrocarbon solvents for cleaning.

Remove all surface contamination by washing with an appropriate cleaner, rinse thoroughly and allow to dry. Existing peeled or checked paint should be scraped and sanded to a sound surface. Glossy surfaces should be sanded dull. Stains from water, smoke, ink, pencil, grease, etc. should be sealed with the appropriate primer-sealer. Recognize that any surface preparation short of total removal of the old coating may compromise the service length of the system.

Iron & Steel - Minimum surface preparation is Hand Tool Clean per SSPC-SP2. Remove all oil and grease from surface per SSPC-SP1. For better performance, use Commercial Blast Cleaning per SSPC-SP6. Primer recommended for best performance.

Aluminum - Remove all oil, grease, dirt, oxide, and other foreign material per SSPC-SP1.

Galvanizing - Allow to weather a minimum of six months prior to coating. Solvent Clean per SSPC-SP1. When weathering is not possible, or the surface has been treated with chromates or silicates, first Solvent Clean per SSPC-SP1 and apply a test patch. Allow paint to dry at least one week before testing adhesion. If adhesion is poor, brush blasting per SSPC-SP16 is necessary to remove these treatments. Rusty galvanizing requires a minimum of Hand Tool Cleaning per SSPC-SP2. Prime the area the same day as cleaned.

Concrete Block - Surface should be thoroughly clean and dry. Air, material, and surface temperatures must be at least 55°F (13°C) before filling. Use Pro Industrial Heavy Duty Block Filler or Loxon Acrylic Block Surfacer. The filler must be thoroughly dry before topcoating.

Masonry - All masonry must be free of dirt, oil, grease, loose paint, mortar, masonry dust, etc. Clean per SSPC-SP13/Nace 6/ ICRI No. 310.2R, CSP 1-3. Poured, troweled, or tilt-up concrete, plaster, mortar, etc. must be thoroughly cured at least 30 days at 75°F. Form release compounds and curing membranes must be removed by brush blasting. Brick must be allowed to weather for one year prior to surface preparation and painting. Prime the area the same day as cleaned. Weathered masonry and soft or porous cement board must be brush blasted or power tool cleaned to remove loosely adhering contamination and to get to a hard, firm surface. Apply one coat Loxon Conditioner, following label recommendations.

Wood - Surface must be clean, dry, and sound. Prime with recommended primer. No painting should be done immediately after a rain or during foggy weather. Knots and pitch streaks must be scraped, sanded and spot primed before full coat of primer is applied. All nail holes or small openings must be properly caulked. Sand to remove any loose or deteriorated surface wood and to obtain a proper surface profile.

SURFACE PREPARATION

Previously Painted Surface - If in sound condition, clean the surface of all foreign material. Smooth, hard or glossy coatings and surfaces should be dulled by abrading the surface. Apply a test area, allowing paint to dry one week before testing adhesion. If adhesion is poor, additional abrasion of the surface and/or removal of the previous coating may be necessary. Retest surface for adhesion. If paint is peeling or badly weathered, clean surface to sound substrate and treat as a new surface as above. Recognize that any surface preparation short of total removal of the old coating may compromise the service length of the system.

Mildew - Prior to attempting to remove mildew, it is always recommended to test any cleaner on a small, inconspicuous area prior to use. Bleach and bleaching type cleaners may damage or discolor existing paint films. Bleach alternative cleaning solutions may be advised.

Mildew may be removed before painting by washing with a solution of 1 part liquid bleach and 3 parts clean water. Apply the solution and scrub the mildewed area. Allow the solution to remain on the surface for 10 minutes. Rinse thoroughly with clean water and allow the surface to dry before painting. Wear protective eyewear, waterproof gloves, and protective clothing. Quickly wash off any of the mixture that comes in contact with your skin. Do not add detergents or ammonia to the bleach-water solution.

PERFORMANCE

System Tested: (unless otherwise indicated)

Substrate: Steel

Surface Preparation SSPC-SP10

Finish: 2 coats Pro Industrial Multi-Purpose Acrylic B66W01501, 2.5 D.F.T.

Adhesion:

Method: ASTM D4541
Result: 1161 p.s.i.

Abrasion Resistance:

Method: ASTM D4060, CS17 wheel,
1000 cycles, 1000 mg load
Result: 28.1 mg loss

Corrosion Weathering*:

Method: ASTM D5894, 5 cycles
Result: Rating 10 per ASTM D714 for blistering
Rating 9 per ASTM D1654 for corrosion

Direct Impact Resistance:

Method: ASTM D2794
Result: 36 inch pound

Dry Heat Resistance:

Method: ASTM D2485
Result: 300°F

Flexibility:

Method: ASTM D522, 1/8 inch mandrel
Result: Pass

Pencil Hardness:

Method: ASTM D3363
Result: 5H

Water Vapor Permeance (US):

Method: ASTM D1653
Result: 25.09 grains/(hr ft2 in Hg)

*over Pro Industrial Pro-Cryl Primer.

SAFETY PRECAUTIONS

Before using, carefully read **CAUTIONS** on label.

Refer to the Safety Data Sheets (SDS) before use.

FOR PROFESSIONAL USE ONLY.

Published technical data and instructions are subject to change without notice. Contact your Sherwin-Williams representative for additional technical data and instructions.

CLEANUP INFORMATION

Clean spills, spatters, hands and tools immediately after use with soap and warm clean water. After cleaning, flush spray equipment with compliant cleanup solvent to prevent rusting of the equipment. Follow manufacturer's safety recommendations when using solvents.

HOTW 7/18/2024 B66W01501 18 46
FRC

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Bradyville Pike Reconstruction Design Contract Addendum #3

Department: Transportation

Presented by: Jim Kerr, Transportation Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider approval of Addendum #3 of agreement with Neel-Schaffer Inc. for engineering work on Bradyville Pike Reconstruction.

Staff Recommendation

Approve Addendum #3.

Background Information

On September 13, 2012, the City entered into a professional services agreement with Neel-Schaffer Inc. for the design services of the Bradyville Pike Reconstruction project. As the project progressed through its Final Design and Right-of-Way (ROW) Acquisition phases, additional tasks not anticipated in the original agreement were required. These include:

- Additional design work to prepare plans for construction to temporary shelf the project until construction is funded by TDOT
- Additional ROW staking services (requested by the City)
- ROW coordination (requested by the Attorney General's office and the City Legal Department)

Addendum No. 3 requests an additional \$28,610 for these services. With this addendum, the total contract ceiling increases from \$1,124,902.49 to \$1,153,512.88.

Council Priorities Served

Responsible budgeting

Utilizing federal and state funds for infrastructure improvements allows local funds to be allocated to other community needs.

Expand infrastructure

Improvement of City streets improves the safety and efficiency of the roadway system.

Fiscal Impact

The expense of the addendum, or \$28,610, is 100% funded by TDOT.

Attachments

1. Addendum #3
2. Addendum #2
3. Addendum #1
4. Original Contract



May 21, 2025
NSI Project Number: NS.11262.000

Mr. Jim Kerr
Transportation Director
City of Murfreesboro
111 W. Vine Street
Murfreesboro, TN 37133

**RE: Professional Engineering Services - Addendum #3
Bradyville Pike Improvement Project
PIN 116310.00; STP-M-99(35); 75LPLM-F2-030**

Dear Jim:

Per recent discussion, please accept this correspondence as documentation and request of Addendum #3 for additional services under the referenced contract. As part of the project's Final Design and ROW Acquisition phases, the project has required completion of certain tasks not anticipated under the original professional services contract. The following tasks have been conducted and identified as additional services:

- Additional Design to ready plans for Construction
- Additional ROW Staking Services (as requested by City)
- ROW Coordination (as requested by Legal and City)

Based on services from our subconsultant partners and additional tasks performed by Neel-Schaffer, we request a fee addendum of \$28,610.39 for the identified tasks. With the previous professional services ceiling established at \$1,124,902.49 and the previously approved addendums, the current addendum request would establish an updated fee ceiling as \$1,153,512.88. Neel-Schaffer will invoice labor and expenses up to contract ceiling. All other terms and conditions will remain the same and follow the originally executed professional services agreement.

Thank you for your assistance. Please let us know if any additional information is needed.

Sincerely,

NEEL-SCHAFFER, INC.

A handwritten signature in blue ink, reading 'Gregory Judy'.

Gregory D. Judy, P.E., PTOE
Engineer Manager/Vice President

Attachments

landscape architects
environmental scientists
surveyors
planners
engineers

P: 615.383.8420 | F: 615.383.9984

210 25th Avenue North, Suite 800

Nashville, TN 37203

www.neel-schaffer.com



May 21, 2025
Professional Engineering Services – Addendum 3
Bradyville Pike Improvement Project
Page 2

Signature Page


ISSUED AND AUTHORIZED BY:

CITY OF MURFREESBORO
Mayor

Date Signed: _____

ACCEPTED AND AGREED TO BY:

NEEL-SCHAFER, INC.

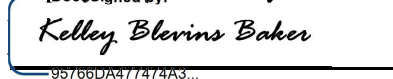


Title: Engineer Manager-Vice

President Date Signed: May 21, 2025

APPROVED AS TO FORM:

CITY OF MURFREESBORO
Deputy City Attorney

DocuSigned by:

95766DA477474A3...

Date Signed: 6/16/2025





September 14, 2022
NSI Project Number: NS.11262.000

Mr. Jim Kerr
Transportation Director
City of Murfreesboro
111 W. Vine Street
Murfreesboro, TN 37133

**RE: Professional Engineering Services - Addendum #2
Bradyville Pike Improvement Project
PIN 116310.00; STP-M-99(35); 75LPLM-F2-030**

Dear Jim:

Per recent discussion, please accept this correspondence as documentation and request of Addendum #2 for additional services under the referenced contract. As part of the project's Final Design and ROW Acquisition phases, the project has required completion of certain tasks not anticipated under the original professional services contract. The following tasks have been conducted and identified as additional services:

- NEPA Re-Evaluation 1 (2018)
- NEPA Re-Evaluation 2 (2022)
- Additional ROW Staking Services
- Future ROW Staking Services
- ROW Plan Revisions (as requested by ROW Consultant and City)
- ROW Legal Description & Exhibit Revisions (as requested by City)
- Additional Temporary Traffic Control Design
- Additional Utility Coordination Services

Based on quotes of services from our subconsultant partners and additional tasks performed by Neel-Schaffer, we request a fee addendum of \$112,321.00 for the identified tasks. With the original professional services ceiling established at \$999,833.84 and the previously approved Addendum 1 (Phase 2 environmental investigation) of \$12,747.65, the current addendum request would establish an updated fee ceiling as \$1,124,902.49. Neel-Schaffer will invoice labor and expenses as costs are incurred up to contract ceiling. All other terms and conditions will remain the same and follow the originally executed professional services agreement.

Thank you for your assistance. Please let us know if any additional information is needed.

Sincerely,

NEEL-SCHAFFER, INC.

A handwritten signature in blue ink, appearing to read 'Gregory Judy', with a stylized flourish at the end.

Gregory D. Judy, P.E., PTOE
Engineer Manager/Vice President

Attachments

P: 615.217.0500 | F: 615.383.9984

201 East Main Street, Suite 325

Murfreesboro, TN 37130

www.neel-schaffer.com

engineers | planners | surveyors | environmental scientists | landscape architects



September 14, 2022
Professional Engineering Services – Addendum 2
Bradyville Pike Improvement Project
Page 2

Signature Page

ISSUED AND AUTHORIZED BY:

CITY OF MURFREESBORO

Mayor
DocuSigned by:

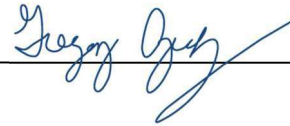


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Date Signed: 12/9/2022

ACCEPTED AND AGREED TO BY:

NEEL-SCHAFER, INC.



Title: Engineer Manager-Vice President

Date Signed: September 14, 2022

APPROVED AS TO FORM:

CITY OF MURFREESBORO

City Attorney
DocuSigned by:



43A2U35E51F94U1...

Date Signed: 11/28/2022

FIRST AMENDMENT OF PROFESSIONAL SERVICES AGREEMENT

WHEREAS, the City of Murfreesboro, Tennessee ("Owner") and Neel-Schaffer, Inc. ("Engineer") entered into a Standard Form of Agreement between Owner and Engineer for Professional Services dated September 13, 2012 ("Agreement").

WHEREAS, Owner and Engineer desire and intend to amend the Agreement as set forth below, with all other terms and conditions of the Agreement remaining unchanged.

Therefore Owner and Engineer agree as follows:

1. The Agreement is amended by modifying Section 5.2.2 by deleting the existing page 12 of the Agreement and by substituting therefor the attached page 12.
2. The Agreement is amended by deleting from Exhibit B the existing page 1 and substituting therefor the attached page Exhibit B-1.
3. The Agreement is amended by deleting from Exhibit B existing pages 35-46 and substituting the attached pages Exhibit B-35-46B.
4. The Agreement is amended by adding to Exhibit B, as modified by Section 3 above, pages Exhibit B-76-81 which are attached hereto.
5. This First Amendment to the Agreement shall take effect as of 10-16-14.

OWNER
CITY OF MURFREESBORO

By: 

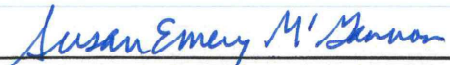
Title Mayer

ENGINEER
NEEL-SCHAFER, INC.

By: 

Title Engineer Manager/Vice President

Approved as to form:


Susan Emery McGannon, City Attorney

received, the most recent estimate of Construction Cost; or, if none is available, ENGINEER's most recent opinion of probable Construction Cost.

Labor furnished by OWNER for the Project will be included in the Construction Cost at current market rates, including a reasonable allowance for overhead and profit. Materials and equipment furnished by OWNER will be included at current market prices. No deduction is to be made from Construction Costs on account of any penalty, liquidated damages, or other amounts withheld from payments to Contractor(s).

5.2 Time of Payments

5.2.1 ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. The statements will be based upon ENGINEER's estimate of the proportion of the total services actually completed at the time of billing. OWNER shall make prompt monthly payments in response to ENGINEER's monthly statements.

5.2.2 The costs identified below for each phase are those contained in the amended fee proposal dated September 12, 2014 and the total will not be exceeded without Owner's written approval.

Phase

	<i>Total</i>
Planning/Study Phase (PE-NEPA)	\$332,508.77
Preliminary Design Phase	\$163,634.04
ROW / Final Design Phase	\$469,277.31
Bidding Phase	\$47,161.37
Construction Phase	<u>\$0.00</u>
Total Cost	\$1,012,581.49

5.3 Other Provisions Concerning Payments

5.3.1 If OWNER fails to make any undisputed payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's statement therefor, the amounts due ENGINEER will be increased at the rate of 1 percent per month from said thirtieth day; and in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and charges.

5.3.2 In the event of termination by OWNER under paragraph 7.1 upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such

phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase on the Basis of ~~ENGINEER's Salary Costs times a factor of 2.75~~ Section 8.4 for services rendered by ENGINEER's principals and employees engaged directly on the Project during that phase to date of termination. In the event of any such termination, ENGINEER will also be reimbursed for the charges of independent professional associates and consultants employed by ENGINEER to render Basic Services, and for all unpaid Additional Services and unpaid Reimbursable Expenses, ~~plus all termination expenses. Termination expenses mean additional Reimbursable Expenses directly attributable to termination which, if termination is at OWNER's convenience, shall include an amount computed as a percentage of total compensation for Basic Services earned by ENGINEER to the date of termination as follows: 20 percent if termination occurs after commencement of the preliminary Design Phase but prior to commencement of the Final Design Phase; or 10 percent if termination occurs after commencement of the Final Design Phase.~~

5.3.3 Records of ENGINEER's Salary Costs pertinent to ENGINEER's compensation under this Agreement will be kept in accordance with generally accepted accounting principles. Copies will be made available to OWNER at cost on request prior to final payment for ENGINEER's services.

5.3.4 Whenever a factor is applied to Salary Costs in determining compensation payable to ENGINEER, that factor will be adjusted periodically and equitably to reflect changes in the various elements that comprise such factor. All such adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by ENGINEER and consistent with ENGINEER's overall compensation practices and procedures.

5.4 Definitions

5.4.1 Salary Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all ENGINEER's personnel engaged directly on the Project, including but not limited to engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including but not limited to social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday and other group benefits. For the purposes of this

Exhibit "B"
Proposal Summary (September 12, 2014)
Bradyville Pike

Breakdown by Phase

Phase	Neel-Schaffer	Neel-Schaffer Directs	Arcadis (Env. Docs)*	Adams (Surveying) **	KS Ware (Geotech)	SSR (Bid Docs)	Total By Phase
PE-NEPA	\$18,778.15		\$83,842.25	\$216,922.26	\$12,966.11		\$332,508.77
Preliminary	\$157,534.04	\$6,100.00					\$163,634.04
ROW/Final	\$317,789.24	\$14,100.00		\$42,512.42	\$86,640.89	\$8,234.76	\$469,277.31
Bidding	\$33,148.49	\$8,200.00				\$5,812.88	\$47,161.37
Total Fee							\$1,012,581.49

Arcadis (Env. Docs)*

Includes a Cost of \$8,099.80 for the Historical/Architectural Study (Thomason & Assoc) and a Cost of \$8,548.21 for the Archaeological Study (Panamerican Consultants).

Adams (Surveying) **

ROW/Final Survey Cost for Staking Centerline & Retaining Walls for Geotech \$ 14,448.77
ROW/Final Survey Cost for Staking Proposed ROW (1 times) \$ 28,063.65

Breakdown by Prime & Sub-Consultants

Firm	Responsibility	OH Rate	% Net Fee	Prime Fee	Sub Fees
Neel-Schaffer	Prime	152.91%	12.00%	\$555,649.92	
Arcadis	Env. Documents	149.28%	12.00%		\$67,194.24
Thomason & Assoc *	Historical & Architectural Study	119.00%	10.00%		\$8,099.80
Panamerican Consultants **	Archaeological Study	127.17%	12.00%		\$8,548.21
Adams	Survey & Staking	155.00%	12.00%		\$259,434.68
KS Ware	Geotech	156.28%	12.00%		\$99,607.00
SSR	Review/Bid Docs	173.54%	12.00%		\$14,047.64
Sub-Totals				\$555,649.92	\$456,931.57
Total Fee				\$1,012,581.49	

Thomason & Assoc *

Sub-Consultant to Arcadis

Panamerican Consultants **

Sub-Consultant to Arcadis

**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 4

This revision is based upon KSWA's review of the Preliminary Field Review plan set, run date 5/12/2014, and discussions with Neel-Schaffer, Inc. personnel. KSWA's preliminary drilling and laboratory testing scopes are presented below. Based on a conversation with Mr. Joe Deering on July 25, 2014, we understand KSWA may elect to distribute the total drilling footage and laboratory testing performed for this project differently than that noted below, provided KSWA's total approved project fee (\$86,640.89) is not exceeded. This gives KSWA the latitude to make adjustments to the drilling and laboratory programs based on field observations and preliminary boring data.

Roadway Widening

Length: 2.1 miles

Proposed Scope

- Boring frequency: one per approximately 500 to 800 linear feet
- Borings will typically alternate between left and right of centerline, where possible, considering overhead and underground utilities, trees/vegetation, and other obstructions
- Total borings: 13 to 22, of which approximately 2/3 to 3/4 will be auger borings without SPT sampling and 1/4 to 1/3 will be test borings with SPT sampling (NOTE: retaining wall borings (see Page 2 of 5) will represent subsurface conditions for the roadway widening at two locations)
- Boring depth – fill locations: Two times fill height (minimum boring depth: 10 feet) or auger refusal, whichever is less
- Boring depth – cut locations: 10 feet below cut depth (minimum boring depth: 10 feet) or auger refusal, whichever is less
- Rock coring: cuts on this project are limited in both length and depth. Therefore, the need for rock coring is not anticipated. However, we have included a contingency for 10 linear feet of rock coring.
- Maximum soil drilling footage: 130-220 linear feet
 - Maximum auger drilling footage (w/o SPT sampling): 100-170 linear feet
 - Maximum test drilling footage (w/ SPT sampling): 30-50 linear feet
- Maximum rock drilling footage: 10 linear feet
- Bulk samples will be collected for laboratory testing of moisture-density, CBR, and classification.
- Laboratory index testing (moisture content and classification) will be performed on selected soil samples (other than bulk samples).
- KSWA representative will accompany drill crew to coordinate field activities and log the borings.
- Each boring will be backfilled with soil auger cuttings upon completion.

Assumptions

- Stability analysis of cut and fill slopes will not be required.
- Embankment settlement analysis will not be required.

05/25/2012
Rev. 1, 5-31-2012
Rev. 2, 6-30-2014
Rev. 3, 7-28-2014
Rev. 4, 9-12-2014

Exhibit "B" Page 35



**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 4

Retaining Walls

Wall details as presented in the Preliminary Field Review plan set are summarized in the table below.

Wall ID	From Sta.	To Sta.	Offset	Length (ft)	Max. Height (Ft)
Wall #1	603+50	610+50	Left	700	19
Wall #2	629+50	634+17.63	Left	468 ±	5
Wall #3	643+83	646+67	Right	284	10
Wall #4	674+40	675+90.33	Left	150 ±	4

Proposed Scope

The proposed number of SPT borings per wall and range of maximum boring depths are presented in the table below.

Wall ID	No. of Borings	Boring Spacing (ft, approx)	Boring Depths (ft)
Wall #1	6-8	100 - 140	10 - 24
Wall #2	2-5	100 - 400	10
Wall #3	2-4	95 - 250	11 - 14
Wall #4	2	100	10

- Total borings: 12-19
- Boring depth: maximum soil boring depths will range from 10 feet to 24 feet or auger refusal, whichever is less, as noted in the above table
- If refusal is encountered at an average depth of 10 ft or less (at an individual wall), we propose to perform up to the following maximum coring:
 - Wall #1 10 lf each at four locations (max. total core: 40 lf)
 - Wall #2 5-10 lf each at one or two locations (max. total core: 10 lf)
 - Wall #3 5-10 lf each at one or two locations (max. total core: 10 lf)
 - Wall #4 5-10 lf each at one or two locations (max. total core: 10 lf)
- Maximum test boring footage: 134-195 linear feet
- Maximum rock coring footage 70 linear feet
- Representative Shelby tube samples of foundations soils will be attempted; assume 2 to 4 per wall (total of 10).
- Laboratory strength tests and index tests will be performed on selected soil samples.
- KSWA representative will accompany drill crew to coordinate field activities and log the borings.
- Each boring will be backfilled with soil auger cuttings upon completion.

05/25/2012
Rev. 1, 5-31-2012
Rev. 2, 6-30-2014
Rev. 3, 7-28-2014
Rev. 4, 9-12-2014

Exhibit "B" Page 36



**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 4

05/25/2012
Rev. 1, 5-31-2012
Rev. 2, 6-30-2014
Rev. 3, 7-28-2014
Rev. 4, 9-12-2014

Exhibit "B" Page 37



**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 4

General Assumptions – All Drilling Tasks:

The following assumptions apply to all drilling tasks:

- Project includes widening approximately 2.1 miles of roadway and constructing four retaining walls of varying lengths and heights (see page 2 of 5)
- The centerline will be marked on 50 foot centers by Neel-Schaffer prior to our field activities.
- ATV drill
- Day work
- Utility notification (TN 1 Call) to be performed by KSWA
- Boring layout: to be performed by KSWA based on drawings and centerline stakes provided by Neel-Schaffer
- Access to private properties for the purposes of performing the proposed borings, where required, will be coordinated by others.
- Estimated project fee assumes right-of-entry to all necessary properties will be obtained prior to mobilization of equipment. Additional mobilizations required to drill borings on properties individually as property owners grant right-of-entry will incur additional mobilization charges.
- Environmental services proposed by KSWA (Work Order Request – Phase II Preliminary Site Investigation, dated February 7, 2014) will be completed prior to mobilization for the proposed geotechnical services.
- The findings of KSWA's Phase II Preliminary Site Investigation will indicate minimal risk to no risk from environmental contaminants to KSWA employees or subcontractors performing services on the properties with suspected environmental concerns.
- Materials encountered at other boring locations are not contaminated and environmental protocols will not be required.
- Site restoration: ruts caused by KSWA's field activities will be repaired by smoothing with hand tools or a backhoe (depending upon severity) and spreading grass seed and straw over the exposed soils.
- Safety signage will be required to advise traveling public of workers in the right-of-way.
- Flaggers may be required at selected locations due to proximity to active roadway.
- Lane closures and uniformed patrol officers will not be required.
- Auger cuttings which are not consumed as boring backfill will be spread on the ground surface adjacent to the boring. Leaving piles of soil will be avoided.
- The overburden materials can be penetrated with auger drilling methods.
- Borings in existing pavement are not generally anticipated. However, if borings in existing pavement are required (for example, at an off right-of-way location), the borings will be patched with quick-set cement grout.
- Borings will be drilled in areas accessible to the drilling equipment.

05/25/2012
Rev. 1, 5-31-2012
Rev. 2, 6-30-2014
Rev. 3, 7-28-2014
Rev. 4, 9-12-2014

Exhibit "B" Page 38



**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 4

- Bulldozer clearing or grading to access boring locations is not included. Boring locations will be adjusted to avoid the need for modifying grades or removing vegetation.

05/25/2012
Rev. 1, 5-31-2012
Rev. 2, 6-30-2014
Rev. 3, 7-28-2014
Rev. 4, 9-12-2014

Exhibit "B" Page 39



**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 4

Exceptions:

We understand the features listed below are not included in the project and related geotechnical services will not be required. Therefore, our proposed scope and fee does not include exploration for the following features:

- Sound barriers
- High mast lighting
- Stormwater management structures (e.g., retention/detention ponds, culverts, etc.)
- Other traffic control, safety, and signage devices, such as signal and lighting poles, overhead sign trusses, ITS camera poles, or DMS sign trusses.

In addition, our proposed geotechnical scope and fee do not include services related to the following:

- Return trips to "top off" boring backfill which may settle over time
- Monitoring of progress of site stabilization (for disturbed areas repaired as part of this project)
- Surveying of horizontal and vertical boring coordinates
- Sampling and testing the soil, rock, groundwater, surface water, or air along the project for the possible presence of environmental contaminants (NOTE: KSWA provided a proposal for environmental services under separate cover. The proposed scope of environmental services was detailed in KSWA's Work Order Request – Phase II Preliminary Site Investigation, dated February 7, 2014)
- Evaluation of asbestos, organic growth and toxic mold, wetlands, radon, PCBs, endangered and threatened species, and archaeological and historic sites.
- Obtaining right-of-entry to private properties, if required to perform proposed services or if incidental to proposed services.

**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 4

Deliverables:

**Geotechnical Report
Geotechnical Sheets for Inclusion in Design Plan Set**

Proposed Scope

- Geotechnical report and drawings to be prepared in general accordance with guidelines and requirements of TDOT Geotechnical Branch (Geotechnical Consultant Manual, 03/15/2007), except that a single report that addresses the both the roadway widening and the retaining walls will be prepared.
- Draft report and drawings to be provided for review by Neel-Schaffer
- Final report to be issued following resolution of Neel-Schaffer questions/comments

Assumptions

- Engineering analyses of geotechnical design parameters will include the following:
 - Retaining walls
- Drawings will include the following:
 - Boring plan and profile sheets
 - Soil sheet*
 - Geotechnical notes sheet*
 - Geotechnical details sheet*
 - Typical sections
 - Retaining wall sheets (boring locations and profiles, acceptable wall types, geotechnical design data, foundation notes and details, special notes as required)

*sheets may be combined

05/25/2012
Rev. 1, 5-31-2012
Rev. 2, 6-30-2014
Rev. 3, 7-28-2014
Rev. 4, 9-12-2014

Exhibit "B" Page 41



CITY OF MURFREESBORO, TN

GEOTECHNICAL SERVICES

MANHOUR REQUIREMENTS AND COST ESTIMATE

Version 3.3, 3/18/10

Rutherford County

Bradyville Pike

Widening from SE Broad St to S Rutherford Blvd - Murfreesboro

K.S. Ware and Associates, L.L.C.

Prepared By: Melany L. Brite, PE

Date prepared: 9/12/2014 (Revision 5)

Project No. <PROJECT NO.>

Geotechnical Office No. <GEOTECH OFFICE NO.>

Contract No., Work Order No. <Contract No.>, <Work Order Number>
<Invoice Number>

Melany L. Brite, PE
K.S. Ware and Associates, L.L.C.
54 Lindsley Avenue
Nashville, TN 37210
615-255-9702
mbrite@kswarellc.com

Section III
Standard Cost Estimate For Soil And Geological Survey Report
1.00 Drilling Services

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Murfreesboro
Project No.: <PROJECT NO.>
Geotechnical Office No.: <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared: 9/12/2014 (Revision 5)
Contract Number: <Contract No.>, <Work Order Number>

For further explanation of Item No. and Description refer to attached "Pay Item Numbers and Methods of Measurement for Cost Estimates".

Item No.	Description	Estimated Quantities	Basis of Payment		Price	Amount
1.01	Mobilization	2	each	@	\$250.00	\$500.00
1.02	Project Mileage	600	mile	@	\$0.47	\$282.00
1.03	Drill Rig Moving \ Standby Time	4	hour	@	\$150.00	\$600.00
1.04	Soil Auger Drilling	170	vertical foot	@	\$9.00	\$1,530.00
1.05	Wash Boring		vertical foot	@		\$0.00
1.06	Soil Drilling and Split Barrel Type Sampling on Land	245	vertical foot	@	\$11.00	\$2,695.00
1.07	Tube Type Sampling on Land	14	each	@	\$65.00	\$910.00
1.08	Rock Coring	80	vertical foot	@	\$50.00	\$4,000.00
1.09	Borehole Grouting		vertical foot	@		\$0.00
1.10	Water Hauling	8	hour	@	\$150.00	\$1,200.00
1.11	Bulldozer		operating hour	@		\$0.00
1.12	Traffic Control	1	direct cost	@	\$500.00	\$500.00
1.13	Site Restoration	1	per each	@	\$2,000.00	\$2,000.00
1.14	Erosion and Sed. Control		direct cost	@		\$0.00

Total Estimated Drilling Costs	\$14,217.00
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Section III
Standard Cost Estimate for Soil and Geological Survey Report
2.00 Laboratory Services

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Mu
Project No.: <PROJECT NO.>
Geotechnical Office No.: <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared: 9/12/2014 (Revision 5)
Contract Number: <Contract No.>, <Work Order Number>

For further explanation of Item No. and Description refer to attached "Pay Item Numbers and Methods of Measurement for Cost Estimates".

Item No.	Description	Estimated Quantities	Basis of Payment		Rate	Amount
2.01	Atterberg Limits	12	each	@	\$65.00	\$780.00
2.02	Natural Moisture Content	85	each	@	\$7.00	\$595.00
2.03	Particle Size Analysis	9	each	@	\$100.00	\$900.00
2.04	AASHTO Classification	9	each	@	\$100.00	\$900.00
2.05	Proctor Density Test	3	each	@	\$145.00	\$435.00
2.06	California Bearing Ratio	3	each	@	\$350.00	\$1,050.00
2.07	pH		each	@	\$35.00	\$0.00
2.08	Soil Resistivity		each	@	\$75.00	\$0.00
2.31	Acid-Base		each	@		\$0.00
2.40	Sulfate Soundness		each	@	\$150.00	\$0.00
2.09	Consolidation Properties		consolidation properties	@	\$350.00	\$0.00
2.10	Triaxial Compression UU		strength properties	@	\$450.00	\$0.00
2.11	Triaxial Compression CU	3	strength properties	@	\$1,350.00	\$4,050.00
2.12	Unconfined Compression	3	per test strength	@	\$65.00	\$195.00
2.63	CD Direct Shear		properties	@		\$0.00
Total Estimated Laboratory Services Cost:						\$8,905.00

Section III
Standard Cost Estimate for Soil and Geological Survey Report

3.00 Manpower Requirements

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Murfreesboro
Project No.: <PROJECT NO.>
Geotechnical Office No.: <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared: 9/12/2014 (Revision 5)
Contract Number: <Contract No.>, <Work Order Number>

See "Pay Item Numbers and Methods of Measurement for Cost Estimates" for further description of services required by state.

Item No.	ACTIVITY	PRINCIPAL	SENIOR ENGINEER	STAFF ENGINEER	GEOLOGIST	TRAINING ENGINEER	SUPERVISING DRILLER	STAFF CADD TECHNICIAN
		MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR
3.10	Project Planning and Coordination	8.0	42.0	40.0	16.0	8.0		
3.20	Field Activities		8.0	110.0		8.0		
3.30	Data Assimilation		20.0	30.0		24.0		
3.40	Engineering Analyses		20.0	40.0				
3.50	Report Preparation		56.0	80.0		16.0		
3.60	Drawing Preparation			40.0				76.0
3.70	Post-Report Confrence and Review	4.0	8.0	8.0	5.0			8.0
Total Estimated Hours		12.0	154.0	348.0	21.0	56.0		84.0
Hourly Rate		\$176.38	\$133.93	\$81.84	\$109.75	\$57.29	\$0.00	\$65.00
Subtotal of Estimated Man-hour Costs		\$2,116.56	\$20,625.22	\$28,480.32	\$2,304.75	\$3,208.24	\$0.00	\$5,460.00

Total Estimate of Man-hour Requirements:	\$62,195.09
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Section III
Standard Cost Estimate for Soil and Geological Survey Report
3.00 Manpower Requirements, Hourly Rate Breakdown

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Murfreesboro
Project No.: <PROJECT NO.>
Geotechnical Office No.: <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared: 9/12/2014 (Revision 5)
Contract Number: <Contract No.>, <Work Order Number>

		PRINCIPAL	SENIOR ENGINEER	STAFF ENGINEER	GEOLOGIST	TRAINING ENGINEER	SUPERVISING DRILLER	STAFF CADD TECHNICIAN
		MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR
Hourly Rate Breakdown								
	Direct Pay Rate	\$62.00	\$47.08	\$28.77	\$38.58	\$20.14	\$0.00	\$22.85
	Maximum Overhead Rate (no more than 1.45 for 100% State Funds)	1.5628	1.5628	1.5628	1.5628	1.5628	1.5628	1.5628
	Profit Multiplier	2.35	2.35	2.35	2.35	2.35	2.35	2.35
	Profit Rate * (supplied in decimals)	0.12	0.12	0.12	0.12	0.12	0.12	0.12
	* use the same rate as with the design contract for the project.							
	Hourly Rate	\$176.38	\$133.93	\$81.84	\$109.75	\$57.29	\$0.00	\$65.00

Section III

Standard Cost Estimate for Soil and Geological Survey Report

4.0 Other Expenses

County: Rutherford County Project No.: <PROJECT NO.>
 Route: Bradyville Pike Geotechnical Office No.: <GEOTECH OFFICE NO.>
 Description: Widening from SE Broad St to S Ruth Consultant: K.S. Ware and Associates, L.L.C.
 Contract No: <Contract No.>, <Work Order Number> Prepared By: Melany L. Brite, PE
 Date Prepared: 9/12/2014 (Revision 5)

Distance to Jobsite: 40 miles

Company Headquarters: Nashville TN	Job Site: Murfreesboro TN
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Travel Expenses				
Item No.	Description	Days	Rate*	Total
4.10	Travel Day Per Diem			\$0.00
4.11	Non Travel Day Per Diem			\$0.00
4.12	Lodging			\$0.00

*Must be in accordance with applicable TDOT Travel Regulations

Milage\Transportation Expenses				
Item No.	Description	Miles	Milage Rate*	Total
4.20	Passenger Truck	2100	\$0.47	\$987.00
4.21	Tractor Trailer Truck			\$0.00
4.22	Water Truck			\$0.00
4.23	Truck Mounted Drill			\$0.00
4.24	Other Mileage			\$0.00

*Must be in accordance with applicable TDOT Travel Regulations

Equipment Rental				
Item No.	Description	Days	Daily Rate	Total
4.30	Equipment Rental			\$0.00

Plans Reproduction Costs				
Item No.	Description	Units	Unit Price	Total
4.40	Full Size Bond	37	\$4.80	\$177.60
4.41	Half-Size Bond	37	\$1.60	\$59.20
4.42	Full Size Mylar		\$12.00	\$0.00
4.43	Photocopies	1000	\$0.10	\$100.00

Other Expenses				
Item No.	Description	Units	Unit Rate	Total
4.50	Other Expenses			\$0.00

Total Estimate of Other Expenses:	\$1,323.80
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Section III
Standard Cost Estimate for Soil and Geological Survey Report
SUMMARY OF COST ESTIMATES

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Murfreesboro
Project No.: <PROJECT NO.>
Geotechnical Office No.: <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared: 9/12/2014 (Revision 5)

1.00 Drilling Services	\$14,217.00
2.00 Laboratory Services	\$8,905.00
3.00 Manpower Requirements	\$62,195.09
4.00 Other Expenses	\$1,323.80
Total Not-to-Exceed Costs	\$86,640.89

September 12, 2014

Mr. Greg Judy, P.E.
Neel-Schaffer, Inc.
210 25th Avenue North, Suite 800
Nashville, Tennessee 37203

Subject: Work Order Request– Phase II Preliminary Site Investigation
Termini: SR-99 (Bradyville Pike) from SR-2 (US-41) (SE Broad Street)
To South Rutherford Blvd, Murfreesboro, Rutherford County, Tennessee
TDOT PIN #116310.00

Dear Mr. Judy:

K. S. Ware and Associates, L.L.C. (KSWA) has prepared this proposal to provide Phase II Preliminary Site Investigation services on the above referenced City of Murfreesboro project. KSWA's understanding of the project is based on information provided to Ms. Melany Brite via e-mail from Mr. Greg Judy of Neel-Schaffer, Inc as well as from Preliminary Site Reconnaissance activities performed by Arcadis in May of 2013. This proposal outlines our proposed budget and scope of services. The properties on which the Phase II Preliminary Site Investigation is being conducted are based entirely on the Phase I ESA performed by Arcadis. No additional Phase I Environmental Site Assessment activities were performed by KSWA.

BACKGROUND

In May of 2013, Arcadis performed a Phase I Preliminary Assessment Study of all tracts located within the proposed project corridor along SR-99 in Murfreesboro, Rutherford County, Tennessee. The purpose of this Phase I was to determine the presence of petroleum handling facilities and hazardous materials as defined by the U.S. EPA's list of hazardous and toxic wastes. In a document dated July 2013, Arcadis reported the findings of the Phase I Preliminary Assessment Study, including identifying which tracts along that corridor were considered "high risk." High risk sites are defined by TDOT as those sites where "past or present use or existence of hazardous materials have potentially contaminated soil and/or groundwater media which may adversely impact the project."

Arcadis' Phase I Preliminary Assessment Study determined that six tracts (Tracts 35, 95, 93, 92, 90 and 91) are considered "high risk" and therefore warrant additional investigation. An additional tract, Tract 82, is considered low risk and is not included in this proposal. It should be noted that Tract 35 is identified as a Kwik Sak gas station by the Arcadis report, while the City of Murfreesboro preliminary plans indicate that the Kwik Sak is actually Tract 39, immediately adjacent to Tract 35. For the purpose of this proposal, KSWA assumes that the City of Murfreesboro plans are correct and the tract requiring investigation is Tract 39.

SCOPE OF SERVICES

To complete the Phase II Preliminary Site Investigation services for the subject Murfreesboro project, KSWA proposes to complete the following scope of services:

- KSWA will assist in the contacting of affected property owners in order to obtain their permission to enter their property for the purpose of advancing soil borings. The bulk of this task will be conducted by City of Murfreesboro.
- KSWA will prepare a site specific health and safety plan prior to conducting drilling activities.
- After visiting the site to mark all boring locations, KSWA will notify the Tennessee One Call System, Inc. (1-Call) for marking of member utilities' lines. KSWA is not responsible for damage to utility lines



or disruption of utility services if lines are not properly marked by Tennessee One Call member utilities or their private utility locators. KSWA will not perform or coordinate repairs to damaged lines, or reimburse others for repair of damaged lines.

- Perform a Phase II Preliminary Site Investigation by advancing up to a maximum total of 18 soil borings across six Tracts (Tracts 35/39, 95, 93, 92, 90 and 91) utilizing direct-push drilling technology (DPT).
- Continuous samples from each soil boring will be collected to a maximum depth of twelve feet or to refusal, whichever is less. Each sample interval will be field screened by placing a portion of each sample into individual closed containers and measuring the headspace of each container with an organic vapor analyzer.
- One sample collected from each soil boring on Tracts 39, 95, 92, 90 and 91 will be analyzed for BTEX, MTBE, and Naphthalene (method 8260B) in accordance with TDEC-DUST regulations as they are active, former, or suspected UST sites. Samples collected from Tract 93 (one sample from each boring) will be analyzed for volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOCs) as the site is an automobile service center in addition to being former or suspected UST sites. The sampling interval submitted from each boring will be determined by the results of the field screening and field observations. In the event that field screening and observations are inconclusive, the deepest non-saturated sample collected from the boring will be submitted for laboratory analysis.
- Prepare a report of the findings and make recommendations accordingly.

In addition, if deemed necessary based on site conditions, KSWA will contract with a private utility locating service to check the boring locations on Tracts 35, 90, 91 and 93 for the presence of underground lines as they are currently active fueling stations. Underground utilities are best located by parties having actual knowledge of the line location. Utility locating methods used by third parties are not foolproof. The performance capability of commonly used utility locating methods such as ground penetrating radar (GPR) and electromagnetic conductivity (EM) can be affected by many variables such as subsurface conditions (including soil type, soil moisture, and buried debris) and type and depth of conduit. Because of the anticipated boring locations for this project based on the supplied plans, the cost of private utility locating is not included in this proposal. If, after our initial site visit, it is determined to be warranted, we will provide a change order request for this cost.

The above scope has been developed in general accordance with the Scope of Work for Hazardous Material Phase II Site Assessments provided to KSWA by TDOT in Agreement Number E1648. Project services do not include an evaluation of the site for determining the presence or absence of wetlands or hazardous or toxic materials in the bedrock, surface water, groundwater, or air, on, or below or around this site. Other than as explicitly stated and defined above, our scope of services does not include any other assessment of or for hazardous materials.

SCHEDULE

The schedule for the Phase II Preliminary Site Investigation services is anticipated to begin within two weeks upon receipt of written authorization to proceed. One preliminary site visit (1 day) will be made to mark proposed boring locations in white paint for 1-Call utility locating. Following these two preliminary site visits, KSWA will mobilize a second time (2 to 3 days) to perform the drilling and sampling activities on each of the six subject Tracts. We anticipate being able to complete the proposed scope of services within eight weeks of notice to proceed.

FEE AND BILLING INFORMATION

We will complete the proposed scope of services in accordance with the terms and conditions outlined in a subconsultant agreement between KSWA and Neel Schaffer. As a result, we request that a work order ceiling of \$12,966.11 be established, with a corresponding net fee of \$632.63. The breakdown of the proposed services is as follows:

Individual	Hours/Units	Rate	Labor Cost
Heidi Wilbarger	12	\$ 46.32	\$ 555.84
Greer Bickley	72	\$ 21.02	\$ 1,513.44
Matt Chance	4	\$ 22.20	\$ 88.80
Cheryl Dewald	4	\$ 21.32	\$ 85.28
Total Direct Labor	92		\$ 2,243.36
Total Direct Labor Cost			\$ 2,243.36
Total Direct Labor Overhead Cost (156.28%)			\$ 3,505.92
Net Fee (12% x 2.35 x Direct labor)			\$ 632.63
<u>Direct Costs</u>			Total
Mileage	360	\$ 0.47	\$ 169.20
Supplies	150	\$ 1.00	\$ 150.00
Equipment Rental	0.25	\$ 1000.00	\$ 250.00
Direct Costs Total			\$ 569.20
<u>Subcontracts</u>			
Drilling	1	\$ 3,315.00	\$ 3,315.00
Lab - BTEX, MTBE, Naphthalene	30	\$ 60.00	\$ 1,800.00
Lab - VOCs, SVOC's	3	\$ 300.00	\$ 900.00
Subcontracts Total			\$ 6,015.00
Project Total			\$ 12,966.11

A detailed breakdown of costs is included as **Attachment 1**. We will invoice you on a monthly basis for services completed during the course of the project. We will not exceed our recommended budget without a change of the approved scope of services and prior authorization by our client.

AUTHORIZATION INSTRUCTIONS

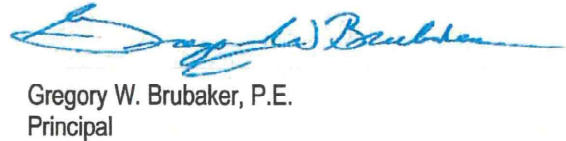
To authorize us to proceed with these services, please finalize the subconsultant agreement between KSWA and Neel-Schaffer and then issue a work order under that agreement. Thank you for requesting this proposal. We look forward to providing environmental services to Neel-Schaffer and the City of Murfreesboro.

Sincerely,

K.S. WARE AND ASSOCIATES, L.L.C.



Heidi S. Wilbarger, P.G., PMP
Senior Project Manager



Gregory W. Brubaker, P.E.
Principal

Attachment (s) - Detailed Cost Estimate Breakdown (KSWA)
Cost Estimate – Richard Simmons Drilling

Cost Estimate

From: Denney Harker
RICHARD SIMMONS DRILLING
1715 Old Murfreesboro Road
Woodbury, Tennessee 37190
Phone: 615-563-6770
Fax : 615-563-6694

To: Heidi Wilbarger
K.S. WARE & ASSOCIATES
54 Lindsley Avenue
Nashville, Tennessee 37210
Phone: 615-255-9702
Fax: 615-256-5873

Date: 2/5/ 2014
Bid No.: 2014- 35

Location: Murfreesboro, Tennessee
Project: Bradyville Pike, Direct push sample

Item No	Description	Quantity	Unit	Price	Total
*1	All direct push & related activity, including mobilization/demobilization - full day	2	Day	\$1,400.00	\$2,800.00
2	All direct push & related activity - half day	0	Day	1,000.00	0.00
3	Sample liners - 4' length	68	Each	5.00	340.00
4	Bentonite chips	9	Bag	15.00	135.00
5	Concrete for surface patch	0	Bag	7.00	0.00
6	1" PVC temporary well material, if required	0	Feet	4.00	0.00
7	Drums	1	Each	40.00	40.00

*2 All estimated quantities are based on six property locations with 3 borings @ the depth of 15' on each location.

Estimated project total	\$3,315.00
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Equipment:: AMS Power probe mounted on John Deere 4x4 tractor.

Schedule : We estimate 1-2 on site working days depending upon actual quantities.

Other : Company to furnish a free source of water. Contractor will haul water to site.
: Company to provide access and assistance (Dozer or other) to the hole.
: Company to locate utilities.
: Prices are based on furnishing level "D" safety PPE.

Attachment 1
Detailed Cost Estimate Breakdown
TDOT SR-99 (Bradyville Pike) Phase II ESA
TDOT PIN 116310.00

LABOR		Project Management					Site Visit #1 Mobilization				Site Visit #1				Mobilization for Field Activities				Field Activities				Report Preparation				TOTALS		
Individual	Rate	Units	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Hours	Raw	Loaded			
Held Wilberger	\$ 46.32	Hours	4	\$ 185.28	\$ 527.08				1	-	-				2	\$ 92.64	\$ 263.54	2	\$ 92.64	\$ 263.54	4	\$ 185.28	\$ 527.08	12	\$ 555.84	\$ 1,581.25			
Greer Bickley	\$ 21.00	Hours	12	\$ 252.24	\$ 717.57				2	\$ 42.04	\$ 118.60				4	\$ 84.08	\$ 238.10	20	\$ 420.40	\$ 1,195.85	32	\$ 872.64	\$ 1,813.53	72	\$ 1,513.44	\$ 4,305.43			
Maft Clarence	\$ 22.20	Hours	-	\$ -	-				1	\$ -	-				3	\$ -	-	-	\$ -	-	-	4	\$ 88.80	\$ 252.82	4	\$ 88.80	\$ 252.82		
Cheryl David	\$ 21.32	Hours	2	\$ 42.64	\$ 121.30				1	\$ -	-				3	\$ -	-	-	\$ -	-	-	2	\$ 42.64	\$ 121.30	4	\$ 85.28	\$ 242.60		
Labor Subtotal			18	\$ 480.16	\$ 1,365.95				2	\$ 42.04	\$ 118.60				2	\$ 42.04	\$ 118.60	6	\$ 176.72	\$ 502.73	22	\$ 513.04	\$ 1,451.50	42	\$ 989.36	\$ 2,814.52			
EXPENSES		Project Management					Site Visit #1 Mobilization				Site Visit #1				Mobilization for Field Activities				Field Activities				Report Preparation				TOTALS		
Item	Rate	Units	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Hours	Raw	Loaded			
Mileage	\$ 0.47			\$ -	\$ -	90	\$ 42.30	\$ 42.30				270	\$ 126.90	\$ 126.90				360	\$ -	\$ -				360	\$ 169.20	\$ 169.20			
Supplies	\$ 150.00			\$ -	\$ -		\$ -	\$ -					\$ -	\$ -	1	\$ 150.00	\$ 150.00							1	\$ 150.00	\$ 150.00			
Equipment Rental	\$ 1,800.00			\$ -	\$ -		\$ -	\$ -					\$ -	\$ -	0.25	\$ 250.00	\$ 250.00							0	\$ 250.00	\$ 250.00			
Expenses Subtotal				\$ -	\$ -		\$ 42.30	\$ 42.30					\$ 126.90	\$ 126.90		\$ 400.00	\$ 400.00							1	\$ 689.20	\$ 689.20			
SUBCONTRACTORS		Project Management					Site Visit #1 Mobilization				Site Visit #1				Mobilization for Field Activities				Field Activities				Report Preparation				TOTALS		
Item	Rate	Units	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Number	Total	Loaded	Hours	Raw	Loaded			
Drilling (Richard Simmons, Inc)	\$ 3,315.00	lump sum		\$ -	\$ -		\$ -	\$ -					\$ -	\$ -	1	\$ 3,315.00	\$ 3,315.00							1	\$ 3,315.00	\$ 3,315.00			
Lab (BTEX, MTBE, Naphthalene)	\$ 60.00	each		\$ -	\$ -		\$ -	\$ -					\$ -	\$ -	30	\$ 1,800.00	\$ 1,800.00							30	\$ 1,800.00	\$ 1,800.00			
Lab (VOCs, SVOCs)	\$ 300.00	each		\$ -	\$ -		\$ -	\$ -					\$ -	\$ -	3	\$ 900.00	\$ 900.00							3	\$ 900.00	\$ 900.00			
Subcontractor Subtotal				\$ -	\$ -		\$ -	\$ -					\$ -	\$ -		\$ 6,015.00	\$ 6,015.00							1	\$ 6,015.00	\$ 6,015.00			
Labor Subtotal				\$ 1,365.95			\$ 118.60			\$ 118.60			\$ 602.73			\$ 1,451.50			\$ 2,814.52						\$ 6,281.81				
Expense Subtotal				\$ -			\$ 42.30			\$ 42.30			\$ 126.90			\$ 400.00			\$ -						\$ 589.20				
Subcontractor Subtotal				\$ -			\$ -			\$ -			\$ -			\$ 6,015.00			\$ -						\$ 6,015.00				
TOTAL				\$ 1,365.95			\$ 161.90			\$ 118.60			\$ 629.63			\$ 7,871.50			\$ 2,814.52					1	\$ 8,877.88	\$ 12,961.11			

**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER FOR
PROFESSIONAL SERVICES**

WHEN
~~"STUDY AND REPORT PHASE" IS DELETED AND~~
~~"RESIDENT PROJECT REPRESENTATION" IS PROVIDED BY ENGINEER~~

THIS IS AN AGREEMENT made as of 13 September, 2012, between the CITY OF MURFREESBORO, TENNESSEE, (OWNER) and NEEL-SCHAFER, INC. (ENGINEER).

OWNER intends to secure professional services for the preliminary and final design phases, formulation of construction contract documents and bidding phase for the re-construction and widening of Bradyville Pike (SR-99) between SE Broad Street (US 41) and Rutherford Boulevard in Murfreesboro, Tennessee. The improvements consist of the re-construction of approximately 2.1 linear miles of roadway. The project includes design for a three lane roadway with bike lanes including, but not limited to, curb and gutter, sidewalks, signalization and transit shelter(s) in accordance with Engineer's proposal dated April 20, 2012.

OWNER and ENGINEER in consideration of their mutual covenants herein agree in respect of the performance of professional Engineering services by ENGINEER and the payment for those services by OWNER as set forth below.

**SECTION 1
BASIC SERVICES OF ENGINEER**

1.1 General

1.1.1 ENGINEER shall provide the OWNER professional Engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional Engineering representative for the Project, providing professional Engineering consultation and advice and furnishing customary civil, structural, mechanical and electrical engineering services and customary architectural services incidental hereto.

1.2 Planning and Study Phase (PE-NEPA)

After written authorization to proceed, ENGINEER shall:

1.2.1 Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

1.2.2 Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services of the types described in paragraph 3.3, and assist OWNER in obtaining such data and services.

1.2.3 Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate in consultations with such authorities.

1.2.4 Provide analyses of OWNER's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

~~1.2.5 Provide a general economic analysis of OWNER's requirements applicable to various alternatives.~~

~~1.2.6 Prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to OWNER and setting forth ENGINEER's findings and recommendations. This Report will be accompanied by ENGINEER's opinion of probable costs for the Project, including the following which~~

~~will be separately itemized; Construction Cost, allowance for engineering costs and contingencies, and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights of way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others for OWNER pursuant to paragraphs 3.7 through 3.11, inclusive. The total of all such costs, allowances, etc., are hereinafter called "Total Project Costs."~~

1.2.7 Furnish five copies of the Study and Report documents and review them in person with OWNER

1.2A Environmental Document (CE)

1.2A.1 Phase I Archeological Survey

A Phase I Archeological Survey shall be conducted to identify relevant cultural resources that may affect the proposed Project.

1.2A.2 Ecological Survey

An Ecological Survey shall be conducted to identify relevant plant or animal life that may affect the proposed Project.

1.2A.3 Air and Noise Evaluation

~~An Air and noise study shall be conducted to identify sensitive receptors. TDOT has determined that a noise study will not be needed for this project, and any air quality conformity statements will be provided by TDOT.~~

1.2A.4 Hazardous Materials Evaluation

A Hazardous Materials survey shall be conducted to identify relevant hazardous materials that may affect the proposed Project.

1.2A.5 Historical Evaluation

A Historical Evaluation shall be conducted to identify relevant historical resources that may affect the proposed project

1.2A.6 D-List CE Documentation

A formal D-List Document will be prepared summarizing the findings of the NEPA review process. The report will be circulated to applicable public agencies for review and comment.

1.3 Preliminary Design Phase

After written authorization to proceed with the Preliminary Design Phase, ENGINEER shall:

1.3.1 In consultation with OWNER and on the basis of the accepted Study and Report documents, determine the general scope, extent, and character of the Project.

1.3.2 Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.

1.3.3 Advise OWNER if additional data or services of the types described in paragraph 3.4 are necessary and assist OWNER in obtaining such data and services.

1.3.4 Based on the information contained in the Preliminary Design Documents, submit an updated opinion of probable Total Project Costs.

1.3.5 Furnish five copies of the above Preliminary Design Documents and present and review them in person with OWNER.

The duties and responsibilities of ENGINEER during the Preliminary Design Phase are amended and supplemented as indicated in Exhibit A, "Further Description of Basic Engineering Services and Related Matters."

1.4 ROW/Final Design Phase

After written authorization to proceed with the Final Design Phase, ENGINEER shall:

1.4.1 On the basis of the accepted Preliminary Design Documents and revised opinion of probable Total Project Costs prepare for incorporation in the Contract Documents final drawings to show the general scope, extent, and character of the work to be furnished and performed by Contractor(s) (hereinafter called "Drawings") and Specifications ~~(which will be prepared in conformance with the sixteen division format of the Construction Specifications Institute).~~

1.2A.5 A Geotechnical Survey will be conducted to identify land conditions that may affect the proposed Project. Cost of the Geotechnical Survey shall be based on funding sources and findings of the Report.

1.4.2 Provide technical criteria, written descriptions and design data for OWNER's use in filing applications for general permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the Project, and assist OWNER in consultations with appropriate authorities. ~~If permitting proceeds into an individual versus a general format, Engineer's services are available as part of the Agreement should the OWNER request such services, in accordance with paragraph 5.1.2.1.~~

1.4.3 Advise OWNER of any adjustments to the latest opinion of probable Total Project Costs caused by changes in general scope, extent, or character or design requirements of the Project or Construction Costs. Furnish to OWNER a revised opinion of probable Total Project Costs based on the Drawings and Specifications.

1.4.4 Prepare for review and approval by OWNER, its legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders (all of which shall be consistent with the forms and pertinent guide sheets prepared by the Engineer's Joint Contract Documents Committee or as specified by OWNER), and assist in the preparation of other related documents.

1.4.5 Furnish five copies of the above documents and of the Drawings and Specifications and present and review them in person with OWNER.

The duties and responsibilities of ENGINEER during the Final Design Phase are amended and supplemented as indicated in Exhibit A, "Further Description of Basic Engineering Services and Related Matters."

1.5 Bidding or Negotiating Phase

After written authorization to proceed with the Bidding or Negotiating Phase, ENGINEER shall:

1.5.1 Assist OWNER in advertising for and obtaining bids or negotiating proposals for each separate prime contract for construction, materials, equipment, and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend, chair and keep minutes for mandatory or voluntary pre-bid conferences, attend, chair and keep minutes for third party utility pre-bid coordination meetings, assist OWNER in preparation of construction milestones,

and receive and process deposits for Bidding Documents.

1.5.2 Issue addenda as appropriate to interpret, clarify, or expand the Bidding Documents.

1.5.3 Consult with and advise OWNER as to the acceptability of subcontractors, suppliers, and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.

1.5.4 Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.

1.5.5 Attend the bid opening, prepare bid tabulation sheets, and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment, and services.

The duties and responsibilities of ENGINEER during the Bidding or Negotiating Phase are amended and supplemented as indicated in Exhibit A, "Further Description of Basic Engineering Services and Related Matters."

~~1.6 Construction Phase~~

~~During the Construction Phase:~~

~~1.6.1 General Administration of Construction Contract. ENGINEER shall consult with and advise OWNER and act as OWNER's representative as provided in Articles 1 through 17, inclusive, of the Standard General Conditions of the Construction Contract, No. 1910-8 (1983 edition) of the Engineer's Joint Contract Documents Committee. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said Standard General Conditions shall not be modified, except to the extent provided in Exhibit A, "Further Description of Basic Engineering Services and Related Matters" and except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor(s) will be issued through ENGINEER who will have authority to act on behalf of OWNER to the extent provided in said Standard General Conditions except as otherwise provided in writing.~~

~~1.6.2 Visits to Site and Observation of Construction. In connection with observations of the work of Contractor(s) while it is in progress:~~

~~1.6.2.1 Engineer shall make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. In addition, ENGINEER shall provide the services of a Resident Project Representative (and assistants as agreed) at the site to assist ENGINEER and to provide more continuous observation of such work. Based on information obtained during such visits and on such observations, ENGINEER shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and ENGINEER shall keep OWNER informed of the progress of the work.~~

~~1.6.2.2 The Resident Project Representative (and any assistants) will be ENGINEER's agent or employee under ENGINEER's supervision. The duties and responsibilities of the Resident Project Representative (and assistants) are set forth in Exhibit B, "Duties, Responsibilities and Limitation of Authority of Resident Project Representative."~~

~~1.6.2.3 The purpose of ENGINEER's visits to and representation by the ENGINEER's Resident Project Representative (and assistants, if any) at the site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and in addition, by exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, ENGINEER shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct, or have control over Contractor(s)' work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes, or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, ENGINEER can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s) failure to furnish and perform their work in accordance with the Contract Documents.~~

~~1.6.3 Defective Work. During such visits and on the basis of such observations, ENGINEER may disapprove or reject Contractor(s) work while it is in progress if ENGINEER believes that such work will not produce a complete Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.~~

~~1.6.4 Interpretations and Clarifications. ENGINEER shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare work directive changes and change orders as required.~~

~~1.6.5 Shop Drawings. ENGINEER shall review and approve (or take other appropriate action in respect of) Shop Drawings (as that term is defined in the aforesaid Standard General Conditions), samples, and other data which Contractor(s) are required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.~~

~~1.6.6 Substitutes. ENGINEER shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor(s), but subject to the provision of paragraph 2.2.2.~~

~~1.6.7 Inspections and Tests. ENGINEER shall have authority, as OWNER's representative, to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testing and approvals required by laws, rules, regulations, ordinances, codes, orders, or the Contract Documents (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the Contract Documents).~~

~~1.6.8 Disputes between OWNER and Contractor. ENGINEER shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. ENGINEER shall not be liable for the results of any such interpretations or decisions rendered in good faith.~~

~~1.6.9 Applications for Payment. Based on ENGINEER's onsite observations as an experienced and qualified design professional, on information provided by the OWNER's Resident Project Representative and on review of applications for payment and the accompanying data and schedules:~~

~~1.6.9.1 ENGINEER shall coordinate and confirm the amounts owing to Contractor(s) as recommended by ENGINEER's Resident Project Representative and recommend in writing payments to Contractor(s) in such amounts. Such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated and complies with the construction milestones, and that, to the best of ENGINEER's knowledge, information and belief, the quality of such work is generally in accordance with Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation). In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents).~~

~~1.6.9.2 By recommending any payment, ENGINEER will not thereby be deemed to have represented that exhaustive, continuous, or detailed reviews or examinations have been made by ENGINEER to check the quality or quantity of Contractor(s)' work as it is furnished and performed beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. ENGINEER's review of Contractor(s)' work for the purposes of recommending payments will not impose on ENGINEER responsibility to supervise, direct, or control such work or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto or Contractor(s)' compliance with laws, rules, regulations, ordinances, codes, or orders applicable to their furnishing and performing the work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or to determine that the title to any of the work, materials, or equipment has passed to OWNER free and clear of any lien, claims, security interest or encumbrances, or that there may not be other matters at issue between OWNER and~~

~~contractor that might affect the amount that should be paid.~~

~~1.6.9.3 If ENGINEER deems that CONTRACTOR has not progressed with the work to the point of compliance with established construction milestones, ENGINEER shall not recommend payment by OWNER, until such time as the appropriate milestone is met. In the event that construction milestones are not met repeatedly, the ENGINEER shall recommend to OWNER in writing the recommendation to notify CONTRACTOR's surety and apprise them of the delinquent progression of work. Upon OWNER's concurrence of recommendation, ENGINEER shall then notify the CONTRACTOR's surety in writing.~~

~~1.6.10 Contractor(s)' Completion Documents. ENGINEER shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by Contractor(s) in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests, and approvals the results certified indicate compliance with, the Contract Documents); and shall transmit them to OWNER with written comments.~~

~~1.6.11 Inspections. ENGINEER shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor(s) and may give written notice to OWNER and the Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph 1.6.9.2.~~

~~1.6.12 Limitations of Responsibilities. ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor(s)' or supplier(s)' agents or employees or any other persons (except ENGINEER's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s) work; however, nothing contained in paragraphs 1.6.1 through 1.6.11 inclusive, shall be construed to release ENGINEER from liability for failure to properly perform duties and responsibilities assumed by ENGINEER in the Contract Documents.~~

1.7 Operational Phase

During the Operational Phase, ENGINEER shall, when requested by OWNER:

1.7.1 Provide assistance in the closing of any financial or related transactions for the Project.

1.7.2 Provide assistance in connection with the refining and adjusting of any equipment or system.

1.7.3 Assist OWNER in training OWNER's staff to operate and maintain the Project.

1.7.4 Assist OWNER in developing systems and procedures for control of the operation and maintenance of and recordkeeping for the Project.

1.7.5 Prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the Contractor(s) to ENGINEER and which ENGINEER considers significant.

1.7.6 In company with OWNER, visit the Project to observe any apparent defects in the completed construction, assist OWNER in consultations and discussions with Contractor(s) concerning correction of such deficiencies, and make recommendations as to replacement or correction of defective work.

The duties and responsibilities of ENGINEER during the Operational Phase are amended and supplemented as indicated in Exhibit A, "Further Description of Basic Engineering Services and Related Matters."

SECTION 2 ADDITIONAL SERVICES OF ENGINEER

2.1 Services Requiring Authorization in Advance

If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1 through 2.1.14, inclusive. These services are not included part of Basic Services except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters;" these will be paid for by OWNER as indicated in Section 5.

2.1.1 Preparation of applications and supporting documents (in addition to those furnished under

Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3 Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond ENGINEER's control.

2.1.4 Providing renderings or models for OWNER's use.

2.1.5 Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.

2.1.6 Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7 Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical and electrical engineering and customary architectural design incidental thereto); and providing data or services of the type described in paragraph 3.4 when OWNER

employs ENGINEER to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.8 If ENGINEER's compensation is on the basis of a lump sum or percentage of Construction Cost or cost-plus-a-fixed-fee method of payment, services resulting from the award of more separate prime contracts for construction, materials, or equipment for the Project than are contemplated by paragraph 5.1.1.2. If ENGINEER's compensation is on the basis of a percentage of Construction Cost and ENGINEER has been required to prepare Contract Documents on the assumption that more than one prime contract will be awarded for construction, materials and equipment, but only one prime contract is awarded for construction, materials and equipment for the Project, services attributable to the preparation of contract documentation that was rendered unusable and any revisions or additions to contract documentation used that was necessitated by the award of only one prime contract.

2.1.9 Services during out-of-town travel required of ENGINEER other than visits to the site or OWNER's office as required by Section 1.

2.1.10 Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services called for in paragraph 6.2.2.5.

~~2.1.11 Providing any type of property surveys or related Engineering services needed for the transfer of interests in real property and field surveys for design purposes and Engineering surveys and staking to enable Contractor(s) to proceed with their work, and providing other special field surveys.~~

2.1.12 Preparation of operating, maintenance, and staffing manuals to supplement Basic Services under paragraph 1.7.3.

2.1.13 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration, or other legal or administrative proceeding involving the Project (except for assistance in consultations which is included as part of Basic Services under paragraphs ~~1.2.3~~ and 1.4.2).

2.1.14 Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Article 3, and services not otherwise provided for in this Agreement.

2.2 Required Additional Services (See Sections 8.3 and 8.5)

When required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall furnish or obtain from others, as circumstances require during construction and without waiting for specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive (except to the extent otherwise provided in Exhibit A, "Further Description of Basic Engineering Services and Related Matter"). These services are not included as part of Basic Services. ENGINEER shall advise OWNER promptly after starting any such Additional Services which will be paid for by OWNER as indicated in Section 5.

2.2.1 Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation of Basic Services is not commensurate with the additional services rendered.

2.2.2 Services in making revision to Drawings and Specification occasioned by the acceptance of substitutions proposed by Contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3 Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of material, equipment, or energy shortages.

2.2.4 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, and (4) default by any Contractor.

2.2.5 Services (other than Basic Services during the Operational Phase) in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.

2.2.6 Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

SECTION 3
OWNER'S RESPONSIBILITY

OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER.

3.1 City Engineer and Transportation Director shall act as OWNER's representatives with respect to the services to be rendered under this Agreement. Such persons shall have primary authority to transmit instruction, receive information, and interpret and define OWNER's policies and decisions with respect to ENGINEER's services for the Project.

3.2 Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.

3.3 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

3.4 Furnish to ENGINEER, as required for performance of ENGINEER's Basic Services (except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters") the following:

3.4.1 Data prepared by or services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;

3.4.2 appropriate professional interpretations of all the foregoing;

~~3.4.3 environmental assessment and impact statements;~~

~~3.4.4 property, boundary, easement, right of way, topographic, and utility surveys;~~

~~3.4.5 property descriptions;~~

3.4.6 zoning, deed, and other land use restrictions; and

3.4.7 other special data or consultations not covered in Section 2;

all of which ENGINEER may use and rely upon in performing services under this Agreement.

~~3.5 Provide engineering surveys to establish reference points for construction (except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters") to enable Contractor(s) to proceed with the layout of the work.~~

3.6 Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

3.7 Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER; obtain advice of an attorney, insurance counselor, and other consultants as OWNER deems appropriate for such examination; and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.

3.8 Facilitate approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

3.9 Provide such accounting, independent cost estimating, and insurance counseling services as may be required for the Project, such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code, or order applicable to their furnishing and performing the work.

~~3.10 If OWNER designates a person to represent OWNER at the site who is not ENGINEER or ENGINEER's agent or employee, the duties, responsibilities, and limitations of authority of such other person and the effect thereof on the duties and responsibilities of ENGINEER and the Resident Project Representative (and any assistants) will be set forth in an exhibit that is to be identified, attached to~~

~~and made a part of this Agreement before such services begin.~~

~~3.11 If more than one prime contract is to be awarded for construction, materials, equipment, and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.~~

3.12 Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.7 through 3.11, inclusive, and other costs of the type referred to in paragraph 1.2.6) so that ENGINEER may make the necessary findings to support opinions of probable Total Project Costs.

3.13 Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and substantial completion inspections, and final payment inspections.

3.14 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services, or any defect or non-conformance in the work of any Contractor.

3.15 Furnish or direct ENGINEER to provide Additional Services as stipulated in paragraph 2.1 of this Agreement, or other services as required.

3.16 Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 PERIODS OF SERVICE

4.1 The provisions of this Section 4 and the various rates of compensation for ENGINEER's services provided elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Bidding Phase. ENGINEER's obligation to render services hereunder will extend for a period which may reasonably be required for the design, and award of contracts, construction, and initial operation of the Project, including extra work and required extensions thereto. If in Exhibit A, "Further Description of Basic Engineering Services and Related Matters," specific periods of time for rendering services are set forth, or specific dates by

which services are to be completed are provided, and if such dates are exceeded through no fault of ENGINEER, all rates, measure, and amount of compensation provided herein shall be subject to equitable adjustments.

4.2 The services called for in the Study and Report Phase (PE-NEPA) will be completed and the Report submitted within the stipulated period indicated in Exhibit A, "Further Description of Basic Engineering Services and Related Matters," after written authorization to proceed with the phase of services which will be given by OWNER within thirty days after ENGINEER has signed this Agreement.

4.3 After acceptance by OWNER of the Study and Report Phase documents indicating any specific modifications or changes in the general scope, extent, or character of the Project desired by OWNER, and upon written authorization from OWNER, ENGINEER shall proceed with the performance of the services called for in the Preliminary Design Phase, and shall submit preliminary design documents and a revised opinion of probable Total Project Costs within the stipulated period indicated in Exhibit A, "Further Description of Basic Engineering Services and Related Matters."

4.4 After acceptance by OWNER of the Preliminary Design Phase documents and revised opinion of probable Total Project Costs, indicating any specific modifications or changes in the general scope, extent, or character of the Project desired by OWNER, and upon written authorization from OWNER, ENGINEER shall proceed with the performance of the services called for in the ROW/Final Design Phase and shall deliver Contract Documents and a revised opinion of probable Total Project Costs for all work of Contractor(s) on the Project within the stipulated period indicated in Exhibit A, "Further Description of Basic Engineering Services and Related Matters."

4.5 ENGINEER's services under the Study and Report Phase, Preliminary Design Phase and Final Design Phase shall each be considered complete at the earlier of (1) the date when the submissions for that phase have been accepted by OWNER or (2) thirty days after the date when such submissions are delivered to OWNER for final acceptance, plus in each case such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the design of the Project as defined in Exhibit A Section 5.

4.6 After acceptance by OWNER of the ENGINEER's Drawings, Specifications, and other Final Design Phase documentation, including the most recent opinion of probable Total Project Costs, and upon OWNER's advertisement of the Project to the Public, ENGINEER shall proceed with performance of the services called for in the Bidding or Negotiating Phase. This Phase shall terminate and the services to be rendered thereunder shall be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractor(s) (except as may otherwise be required to complete the services called for in paragraph 6.2.2.5).

4.7 ~~The Construction Phase will commence with the execution of the first prime contract to be executed for the work of the Project or any part thereof, and will terminate upon written recommendation by ENGINEER of final payment on the last prime contract to be completed. Construction Phase services may be rendered at different times in respect of separate prime contracts if the Project involves more than one prime contract.~~

4.8 ~~The Operational Phase will commence during the Construction Phase and will terminate one year after the date of Substantial Completion of the last prime contract for construction, materials, and equipment on which substantial completion is achieved.~~

4.9 If OWNER has requested significant modifications or changes in the general scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

4.10 If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if the Bidding Phase has not commenced within 180 calendar days (plus such additional time as may be required to complete the services called for under paragraph 6.2.2.5) after completion of the Final Design Phase, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement.

4.11 If ENGINEER's services for design of the Project are delayed or suspended in whole or in part by OWNER for more than three months for reasons beyond ENGINEER's control, ENGINEER shall on written demand to OWNER (but without termination of this Agreement) be paid as provided in paragraph 5.3.2 ~~If such delay or suspension extends for more than one year for reasons beyond ENGINEER's control, or if ENGINEER for any reason is required~~

~~to render Construction Phase services in respect of any prime contract for construction, materials, or equipment more than one year after Substantial Completion is achieved under that contract, the various rates of compensation provided for elsewhere in this Agreement shall be subject to equitable adjustment.~~

4.12 ~~In the event that the work designed or specified by ENGINEER is to be furnished or performed under more than one prime contract, or if ENGINEER's services are to be separately sequenced with the work of one or more prime contractors (such as in the case of fast tracking), OWNER and ENGINEER shall, prior to commencement of the Final Design Phase, develop a schedule for performance of ENGINEER's services during the Final Design, Bidding or Negotiating, and Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate contracts. This schedule is to be prepared whether or not the work under such contract is to proceed concurrently and is to be included in Exhibit A, "Further Description of Basic Engineering Services and Related Matters," and the provisions of paragraphs 4.4. through 4.10, inclusive, will be modified accordingly.~~

SECTION 5 PAYMENTS TO ENGINEER

5.1 Methods of Payment for Services and Expense of ENGINEER

5.1.1 For Basic Planning and Study Report Services. OWNER shall pay ENGINEER for Basic Services rendered under Section 1 (as amended and supplemented by Exhibit A, "Further Description of Basic Engineering Services and Related Matters") as follows:

5.1.1A For Basic Design Services. OWNER shall pay ENGINEER for Basic Services rendered under Section 1 (as amended and supplemented by Exhibit A, "Further Description of Basic Engineering Services and Related Matters") as follows:

5.1.1.1 As outlined in the Basic Services of Section 1, the following studies shall be conducted: Environmental Document (CE) not including Section 4(f) and 6(f) of the US Department of Transportation Act (DOT Act) of 1966.

5.1.1.1A One Prime Contract. Compensation to ENGINEER shall be based on *cost plus net fee for profit as described in fee proposal dated July 16, 2012 and Noted as Exhibit B.* ~~If only one prime contract is awarded for construction, materials, and equipment for the Project, an amount equal to 7.5 percent of the Construction Cost for all Basic Services for the roadway, 10.0 percent of the Construction Cost for all Basic Services for the bridges and box culverts, 6 percent of the Construction Cost for all Basic Services for all utilities outside of the roadway and bridge corridor, and 4.5 percent of the Construction Cost for all Basic Services for all utilities inside the roadway and bridge corridor. (except services of ENGINEER's Resident Project Representative and assistants furnished under paragraph 1.6.2.1 and Operational Phase services furnished under paragraph 1.7); but, if the prime contract contains cost plus or incentive savings provisions for the Contractor's basic compensation, an amount equal to % of the Construction Cost for such services.~~

5.1.1.2 Several Prime Contracts. If more than one but less than three separate prime contracts are awarded for construction, materials, and equipment for the Project ENGINEER and OWNER will negotiate additional fees., ~~an additional 0.5% amount added to the aforementioned percentages of the Construction Cost for all Basic Services described in Section 5.1.1.1A, (except services of ENGINEER's Resident Project Representative and assistants furnished under paragraph 1.6.2.1 and Operational Phase services furnished under paragraph 1.7); but, if any prime contract contains cost plus or incentive savings provisions for Contractor's basic compensation, % of the Construction Cost for such services.~~

5.1.1.3 Resident Project Services. ~~For services of ENGINEER's Resident Project Representative (and assistants) furnished under paragraph 1.6.2.1, on the basis of Salary Costs times a factor of _____ for services rendered by principals and employees assigned to resident Project representation.~~

5.1.1.4 Operational Phase Services. ~~For Operational Phase services furnished under paragraph 1.7, an amount equal to ENGINEER's Salary Costs times a factor of _____ for services rendered by principals and employees engaged directly on the Project.~~

5.1.2 For Additional Services. OWNER shall pay ENGINEER for Additional Services rendered under Section 2 as follows:

5.1.2.1 General. For Additional Services of ENGINEER's principals and employees engaged directly on the Project and rendered pursuant to paragraph 2.1 or 2.2 (except services as a consultant or witness under paragraph 2.1.13) on the basis as maximum billing rate as specified in Section 8.4.

5.1.2.2 Professional Associates and Consultants. For Services and Reimbursable Expenses of independent professional associates and consultant employed by ENGINEER to render Additional Services pursuant to paragraph 2.1 or 2.2, the amount billed to ENGINEER therefor times a factor of 1.00. (See Section 8.4.)

5.1.2.3 Serving as a Witness. For services rendered by ENGINEER's principals and employees as consultants or witnesses in any litigation, arbitration, or other legal or administrative proceeding in accordance with paragraph 2.1.13, at the rate of \$840.00 per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, arbitration, or proceeding will be on the basis provided in paragraph 5.1.2.1). Compensation for ENGINEER's independent professional associates and consultants will be on the basis provided in paragraph 5.1.2.2.

5.1.3 For Reimbursable Expenses. In addition to payments provided for in paragraphs 5.1.1 and 5.1.2, OWNER shall pay ENGINEER the actual costs of all Reimbursable Expenses incurred in connection with all Basic and Additional Services.

5.1.4 As used in this paragraph 5.1, the terms "Salary Costs" and "Reimbursable Expenses" have the meanings assigned to them in paragraph 5.4; and the term "Construction Cost" has the meaning assigned to it in paragraph 6.1. When Construction Cost is used as a basis for payment, it will be based on one of the following sources with precedence in the order listed for work designed or specified by ENGINEER:

5.1.4.1 For completed construction work, the total cost of all work performed as designed or specified by ENGINEER.

5.1.4.2 For work designed or specified but not constructed, the lowest *bona fide* bid received from a qualified bidder for such work; or, if the work is not bid, the lowest *bona fide* negotiated proposal for such work.

5.1.4.3 For work designed or specified but not constructed and for which no such bid or proposal is

received, the most recent estimate of Construction Cost; or, if none is available, ENGINEER's most recent opinion of probable Construction Cost.

Labor furnished by OWNER for the Project will be included in the Construction Cost at current market rates, including a reasonable allowance for overhead and profit. Materials and equipment furnished by OWNER will be included at current market prices. No deduction is to be made from Construction Costs on account of any penalty, liquidated damages, or other amounts withheld from payments to Contractor(s).

5.2 Time of Payments

5.2.1 ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. The statements will be based upon ENGINEER's estimate of the proportion of the total services actually completed at the time of billing. OWNER shall make prompt monthly payments in response to ENGINEER's monthly statements.

5.2.2 The costs identified below for each phase are those contained in the fee proposal dated July 16, 2012 and the total will not be exceeded without Owner's written approval.

Phase

	Total
Planning/Study Phase (PE-NEPA)	\$319,542.66
Preliminary Design Phase	\$163,634.04
ROW / Final Design Phase	\$469,495.77
Bidding Phase	\$47,161.37
Construction Phase	<u>\$0.00</u>
Total Cost	\$999,833.84

5.3 Other Provisions Concerning Payments

5.3.1 If OWNER fails to make any undisputed payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's statement therefor, the amounts due ENGINEER will be increased at the rate of 1 percent per month from said thirtieth day; and in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and charges.

5.3.2 In the event of termination by OWNER under paragraph 7.1 upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such

phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase on the Basis of ~~ENGINEER's Salary Costs times a factor of 2.75~~ Section 8.4 for services rendered by ENGINEER's principals and employees engaged directly on the Project during that phase to date of termination. In the event of any such termination, ENGINEER will also be reimbursed for the charges of independent professional associates and consultants employed by ENGINEER to render Basic Services, and for all unpaid Additional Services and unpaid Reimbursable Expenses, ~~plus all termination expenses. Termination expenses mean additional Reimbursable Expenses directly attributable to termination which, if termination is at OWNER's convenience, shall include an amount computed as a percentage of total compensation for Basic Services earned by ENGINEER to the date of termination as follows: 20 percent if termination occurs after commencement of the preliminary Design Phase but prior to commencement of the Final Design Phase; or 10 percent if termination occurs after commencement of the Final Design Phase.~~

5.3.3 Records of ENGINEER's Salary Costs pertinent to ENGINEER's compensation under this Agreement will be kept in accordance with generally accepted accounting principles. Copies will be made available to OWNER at cost on request prior to final payment for ENGINEER's services.

5.3.4 Whenever a factor is applied to Salary Costs in determining compensation payable to ENGINEER, that factor will be adjusted periodically and equitably to reflect changes in the various elements that comprise such factor. All such adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by ENGINEER and consistent with ENGINEER's overall compensation practices and procedures.

5.4 Definitions

5.4.1 Salary Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all ENGINEER's personnel engaged directly on the Project, including but not limited to engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including but not limited to social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday and other group benefits. For the purposes of this

Agreement, the principals of ENGINEER and their current hourly Salary Costs are defined in Section 8.4.

5.4.1.1 The hourly Salary Costs of principals of ENGINEER will be adjusted equitably to reflect changes in personnel and in ENGINEER's overall compensation procedures and practices.

5.4.1.2 The amount of customary and statutory benefits of all other personnel of ENGINEER will be considered equal to 35 percent of salaries and wages, subject to equitable adjustment to reflect changes in ENGINEER's overall compensation procedures and practices.

5.4.2 Reimbursable Expenses mean the actual expenses incurred by ENGINEER or ENGINEER's independent professional associates or consultants, directly or indirectly in connection with the Project, such as expenses for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); ~~providing and maintaining field office facilities, including furnishings and utilities, subsistence and transportation of Resident Project Representatives and their assistants;~~ toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Section 1; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates. See Sections 8.3, 8.5, and 8.6.

SECTION 6 CONSTRUCTION COST AND OPINIONS OF COST

6.1 Construction Cost

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by ENGINEER; but it will not include ENGINEER's compensation or expenses, the cost of land, rights-of-way, or compensation for or damages to properties unless this Agreement so specifies; nor will it include OWNER's legal, accounting, insurance counseling, or auditing services, or interest and/or financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to paragraph 3.7 through 3.11, inclusive. (Construction Cost is one of the items

comprising Total Project Costs defined in paragraph 1.2.5. See Section 8.3.)

6.2 Opinions of Cost

6.2.1 Since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER's opinions of probable Total Project Costs and Construction Costs provided for herein are to be made on the basis of ENGINEER's experience and qualifications, and shall represent ENGINEER's best judgment as an experienced and qualified professional ENGINEER, familiar with the construction industry. ENGINEER cannot and does not guarantee that proposals, bids, or actual Total Project Costs or Construction Costs will not vary from opinions of probable cost prepared by ENGINEER. If prior to the Bidding or Negotiating Phase, OWNER wishes greater assurance as to Total Project Costs or Construction Costs, OWNER shall employ an independent cost estimator as provided in paragraph 3.9.

6.2.2 If a Construction Cost limit is established by written agreement between OWNER and ENGINEER and specifically set forth in this Agreement as a condition thereto, the following will apply:

6.2.2.1 The acceptance by OWNER at any time during the Basic Services of a revised opinion of probable Total Project Costs or Construction Costs in excess of the then-established cost limit will constitute a corresponding revision in the Construction Cost limit to the extent indicated in such revised opinion.

6.2.2.2 Any Construction Cost limit so established will include a contingency of 10 percent unless another amount is agreed upon in writing.

6.2.2.3 ENGINEER will be permitted to determine what types of materials, equipment, and component systems are to be included in the Drawings and Specifications, and to make reasonable adjustments in the general scope, extent, and character of the Project to bring it within the cost limit.

6.2.2.4 If the Bidding or Negotiating Phase has not commenced within six months after completion of the Final Design Phase, the established Construction Cost limit will not be binding on ENGINEER; and OWNER shall consent to an adjustment in such cost

limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or bids are sought.

6.2.2.5 If the lowest *bona fide* proposal or bid exceeds the established Construction Cost limit, OWNER shall (1) give written approval to increase such cost limit, (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's general scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of the condition numbered "3," ENGINEER shall modify the Contract Documents as necessary to bring the Construction Cost within the cost limit. In lieu of other compensation for services in making such modifications, OWNER shall pay ENGINEER its cost for such services, all overhead expenses reasonably related thereto, and Reimbursable Expenses ~~but without profit to ENGINEER on account of such services~~. The providing of such service will be the limit of ENGINEER's responsibility in this regard; and, having done so, ENGINEER shall be entitled to payment for services in accordance with this Agreement and will not be liable for damages attributable to the lowest *bona fide* proposal or bid exceeding the established Construction Cost.

SECTION 7 GENERAL CONSIDERATION

7.1 Termination

The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

7.2 Reuse of Documents

All documents, including Drawings and Specifications, prepared or furnished by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement are instruments of service in respect of the Project; and ENGINEER shall retain an ownership and property interest therein, whether or not the Project is completed. OWNER may make and retain copies for information and reference in

connection with the use and occupancy of the Project by OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purposes intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants; and OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's independent professional associates and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

7.3 Insurance

7.3.1 ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury, including personal injury, sickness or disease, or death of any and all employees, or of any person other than such employees, and from claims or damages because of injury to or destruction of property, including loss of use resulting therefrom. ENGINEER shall carry, and shall provide proof of coverage, a minimum of \$1,000,000 in errors and omissions insurance. City shall be noted as additional insured on ENGINEER'S liability policy and will require an endorsement to that effect.

7.4 Controlling Law

This Agreement is to be governed by the laws of the State of Tennessee; the venue for any action shall be Rutherford County.

7.5 Successors and Assigns

7.5.1 OWNER and ENGINEER each is hereby bound; and the partners, successors, executors, administrators, and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 7.5.2, the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect to all covenants, agreements, and obligations of this Agreement.

7.5.2 Neither OWNER nor ENGINEER shall assign, sublet, or transfer any rights under or interest in (including without limitation monies that may become due or monies that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates and consultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.

7.5.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

7.6 Dispute Resolution

If and to the extent that OWNER and ENGINEER have agreed on a method and procedure for resolving disputes between them arising out of or relating to this Agreement, such dispute resolution method and procedure, if any, is set forth in Exhibit C, "Dispute Resolution." OWNER and ENGINEER agree to negotiate in good faith for a period of thirty days from the date of notice of all disputes between them prior to exercising their rights under Exhibit C or other provisions of this Agreement or under law.

SECTION 8 EXHIBITS AND SPECIAL PROVISIONS

8.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement:

Exhibit A, "Further Description of Basic Engineering Services and Related Matters," consisting of three pages.

Exhibit B, "Fee Proposal," consisting of seventy five pages.

Exhibit C, "Dispute Resolution," consisting of one page.

Exhibit D, "Special Provisions," consisting of four pages.

8.1.1 This Agreement is also subject to ENGINEER'S Fee Proposal for the Bradyville Pike Improvement Project dated July 16, 2012, ~~as amended by letter(s) dated _____~~, and the OWNER'S Request for Proposals - Bradyville Pike Improvement Project dated March 22, 2012, which documents are incorporated into this Agreement by this reference.

8.2 This Agreement (consisting of pages 1 through 16 inclusive, and the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may be amended, supplemented, modified, or canceled only by a duly executed written instrument.

8.3 In the event an error is made in the plans, the ENGINEER will correct the error in the plans, and the ENGINEER's services rendered in connection with correcting the error shall be considered as part of the Basic Services. However, if the cost to the OWNER for correcting the error includes tearing out or redoing any portion of the Project, the cost associated with the tearing out or redoing shall not be considered a part of the overall Project Cost for the purposes of calculating the ENGINEER's fee for Basic Services.

8.4 Notwithstanding any provision to the contrary, the maximum billing rates shall be as follows:

Principal	\$150.00/hour
Senior Engineer/Manager	\$125.00/hour
Project Manager	\$100.00/hour
Project Engineer	\$100.00/hour
Engineer-in-Training/Designer	\$ 85.00/hour
CAD Technician	\$ 65.00/hour
Clerical Staff	\$ 40.00/hour

These hourly rates shall be valid for a period of at least twelve (12) months. Increases in the hourly rates may be necessary to reflect changes in salary, benefits, or other statutory requirements which could affect the hourly rates established herein. Any changes in these billing rates will be submitted for review and discussion prior to effecting such changes.

8.5 ENGINEER will obtain prior written approval before performing such work considered "Additional Services" and charging for same.

~~8.6 Notwithstanding any provision to the contrary, OWNER will not be invoiced for travel within Davidson, Williamson, and Rutherford Counties.~~

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

CITY OF MURFREESBORO

By: Jimmy Bragg, Mayor

Title: 9.13.12

Address for giving notice:

Engineering Department

City of Murfreesboro

P.O. Box 1139

Murfreesboro, Tennessee 37133-1139

ENGINEER:

NEEL-SCHAFER, INC.

By: [Signature]

Title: Vice President

Address for giving notice:

210 25th Avenue North; Ste 800

Nashville, Tennessee 37203

Phone: (615) 383-8420

APPROVED AS TO FORM:

Susan Emery McGannon
Susan Emery McGannon *SEM*
Attorney for the City of Murfreesboro, Tennessee

EXHIBIT A

FURTHER DESCRIPTION OF BASIC ENGINEERING SERVICES AND RELATED MATTERS

1. This is an Exhibit attached to, made a part of and incorporated by reference into the Agreement made on 13 September, 2012, between the City of Murfreesboro, Tennessee, (OWNER) and Neel-Schaffer, Inc. (ENGINEER), for providing professional engineering services. The Basic Services of ENGINEER and the responsibility of the OWNER as described in the Agreement are amended or supplemental as indicated below, and the time periods for the performance of certain services as indicated in Section 4 of the Agreement are as indicated below. The Basic Services listed in numbers 2 through 6 below are references to the Services as described in the Fee Proposal and Request for Proposals identified and incorporated into this Agreement in paragraph 8.1.1

2. As a first task of the Preliminary Design phase, the ENGINEER shall only undertake that part of the design development that is sufficient to identify existing and proposed conditions to the extent that will allow formulation of environmental documents in accordance with the National Environmental Policy Act (NEPA) requirements.

The Basic Services relating to the Planning/Study Phase (PE-NEPA) and included in the Basic Services fee shall include relevant required D-List Categorical Exclusion NEPA studies and documents, including but not limited to:

- Planning Meetings
- Public Involvement/Coordination
- TDOT Coordination
- Site Visits
- Research
- Report Writing
- Cost Estimating
- Field Survey and Verification
- Environmental Document
 - D-List Categorical Exclusion Document (CE)
 - Archaeological Evaluation
 - Ecology Evaluation
 - Hazardous Materials Evaluation
 - Historical Evaluation

Subsequent to the approval of the environmental documents and receipt of the requisite environmental clearances, the ENGINEER will conclude all remaining preliminary design tasks in a manner sufficient for submittal to and approval by TDOT. Other services are available as a part of the Agreement should the OWNER request such services in writing, in accordance with paragraphs 5.1.2.1.

3. The Basic Services relating to the Preliminary Design Phase and included in the Basic Services fee shall include relevant design and activities, including but not limited to:

- Public Involvement
- Public Hearing Displays
- Roadway Design

Preliminary Signal Design
Analysis of FEMA Study Areas
Utility Coordination
Traffic Control
EPSC Phases (3 Phases)
Opinion of Probable Cost
Coordination / Public Meetings
TDOT Coordination

As part of the Preliminary Design Phase, ENGINEER shall furnish the OWNER with a set of 1"=50' scale drawings depicting the topographic information and property line information for the subject limits. Contacts will be made with representatives of affected utility owners to determine the general locations of utility lines in the affected area.

ENGINEER and OWNER shall agree upon a mutual time to proceed with the next phase of design. ENGINEER shall provide to OWNER in writing the time of understood acceptance of preliminary design and ENGINEER's intent to proceed to the final design phase. Final design shall be based on OWNER supplied, marked-up print showing the preferred changes in respect to grades, alignments, and typical sections. It is anticipated that one contract will be let for this project.

4. The Basic Services relating to the Right-of-Way / Final Design Phase and included in the Basic Services fee shall include relevant required design and plans including but not limited to:

Roadway Design
Survey Geotechnical/ROW Staking
Utility Coordination
Signalization Design
Geotechnical Investigations
Opinion of Probable Cost
Coordination Meetings
Erosion Control Plan
Traffic Control Plan
TDOT Coordination
Exhibits and Descriptions
Water Quality Permits (SWPPP & ARAP)
Constructability Reviews

During the Final Design Phase, ENGINEER shall prepare construction documents. The ENGINEER will deliver to the OWNER a complete set of original drawings or acceptable reproducible intermediate drawings on 24"x36" media, including digital plans and documents, to be properly coordinated, approved, and accepted by the OWNER.

The Final Design Phase Services will be completed and ENGINEER's opinion of costs submitted within an agreed upon time following written authorization from OWNER to ENGINEER to proceed with that phase of services. Services will be considered acceptable after OWNER signs approval block on cover sheet of construction drawings. During this Phase, OWNER will be responsible for conducting appraisal process and completing Right-of-Way acquisition process.

5. The Basic Services relating to the Bidding Phase and included in the Basic Services fee shall include relevant documentation and activities, including but not limited to:

Utility Coordination
 Contract Bid Documents / Bid Proposal Documents
 Pre-bid Meeting
 Addenda / Requests for Information during Bid Process
 Construction Plan Distribution
 Assistance with DBE Goal Establishment
 Bid Opening / Review
 Bid Tabulation / Recommendation of Contractor
 TDOT Coordination

<u>Phase</u>	<u>Estimated Completion Time</u>
Planning/Study Phase (PE-NEPA) ¹	10 Months
Preliminary Design Phase ¹	4 Months
ROW Design Phase ²	10 Months
Final Design Phase ³	6 Months
Bidding Phase ⁴	4 Months
Construction Phase	Months

¹Portions of the Preliminary Design Phase to be completed in conjunction with the Planning/Study Phase (PE-NEPA)

²ROW Design Phase estimated to be completed in ten months after receiving "Notice to Proceed with Final Plans".

³Final Design Phase estimated to be completed in six months and run concurrently with ROW acquisition. Actual duration needed to reach Bidding Phase dependent on completing ROW acquisition (by Owner).

⁴Bidding Phase estimated to be completed in four months after receiving "Notice to Proceed to Construction".

The total project duration is estimated at thirty-four months. This time excludes variations resulting from duration for governmental agency review of project documents and appraisal and acquisition of Right-of-Way by Owner.

6. Section 1.5, Bidding or Negotiation Phase, is modified as follows:

The ENGINEER will assist the OWNER in the required advertisement for bids, with the cost of such advertising to be borne by the OWNER as a part of administrative expense. The ENGINEER will also attend the bid opening, tabulate the bids and assist the OWNER in evaluating the bids, and assist in the award of contracts and execution of contract documents. Unless otherwise required and stipulated in writing, the ENGINEER will be responsible for receiving requests for plans, collecting plans deposits, mailing bid documents, accepting returned plans, and returning applicable refunds.

Exhibit "B"
Proposal Summary (July 16, 2012)
Bradyville Pike

Breakdown by Phase

Phase	Neel-Schaffer	Neel-Schaffer Directs	Arcadis (Env. Docs)*	Adams (Surveying) **	KS Ware (Geotech)	SSR (Bid Docs)	Total By Phase
PE-NEPA	\$18,778.15		\$83,842.25	\$216,922.26			\$319,542.66
Preliminary	\$157,534.04	\$6,100.00					\$163,634.04
ROW/Final	\$317,789.24	\$14,100.00		\$42,512.42	\$86,859.35	\$8,234.76	\$469,495.77
Bidding	\$33,148.49	\$8,200.00				\$5,812.88	\$47,161.37
Total Fee							\$999,833.84

Arcadis (Env. Docs)*

Includes a Cost of \$8,099.80 for the Historical/Architectural Study (Thomason & Assoc) and a Cost of \$8,548.21 for the Archaeological Study (Panamerican Consultants).

Adams (Surveying) **

ROW/Final Survey Cost for Staking Centerline & Retaining Walls for Geotech \$ 14,448.77
ROW/Final Survey Cost for Staking Proposed ROW (1 times) \$ 28,063.65

Breakdown by Prime & Sub-Consultants

Firm	Responsibility	OH Rate	% Net Fee	Prime Fee	Sub Fees
Neel-Schaffer	Prime	152.91%	12.00%	\$555,649.92	
Arcadis	Env. Documents	149.28%	12.00%		\$67,194.24
Thomason & Assoc *	Histoical & Architectual Study	119.00%	10.00%		\$8,099.80
Panamerican Consultants **	Archaeological Study	127.17%	12.00%		\$8,548.21
Adams	Survey & Staking	155.00%	12.00%		\$259,434.68
KS Ware	Geotech	156.28%	12.00%		\$86,859.35
SSR	Review/Bid Docs	173.54%	12.00%		\$14,047.64
Sub-Totals				\$555,649.92	\$444,183.92
Total Fee				\$999,833.84	

Thomason & Assoc *

Sub-Consultant to Arcadis

Panamerican Consultants **

Sub-Consultant to Arcadis

ROUTE: Bradyville Pike (SR-99)
 DESCRIPTION: From SE Broad Street to Rutherford Blvd.
 COUNTY: Rutherford
 CONSULTANT: Neel-Schaffer
 Prepared By: Joe Deering
 Date Prepared: 7/16/2012

PE-NEPA Phase	Mandays					Total Per Task
	Project Manager	Senior Engineer	Engineer/ Designer	CADD Tech	Secretary	
Planning Meetings	2	2				4
Project Meetings with Reports	2	2				4
TDOT Coordination	1					1
Site Visits	2	2				4
Utility Coordination		1				13
Coordination with Environmental Sub		1				1
Coordination with Surveyor		2				2
TOTAL	7	10	0	0	0	17
% of Total Project	41.18%	58.82%	0.00%	0.00%	0.00%	100.00%

PERSONNEL	MANDAY RATE	MANDAYS	DIRECT LABOR COST
PROJECT MANAGER	\$440.00	7	\$3,080.00
PROJECT ENGINEER	\$360.00	10	\$3,600.00
ENGINEER/DESIGNER	\$264.00	0	\$0.00
CADD TECHNICIAN	\$200.00	0	\$0.00
SECRETARY	\$176.00	0	\$0.00
TOTAL NUMBER OF MANDAYS		17	\$6,680.00

FEE SUMMARY	
Direct Labor	\$6,680.00
Overhead 152.91%	\$10,214.39
Net Fee (Direct labor X 2.35 X 12%)	\$1,883.76
Total (Direct Labor+Overhead+Net Fee)	\$18,778.15
Direct Cost (Subs, See Page 2 for Details)	\$300,764.51
TOTAL	\$319,542.66

PE-NEPA PHASE DIRECT EXPENSES

ROUTE: Bradyville Pike (SR-99)				
DESCRIPTION: From SE Broad Street to Rutherford Blvd.				
COUNTY: Rutherford				
CONSULTANT: Neel-Schaffer				
Prepared By: Joe Deering				
Date Prepared: 7/16/12				
			Item Subtotal	Item Total Cost
Reproduction Costs:				
	Item Description	Number / Unit	Unit Price	
	Photo-copies		\$ -	
	Full size bond		\$ -	
	Half size bond		\$ -	
	Full size vellum		\$ -	
	Half size vellum		\$ -	
	Full size mylar		\$ -	\$ -
Travel:				
	Number of Trips	No. of Miles/No. of People		
Per Diem (75%)			\$ 22.50 Per Day	\$ -
Per Diem			\$ 30.00 Per Day	
Transportation	0.00 Round Trips	X 0.00 Miles X	\$ 0.47 Per Mile	\$ -
Lodging			\$ 45.00 Per Person	\$ -
* Rate must agree amounts in effect with State of Tennessee travel regulations First and last day of travel must be at the 75% Per Diem Rate.				
Other Expenses:				
	Item Description	Number / Unit	Unit Price	
	Environmental Sub (Arcadis)	1	\$ 83,842.25	\$ 83,842.25
	Surveying Sub (Adams)	1	\$ 216,922.26	\$ 216,922.26
			\$ -	
			\$ -	
			\$ -	
			\$ -	\$ 300,764.51
TOTAL DESIGN DIRECT EXPENSES				\$ 300,764.51

ROUTE: Bradyville Pike (SR-99)
 DESCRIPTION: From SE Broad Street to Rutherford Blvd.
 COUNTY: Rutherford
 CONSULTANT: Neel-Schaffer
 Prepared By: Joe Deering
 Date Prepared: 7/16/2012

Preliminary Design	Mandays					Total Per Task
	Project Manager	Senior Engineer	Engineer/ Designer	CADD Tech	Secretary	
Roadway & Traffic Signal Design						
Horizontal & Vertical Alignments	1	1	5	2		9
Typical Sections		1	1			2
Proposed Layout (EOP, etc)	1	1	5	1		8
H&H Analysis in Flood Area	1	4	7	3		15
Roadway Drainage Design	1	1	10			12
Private Drives		1	12	8		21
Cross-Sections		1	4			5
Set Proposed ROW		1	9	3		13
Acquisition Table			2	2		4
EPSC Plans (3 Phases)		1	4	2		7
Traffic Control	1		3	1		5
Plans Development		5	25	20		50
Signals - Prop Pole Locations (3 ints)		1	2			3
Internal QA/QC	1	2	5	2		10
Address Comments from Field Review		1	3	3		7
Sub-Total Roadway & Traffic Signal Design	6	21	97	47	0	171
Geotechnical Investigations						
Develop stakeout points			1			1
Retaining Wall Drawing		1	2			3
Coordination with Geotech & Surveyor	1					1
Sub-Total Geotechnical Investigations	1	1	3	0	0	5
Opinion of Probable Cost						
Develop Quantities		1	2	1		4
Develop Opinion of Probable Cost	1	1			2	4
Sub-Total Opinion of Probable Cost	1	2	2	1	2	8
Meetings & Coordination						
TDOT Coordination	1	1				2
Project Coordination & Reports	1	2			1	4
Utility Coordination	1	2			1	4
Field Review Meeting & Memo	1	2				3
Public Meeting Displays		1	3	1	1	6
Attend Public Meeting	1	1	1		1	4
Sub-Total Meetings & Coordination	4	8	4	1	4	21
TOTAL	12.5	32.5	106	49	6	206
% of Total Project	6.07%	15.78%	51.46%	23.79%	2.91%	100.00%

PERSONNEL	MANDAY RATE	MANDAYS	DIRECT LABOR COST
PROJECT MANAGER	\$440.00	12.5	\$5,500.00
PROJECT ENGINEER	\$360.00	32.5	\$11,700.00
ENGINEER/DESIGNER	\$264.00	106	\$27,984.00
CADD TECHNICIAN	\$200.00	49	\$9,800.00
SECRETARY	\$176.00	6	\$1,056.00
TOTAL NUMBER OF MANDAYS		206	\$56,040.00

FEE SUMMARY	
Direct Labor	\$56,040.00
Overhead 152.91%	\$85,690.76
Net Fee (Direct labor X 2.35 X 12%)	\$15,803.28
Total (Direct Labor+Overhead+Net Fee)	\$157,534.04
Direct Cost (Subs, See Page 4 for Details)	\$6,100.00
TOTAL	\$163,634.04

PRELIMINARY DIRECT EXPENSES

ROUTE: Bradyville Pike (SR-99) DESCRIPTION: From SE Broad Street to Rutherford Blvd. COUNTY: Rutherford CONSULTANT: Neel-Schaffer Prepared By: Joe Deering Date Prepared: 7/16/12				
			Item Subtotal	Item Total Cost
Reproduction Costs:				
	Item Description	Number / Unit	Unit Price	
	Photo-copies	500	\$ 0.20	\$ 100.00
	Full size bond	2000	\$ 2.00	\$ 4,000.00
	Half size bond	2000	\$ 1.00	\$ 2,000.00
	Full size vellum		\$ -	
	Half size vellum		\$ -	
	Full size mylar		\$ -	\$ 6,100.00
Travel:				
	Number of Trips	No. of Miles/No. of People		
Per Diem (75%)			\$ 22.50 Per Day	\$ -
Per Diem			\$ 30.00 Per Day	
Transportation	0.00 Round Trips	X 0.00 Miles	X \$ 0.47 Per Mile	\$ -
Lodging			\$ 45.00 Per Person	\$ -
* Rate must agree amounts in effect with State of Tennessee travel regulations First and last day of travel must be at the 75% Per Diem Rate.				
Other Expenses:				
	Item Description	Number / Unit	Unit Price	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
			\$ -	\$ -
TOTAL DESIGN DIRECT EXPENSES				\$ 6,100.00

ROUTE: Bradville Pike (SR-99)
 DESCRIPTION: From SE Broad Street to Rutherford Blvd.
 COUNTY: Rutherford
 CONSULTANT: Neel-Schaffer
 Prepared By: Joe Deering
 Date Prepared: 7/16/2012

ROW/Final Design	Mandays					Total Per Task
	Project Manager	Senior Engineer	Engineer/Designer	CADD Tech	Secretary	
Roadway & Traffic Signal Design (ROW)						
Develop ROW Plans per TDOT Checklist	3	9	60	35		107
Incorporate NEPA Document Commitments		1	1			2
Incorporate Geotech Recommendations		1	2			3
Address Public Hearing Comments		1	2			3
Finalize Retaining Wall Drawings		1	2			3
ROW Quantities		1	4	2		7
Legal Exhibits & Descriptions		2	65		3	70
Internal QA/QC	1	2	5	3		11
ROW Field Review & Memo	1	1				2
Address Comments from Field Review		1	5	3		9
Sub-Total ROW Plans	5	20	146	43	3	217
ROW Staking						
Develop ROW stakeout points			2			2
Coordination with Surveyor		1				1
Sub-Total ROW Staking	0	1	2	0	0	3
Roadway & Traffic Signal Design (Const)						
Develop Const. Plans per TDOT Checklist	3	5	55	30		93
Signal - Middle TN Blvd (Peds, Misc Mod)		1	2			3
Signal - Minerva (Re-Build)		1	4			5
Signal - S Rutherford (Re-Build)		1	4			5
Signal Detail Sheets (3 total)			3			3
Signal Special Notes, Std Dwgs			1			1
Const. Quantities		2	5	1		8
Internal QA/QC	2	2	4	2		10
Const. Field Review & Memo	1	1				2
Address Comments from Field Review		1	5	5		11
Sub-Total Const. Plans	6	14	83	38	0	141
Water Quality Permits						
SWPPP	1	3	6		1	11
General ARAP	1	2	4		1	8
Sub-Total Water Quality Permits	2	5	10	0	2	19
Opinion of Probable Cost (ROW & Final)						
Develop Opinion of Probable Cost	1	2				3
Sub-Total Opinion of Probable Cost	1	2	0	0	0	3
Constructability Review (ROW & Final)						
Coordination with Sub	1	1				2
Sub-Total Constructability Review	1	1	0	0	0	2
Meetings & Coordination (ROW & Final)						
TDOT Coordination	1	2				3
Project Coordination & Reports	3	3			2	8
Utility Coordination	2	4			2	8
Field Review Meetings	1	1				2
Assist with ROW Acquisition		8				8
Sub-Total Meetings & Coordination	7	18	0	0	4	29
TOTAL	22	61	241	81	9	414
% of Total Project	5.31%	14.73%	58.21%	19.57%	2.17%	100.00%

PERSONNEL	MANDAY RATE	MANDAYS	DIRECT LABOR COST
PROJECT MANAGER	\$440.00	22	\$9,680.00
PROJECT ENGINEER	\$360.00	61	\$21,960.00
ENGINEER/DESIGNER	\$264.00	241	\$63,824.00
CADD TECHNICIAN	\$200.00	81	\$16,200.00
SECRETARY	\$176.00	9	\$1,584.00
TOTAL NUMBER OF MANDAYS		414	\$113,048.00

FEE SUMMARY	
Direct Labor	\$113,048.00
Overhead 152.91%	\$172,861.70
Net Fee (Direct labor X 2.35 X 12%)	\$31,879.54
Total (Direct Labor+Overhead+Net Fee)	\$317,789.24
Direct Cost (Subs, See Page 6 for Details)	\$151,706.63
TOTAL	\$469,495.77

ROW/FINAL DIRECT EXPENSES

ROUTE: Bradyville Pike (SR-99)			
DESCRIPTION: From SE Broad Street to Rutherford Blvd.			
COUNTY: Rutherford			
CONSULTANT: Neel-Schaffer			
Prepared By: Joe Deering			
Date Prepared: 7/16/12			
			Item Subtotal
			Item Total Cost
Reproduction Costs:			
	Item Description	Number / Unit	Unit Price
	Photo-copies	500	\$ 0.20
	Full size bond	4000	\$ 2.00
	Half size bond	4000	\$ 1.00
	Full size vellum		\$ -
	Half size vellum		\$ -
	Full size mylar		\$ -
			\$ 12,100.00
Travel:			
	Number of Trips	No. of Miles/No. of People	
Per Diem (75%)			\$ 22.50 Per Day
Per Diem			\$ 30.00 Per Day
Transportation	0.00 Round Trips	X 0.00 Miles X	\$ 0.47 Per Mile
Lodging			\$ 45.00 Per Person
* Rate must agree amounts in effect with State of Tennessee travel regulations. First and last day of travel must be at the 75% Per Diem Rate.			
Other Expenses:			
	Item Description	Number / Unit	Unit Price
	Constructibility Review (SSR)	1	\$ 8,234.76
	ROW Staking (Adams)	1	\$ 28,063.65
	SWPPP Permit Fees	1	\$ 1,000.00
	ARAP Permit Fess	1	\$ 1,000.00
	Geotech Investigation (KS Ware)	1	\$ 86,859.35
	Staking for Geotech (Adams)	1	\$ 14,448.77
			\$ 139,606.53
TOTAL DESIGN DIRECT EXPENSES			\$ 151,706.53

ROUTE: Bradyville Pike (SR-99)
 DESCRIPTION: From SE Broad Street to Rutherford Blvd.
 COUNTY: Rutherford
 CONSULTANT: Neel-Schaffer
 Prepared By: Joe Deering
 Date Prepared: 7/16/2012

Bidding Phase	Mandays					Total Per Task
	Project Manager	Senior Engineer	Engineer/ Designer	CADD Tech	Secretary	
Utility Coordination	5	7				12
Bidding Documents		1			1	2
Contract Documents / Bid Proposal Documents		1				1
Spec Development to Meet Federal Requirements		1				1
Construction Plan Distribution		0.5		1	1	2.5
Pre-bid Meeting	1	1				2
Addenda / RFIs during Bid Process	1	2				3
Bid Opening	0.5	0.5				1
Bid Review	1	2				3
Recommendation of Contractor	1	1				2
TDOT Coordination		1				1
Assistance with Execution of Contract Documents	0.5	0.5				1
Water Quality Permits Update		0.5				0.5
						0
TOTAL	10	19	0	1	2	32
% of Total Project	31.25%	59.38%	0.00%	3.13%	6.25%	100.00%

PERSONNEL	MANDAY RATE	MANDAYS	DIRECT LABOR COST
PROJECT MANAGER	\$440.00	10	\$4,400.00
PROJECT ENGINEER	\$360.00	19	\$6,840.00
ENGINEER/DESIGNER	\$264.00	0	\$0.00
CADD TECHNICIAN	\$200.00	1	\$200.00
SECRETARY	\$176.00	2	\$352.00
TOTAL NUMBER OF MANDAYS		32	\$11,792.00

FEE SUMMARY	
Direct Labor	\$11,792.00
Overhead 152.91%	\$18,031.15
Net Fee (Direct labor X 2.35 X 12%)	\$3,325.34
Total (Direct Labor+Overhead+Net Fee)	\$33,148.49
Direct Cost (Subs, See Page 8 for Details)	\$14,012.88
TOTAL	\$47,161.37

BIDDING DIRECT EXPENSES

ROUTE: Bradyville Pike (SR-99) DESCRIPTION: From SE Broad Street to Rutherford Blvd. COUNTY: Rutherford CONSULTANT: Neel-Schaffer Prepared By: Joe Deering Date Prepared: 7/16/12					
				Item Subtotal	Item Total Cost
Reproduction Costs:					
	Item Description	Number / Unit	Unit Price		
	Photo-copies	2000	\$ 0.20	\$ 400.00	
	Full size bond	3000	\$ 2.00	\$ 6,000.00	
	Half size bond			\$ -	
	Full size vellum			\$ -	
	Half size vellum			\$ -	
	Full size mylar			\$ -	\$ 6,400.00
Travel:					
	Number of Trips	No. of Miles/No. of People			
Per Diem (75%)			\$ 22.50 Per Day	\$ -	
Per Diem			\$ 30.00 Per Day		
Transportation	0.00 Round Trips	X 0.00 Miles	X \$ 0.47 Per Mile	\$ -	
Lodging			\$ 45.00 Per Person	\$ -	\$ -
* Rate must agree amounts in effect with State of Tennessee travel regulations. First and last day of travel must be at the 75% Per Diem Rate.					
Other Expenses:					
	Item Description	Number / Unit	Unit Price		
	Bidding Assistance (SSR)	1	\$ 5,812.88	\$ 5,812.88	
	Bid Advertisement	1	\$ 1,500.00	\$ 1,500.00	
	Bid Books Binding	20	\$ 15.00	\$ 300.00	
				\$ -	
				\$ -	
				\$ -	
				\$ -	
				\$ -	\$ 7,612.88
TOTAL DESIGN DIRECT EXPENSES					\$ 14,012.88



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
FINANCE DIVISION
SUITE 800, JAMES K. POLK BUILDING
NASHVILLE, TENNESSEE 37243-0349
(615) 741-2261

July 12, 2010

Clark Robinson, Chief Financial Officer
Neel-Schaffer, Inc.

Dear Mr. Robinson,

The Tennessee Department of Transportation (TDOT) External Audit Section received your company's Statement of Direct Labor, Fringe Benefits, and General Overhead for the year ended December 31, 2010, which was audited for compliance with the accounting principles prescribed by Federal Acquisition Regulation Part 31. TDOT External Audit reviewed the Independent Auditors Report prepared by Carr Riggs & Ingram, LLC and concurs with the report.

In addition, an indirect cost rate has been developed in accordance with TDOT Policy No. 301-01 for 100% state funded projects.

We accept the following rates, which include the FCCM rate:

	Federally Funded	State Funded ¹
Home Office	152.91%	145.00%
Field Office	119.50%	119.50%

¹ Indirect cost rates are capped at 145% for projects that are 100% funded by the State.

This letter is not a cognizant letter and is solely for the use of TDOT and Neel-Schaffer, Inc.

If you have any questions, please feel free to contact me.

Sincerely,

Richard Emerson, Fiscal Director
Phone: (615) 253-4273
Fax: (615) 253-4274
Richard.Emerson@tn.gov

TENNESSEE DEPARTMENT OF TRANSPORTATION
MANDAY ESTIMATE AND FEE PROPOSAL

For Survey Only

Bradyville Pike

From Southeast Broad (US-41) to Rutherford Blvd.

Rutherford County

Project Identification Number (PIN): <000000.00>

General Comments:

PE-NEPA Phase

Adams & Company Surveyors, LLC

Ed Adams

783 Old Hickory Blvd., Suite 102 East Brentwood, TN 37027

(615) 370-8830

(615) 370-8845

edams@aol.com

Prepared By:

Ed Adams

Date prepared:

7/14/2012

Project No.:

<00000-0000-00>



Version 2.23

SURVEY SUMMARY
PE-NEPA Phase



Survey Summary

Route: Bradyville Pike 7/14/2012

Description: From Southeast Broad (US-41) to Rutherford Blvd.

County: Rutherford

Consultant: Adams & Company Surveyors, LLC

Prepared By: Ed Adams

Project No.: <00000-0000-00>

Mainline Project Length: (miles)

Number of Sideroads: Length: (feet)

Office Travel Time per day (hrs):

Crew Travel Time per day (hrs):

Crew Work per day (hrs):

Number of Existing Lanes:

Proposed:

Number of Driveways/Ramps:

Location:

Existing Road:

Rural:

New Alignment:

Urban:

Business:

Rural Land Character: Woods:

Terrain: Flat

Pasture:

Rolling:

Cultivated:

Hilly:

Mountains:

Distance to Nearest Benchmark: miles

Number of Survey Updates:

R.O.W. Staking:

Iron Pins

Aerial Mapping Available: ☐ YES

1 Stake Points

☒ NO

2 Stake Points

Approximate Obscured Area:

Use 100% if no mapping is available.

Proposed DTM Width: (ft)

Geotechnical Staking:

Points

Drainage:

Approx. Number of Culvert Sites:

Number of Bridges: Small:

Medium

Large:

Approx. Number of Property Tracts:

Number of Railroad Crossings:

Indicate Utilities Present: Elect. ☒

Telephone ☒

Cable TV: ☒

Water ☒

Sewer ☒

Gas: ☒

Fiber Optic ☒

Petroleum Pipeline: ☐

Comments on Difficulty, Conditions or Other Considerations:

INPUT SIDEROADS LT & RT OF CENTERLINE	
Sideroad Name	Length (feet)
Bellwood Drive	100
West Side Court	100
MTSU Blvd East	200
MTSU Blvd West	200
Toddington Drive	100
Tyler Drive	100
Wismar Court	100
Manor Drive	100
Parkview Terrace	200
Lakeshore Drive North	100
Lakeshore Drive South	100
South Baird Lane	100
Minerva Drive North	100
Minerva Drive South	100
Rogers Street	100
Greerson Drive	100
O'Brien Drive	100
Carolyn Court	100
Ransom Drive	100
South Rutherford Blvd East	200
South Rutherford Blvd West	200
South East Broad Street East	400
South East Broad Street West	400
Total Length	
3400	

Version 2.23

SURVEY MANDAY ESTIMATE
PE-NEPA Phase

ESTIMATE FOR FIELD SURVEYS

PROJECT DESCRIPTION:

Version 2.23

Route: Bradyville Pike
Description: From Southeast Broad (US-41) to Rutherford Blvd.
County: Rutherford Prepared By: Ed Adams
Consultant: Adams & Company Surveyors, LLC Date Prepared: 7/14/2012
Project No.: <00000-0000-00>

TOTAL LENGTH(miles): 2.40
OFFICE TRAVEL TIME PER DAY(hrs): 1.50
CREW TRAVEL TIME PER DAY(hrs): 1.50

ACTIVITY	PROJECT MANAGER	OFFICE CADD TECH.	PARTY CHIEF	INSTRUMENT MAN	RODMAN	RODMAN	FLAGGER	FLAGGER	Total
	PM	O	P	I	R	R	F	F	
1. Establish & Stake Alignments									
2. Update Survey									
3. Control Traverses	1.3	0.4	1.6	1.6	1.6	1.6			8.1
4. Set Aerial Control									
5. Bench Levels	0.4	0.4	1.3	1.3	1.3	1.3			6.0
6. Develop Digital Terrain Model	1.4	2.3	8.3	8.3	8.3	8.3			36.9
7. R.O.W., Deed & Utility Research	9.3	6.2							15.5
8. Property Owner Contact	12.4		12.4						24.8
9. Locate Property & Pres. R.O.W. Lines	18.6	18.6	31.0	31.0	31.0	31.0			161.2
10. Obtain Topo/Verify Aerial	0.8	2.6	11.6	11.6	11.6	11.6			49.8
11. Drainage Surveys (Culverts)	0.2	0.2	0.8	0.8	0.8	0.8			3.6
12. Bridge Surveys (bridge details, stream alignment, topo, profile, flood plain sections, high water, etc.									
13. Railroad Surveys									
14. Utilities	0.4	1.0	6.4	6.4	6.4	6.4			27.0
15. Stake R.O.W. & Easements									
16. Stake Sounding Holes									
17. Note Reduction & other Calculations	2.4								2.4
18. Plot Plan, Profiles, Property Map, Drainage Map, Bridge Survey, Control Point Table, etc.	1.0	3.9							4.9
19. Supervision	2.4								2.4
20. Travel Time (8 HOUR MAN-DAYS)	0.6	0.2	16.9	14.1	14.1	14.1			60.0
TOTALS (8 HOUR MAN-DAYS)	51.2	35.8	90.3	75.1	75.1	75.1			402.6
21. Travel Time (10 HOUR MAN-DAYS)	0.6	0.2	13.0	10.8	10.8	10.8			46.2
TOTALS (ADJ. TO 8 & 10 HR MAN-DAYS)			68.9	57.2	57.2	57.2			327.5
TOTAL CALENDAR DAYS SAVED			21.4	17.9	17.9	17.9			

SURVEY MANDAY ESTIMATE
PE-NEPA Phase

PROJECT DESCRIPTION:

Version 2.23

Route: Bradyville Pike
Description: From Southeast Broad (US-41) to Rutherford Blvd.
County: Rutherford
Consultant: Adams & Company Surveyors, LLC
Project No.: <00000-0000-00>
TOTAL LENGTH(miles): 2.40
Date Prepared: 7/14/2012 Prepared By: Ed Adams

	OFFICE DIFFICULTY	FIELD DIFFICULTY	REMARKS
Align.	0.0	0.0	
Update	1.0	1.0	0 Survey Updates
Control	1.0	1.0	
Aerial	0.0	0.0	0 0 NUMBER HORIZONTAL & NUMBER VERTICAL POINTS
Levels	1.0	1.0	ZERO IF NOT REQUIRED
DTM	1.0	1.0	100% PERCENT SKIPS 175 DTM WIDTH(feet)
Research	1.0	1.0	186 NUMBER OF TRACTS
Contacts	1.0	1.0	
Property	1.0	1.0	DO NOT EDIT THESE CELLS
Topo	1.0	1.0	
Culverts	1.0	1.0	
Bridges	1.0	1.0	0 0 0 NUMBER OF SMALL, MEDIUM, LARGE BRIDGES
RR	1.0	1.0	0 NUMBER OF RR CROSSINGS
Utilities	1.0	1.0	7 Number of Different Utilities Involved
R.O.W.	1.0	1.0	DO NOT EDIT THESE CELLS
Geotech.	1.0	1.0	
	1.0		0 0 0 Number of IP's, 1-stake, 2-stakes
Plotting	1.0		0 Number of Geotechnical Staking Points
	1.0		131.4 10 - Hr MD/MILE not including travel
	1.0	1.0	153.0 10 - Hr MD/MILE
			160.1 8 - Hr MD/MILE not including travel
			188.1 8 - Hr MD/MILE

SURVEY LABOR DIRECT EXPENSES
PE-NEPA Phase

SURVEY DIRECT LABOR COST

PROJECT DESCRIPTION:

ROUTE: Bradyville Pike
DESCRIPTION: From Southeast Broad (US-41) to Rutherford Blvd.
COUNTY: Rutherford
CONSULTANT: Adams & Company Surveyors, LLC
TOTAL LENGTH(miles): 2.78

Prepared By: Ed Adams
Date Prepared: 7/14/2012

	Abbrev.	Personnel Classification	8 - Hr Man-Days	10 - Hr Man-Days	Approved Hours	Rate Per Hr	Direct Labor	* Premium
1	PM	PROJECT MANAGER	51.2		8.0	\$ 39.16	\$ 16,039.94	
2	O	OFFICE CADD TECH.	35.8		8.0	\$ 35.00	\$ 10,024.00	
3	P	PARTY CHIEF	90.3	68.9	10.0	\$ 29.64	\$ 20,421.96	\$ 2,042.20
4	I	INSTR. MAN	75.1	57.2	10.0	\$ 17.50	\$ 10,010.00	\$ 1,001.00
5	R	RODMAN	75.1	57.2	10.0	\$ 15.00	\$ 8,580.00	\$ 858.00
6	R	RODMAN	75.1	57.2	10.0	\$ 15.00	\$ 8,580.00	\$ 858.00
7	F	FLAGGER	0.0	0.0	10.0	\$ 12.00	\$ -	\$ -
8	F	FLAGGER	0.0	0.0	10.0	\$ 12.00	\$ -	\$ -
		TOTALS	402.6	240.5			\$ 73,855.90	\$ 4,759.20
		TOTALS (Combined 8 & 10 Hour Days)		327.5				


Average Direct Labor Cost Per (Combined 8 - Hour & 10 - Hour) Man-Day	\$ 224.90
Modified 8 - Hour Labor Cost Per Man-Day	\$ 190.02

* Premium Labor is only eligible if the survey crew works greater than a 40 hour work week.

Version 2.23

SURVEY LABOR DIRECT EXPENSES
PE-NEPA Phase

Version 2.23

SURVEY DIRECT EXPENSES						
PROJECT DESCRIPTION: ROUTE: Bradyville Pike DESCRIPTION: From Southeast Broad (US-41) to Rutherford Blvd. COUNTY: Rutherford CONSULTANT: Adams & Company Surveyors, TOTAL LENGTH(miles): 2.78						
				Prepared By: Ed Adams Date Prepared: 7/14/2012 Project No.: <00000-0000-00>		
				Item Subtotal	Item Total Cost	
Reproduction Costs						
	Item Description	Number / Unit	Unit Price			
	Xerographic Bond	2	\$ 49.04	\$	\$ 98.08	
	Blue-line Fullsize	242	\$ 0.25	\$	\$ 60.50	
	Photo-Copies	242	\$ 0.25	\$	\$ 60.50	
	Deeds	242	\$ 0.50	\$	\$ 121.00	
				Subtotal	\$	340.08
Travel						
Survey Crew Travel Calculations						
From:	Brentwood, TN					
To:	Murfreesboro, TN					
	Number of Trips	No. of Miles/No. of People	* RATE			
Travel Day Per Diem	14.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$	\$ -	
Non Travel Day Per Diem	56.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$	\$ -	
Transportation	69.00 Man-Days	X 90.00 Miles X	\$ 0.47 Per Mile	\$	\$ 2,918.70	
Lodging	56.00 Nights	X 0.00 People X	\$ 0.00 Per Person	\$	\$ -	
				Subtotal	\$	2,918.70
Office Personnel Travel Calculations						
From:	Brentwood, TN					
To:	Murfreesboro, TN					
	Number of Trips	No. of Miles/No. of People	* RATE			
Travel Day Per Diem	0.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$	\$ -	
Non Travel Day Per Diem	0.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$	\$ -	
Transportation	4.00 Round Trips	X 90.00 Miles X	\$ 0.47 Per Mile	\$	\$ 169.20	
Lodging	0.00 Nights	X 0.00 People X	\$ 0.00 Per Person	\$	\$ -	
				Subtotal	\$	169.20
Other Expenses						
	Item Description	Number / Unit	Unit Price			
	FIELD BOOK	1	\$ 6.55	\$	\$ 6.55	
	PK NAILS	2	\$ 12.99	\$	\$ 25.98	
	PAINT	12	\$ 4.00	\$	\$ 48.00	
	FLAGGING	12	\$ 1.00	\$	\$ 12.00	
	STAKES (BUNDLES)	2	\$ 25.00	\$	\$ 50.00	
		0	\$ -	\$	\$ -	
		0	\$ -	\$	\$ -	
				Subtotal	\$	142.53
TOTAL DIRECT EXPENSES					\$	3,570.51

* Rate must agree with most current State of Tennessee travel regulations.
First and last day of travel must be at the 75% Per Diem Rate.

FEE PROPOSAL
PE-NEPA Phase

FEE PROPOSAL									
ROUTE:	Bradyville Pike				Project No.:	<00000-0000-00>			
DESCRIPTION:	From Southeast Broad (US-41) to Rutherford Blvd				PIN No.:	<000000.00>			
COUNTY:	Rutherford								
CONSULTANT:	Adams & Company Surveyors, LLC								
Prepared By:	Ed Adams								
Date Prepared:	7/14/2012								
COMPLETE SURVEY SHEETS FIRST IF SURVEY IS INCLUDED IN THE CONTRACT.									
PROCEED WITH FEE PROPOSAL IF SURVEY IS NOT INCLUDED.									
This sheet computes percent net fee and performs fee proposal calculations for each phase of the project and total project.									
Enter the appropriate overhead rate & fill in shaded boxes that apply for each phase. Version 2.23									
Data For Fee Calculations									
Overhead Rate =		1.5500		**					
** (State Project Maximum overhead rate = 1.45)									
** (Federal Project Maximum overhead rate per External Audit Report)									
Design Direct Labor =		\$ -							
Survey Direct Labor =		\$ 73,655.90							
Total Direct Labor =		\$ 73,655.90							
Cost for net fee basis =		\$ 187,822.53		*		NOTE: Net Fee for Supplements shall be the same			
Net Fee = (Rounded to Nearest Tenth)		12.0%		*		as the original contract. It may be necessary			
to modify net fee calculated on supplement requests.									
* Net fee is based on cost of contract not including direct cost and net fee as follows:									
Survey & Design / Design Only Rates					Survey Only Rates				
\$ 0 - \$ 100,000 =		13.0%		\$ 0 - \$ 50,000 =		13.0%			
\$ 100,000 - \$ 500,000 =		12.5%		\$ 50,000 - \$ 200,000 =		12.5%			
> \$ 500,000 =		12.0%		> \$ 200,000 =		12.0%			
(Place X in adjacent box to remove instructions prior to printing.)									
SURVEYS									
						COST FOR	COST FOR	SAVINGS FOR	
						10 - Hr Days	8-HR DAY	10 - Hr Days	
1	Direct Labor				=	\$ 73,655.90	\$ 76,013.87	\$ 2,357.97	
2	Overhead	(Overhead Rate = 1.5500)			=	\$ 114,166.65	\$ 117,821.50	\$ 3,654.85	
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2				=	\$ 187,822.55	\$ 193,835.37	\$ 6,012.82	
4	Net Fee =	12.0%		(Rounded to nearest \$10.)	=	\$ 20,770.00	\$ 21,435.91	\$ 665.91	
	(Direct labor X 2.35 X 0.NF)								
5	Subtotal 3 + 4				=	\$ 208,592.55	\$ 215,271.28	\$ 6,678.73	
6	Direct Expense				=	\$ 3,570.51	\$ 4,501.11	\$ 930.60	
7	Premium Labor				=	\$ 4,759.20	\$ -	\$ (4,759.20)	
	(Premium Labor is only eligible if the survey crew works greater than a 40 hour work week.)								
8	Total Survey				=	\$ 216,922.26	\$ 219,772.39	\$ 2,850.13	
	(Total 5 + 6 + 7)								

FEE PROPOSAL
PE-NEPA Phase

Version 2.23									
Preliminary Design									
1	Direct Labor				=	\$	-		
2	Overhead	(Overhead Rate = 1.5500)			=	\$	-		
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2				=	\$	-		
4	Net Fee = 12.0%		(Rounded to nearest \$10.)		=	\$	-		
	(Direct labor X 2.35 X 0.NF)								
5	Subtotal 3 + 4				=	\$	-		
6	Direct Expense				=	\$	-		
7	Premium Labor				=	\$	-		
8	Total Preliminary Plans				=	\$	-		
	(Total 5 + 6 + 7)								
Right-of-Way Design									
1	Direct Labor				=	\$	-		
2	Overhead	(Overhead Rate = 1.5500)			=	\$	-		
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2				=	\$	-		
4	Net Fee = 12.0%		(Rounded to nearest \$10.)		=	\$	-		
	(Direct labor X 2.35 X 0.NF)								
5	Subtotal 3 + 4				=	\$	-		
6	Direct Expense				=	\$	-		
7	Premium Labor				=	\$	-		
8	Total Right-of-Way Plans				=	\$	-		
	(Total 5 + 6 + 7)								

FEE PROPOSAL
PE-NEPA Phase

Version 2.23									
Construction Design									
1	Direct Labor				=	\$	-		
2	Overhead	(Overhead Rate = 1.5500)			=	\$	-		
	(Overhead rate X direct labor)								
3	Subtotal	1 + 2			=	\$	-		
4	Net Fee =	12.0%		(Rounded to nearest \$10.)	=	\$	-		
	(Direct labor X 2.35 X 0.NF)								
5	Subtotal	3 + 4			=	\$	-		
6	Direct Expense				=	\$	-		
7	Premium Labor				=	\$	-		
8	Total Construction Plans				=	\$	-		
	(Total 5 + 6 + 7)								
Total Project									
1	Direct Labor				=	\$	73,655.90		
	(Sum of Survey, Prel., R.O.W., & Const. Direct Labor)								
2	Overhead	(Overhead Rate = 1.5500)			=	\$	114,166.65		
	(Overhead rate X direct labor)								
3	Subtotal	1 + 2			=	\$	187,822.55		
4	Net Fee =	12.0%		(Rounded to nearest \$10.)	=	\$	20,770.00		
	(Sum of Survey, Prel., R.O.W., & Const. Net Fee)								
5	Subtotal	3 + 4			=	\$	208,592.55		
6	Direct Expense	(Itemize and attach)			=	\$	3,570.51		
	(Sum of Survey, Prel., R.O.W., & Const. Direct Expenses)								
7	Premium Labor				=	\$	4,759.20		
	(Sum of Survey, Prel., R.O.W., & Const. Premium Labor)								
8	Total Project				=	\$	216,922.26		
	(Total 5 + 6 + 7)								
Total Contract						\$	216,922.26		
DESIGN COST PER MILE							#DIV/0!		
SURVEY COST PER MILE						\$	97,473.15		
TOTAL COST PER MILE							#DIV/0!		

FEE PROPOSAL SUMMARY

FEE PROPOSAL SUMMARY
PE-NEPA Phase

ROUTE: Bradyville Pike
 DESCRIPTION: From Southeast Broad (US-41) to Ruther PIN No.:
 COUNTY: Rutherford
 CONSULTANT: Adams & Company Surveyors, LLC
 Prepared By: Ed Adams

Project No.:

<00000-0000-00>

<000000.00>

Date Prepared: 7/14/2012
 mark the appropriate box below an values for the initial ceiling will be calculated.

Version 2.23

Survey Fee Proposal Summary								
	Direct Labor	Overhead	Subtotal Direct Labor & Overhead	Net Fee	Subtotal Direct Labor, Overhead, & Net Fee	Direct Expense	Premium Labor	Total Phase
SURVEY	\$ 73,655.90	\$ 114,166.65	\$ 187,822.55	\$ 20,770.00	\$ 208,592.55	\$ 3,570.51	\$ 4,759.20	\$ 216,922.26

Design Fee Proposal Summary								
	Direct Labor	Overhead	Subtotal Direct Labor & Overhead	Net Fee	Subtotal Direct Labor, Overhead, & Net Fee	Direct Expense	Premium Labor	Total Phase
PRELIMINARY PLANS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
RIGHT-OF-WAY PLANS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal Preliminary & Right-of-Way Plans	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CONSTRUCTION PLANS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal Preliminary, R.O.W., & Construction Plans	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Survey & Design	\$ 73,655.90	\$ 114,166.65	\$ 187,822.55	\$ 20,770.00	\$ 208,592.55	\$ 3,570.51	\$ 4,759.20	\$ 216,922.26

(Place a X in appropriate box indicating the point of the initial contract ceiling. Only one (1) block should have an X placed.)

(Note: (Survey thru Const. Plans) can be checked if no initial contract ceiling is to be set)

<input type="checkbox"/>	Survey
<input type="checkbox"/>	Survey thru Prel. Plans
<input type="checkbox"/>	Survey thru R.O.W. Plans
<input type="checkbox"/>	Survey thru Const. Plans
<input type="checkbox"/>	Prel. Plans
<input type="checkbox"/>	Prel & R.O.W. Plans
<input type="checkbox"/>	Prel. Thru Const. Plans

INITIAL CONTRACT CEILING								
	Direct Labor	Overhead	Subtotal Direct Labor & Overhead	Net Fee	Subtotal Direct Labor, Overhead, & Net Fee	Direct Expense	Premium Labor	Total Ceiling
Contract will initially be authorized for:								

(Place X in adjacent box to remove instructions prior to printing.)



Mrs. Greg Judy, PE
Neel-Schaffer, Inc.
210 25th Avenue North
Suite 800
Nashville, TN 37203

Subject:
D-List Categorical Exclusion
From US-41 to Rutherford Boulevard, Murfreesboro, Tennessee
Rutherford County

Dear Mr. Judy:

ARCADIS is pleased to submit a revised cost estimate to complete the D-List Categorical Exclusion (CE) document for the above referenced project. The cost estimate has been revised per your comments. We have also made revisions based on our latest audited overhead rate, which we received after providing our previous estimate.

ARCADIS will complete the D-List CE and associated public involvement and environmental studies for \$83,842.25. The work for this project will be completed in accordance with the *Tennessee Environmental Procedures Manual* and coordinated through TDOJ's Office of Local Programs.

If you have any questions or would like to discuss further, please do not hesitate to contact me or Parrish Strickland at 334.273.0200, Ext.14.

Sincerely,

ARCADIS U.S., Inc.

Brian Whitaker, P.E.
Vice President
Attachment(s)

ARCADIS U.S., Inc.
1210 Premier Drive
Suite 200
Chattanooga
Tennessee 37421
Tel 423.756.7193
Fax 423.756.7197
www.arcadis-us.com

INFRASTRUCTURE

Date:
July 16, 2012

Contact:

Brian Whitaker Phone:
423.756.7193

Email:
Brian.whitaker@arcadis-us.com

Imagine the result

**ARCADIS Scope of Work
Bradyville Pike Improvement Project
From US-41 to Rutherford Boulevard
Murfreesboro, Tennessee
05/24/2012**

All items to be completed under this scope of work will be completed in accordance with the *Tennessee Environmental Procedures Manual* and coordinated through TDOT's Office of Local Programs.

1. Public and Agency Involvement

- a) ARCADIS will assist the City in the preparation of a project notice to be placed on the City Council's meeting agenda and presented for the record at the City Council's meeting. ARCADIS will also assist the City with periodic project updates to be placed on the City's website for public viewing.
- b) If a public meeting is deemed to be needed, ARCADIS will assist in the preparation of maps, displays etc. showing project and environmental features and constraints for presentation to the public. ARCADIS will also prepare handouts with project descriptions and comment cards for meeting participants in order to obtain public opinion/comments regarding the project. This scope includes a maximum of one (1) public meeting.
- c) ARCADIS will gather the comments received at the public meeting and prepare a summary of the meeting for the project record and for inclusion in the CE document.

2. Ecology

- a) A field survey will be conducted for the project that will identify and describe terrestrial and aquatic habitats to be impacted by the proposed project. The field survey will identify any specialized terrestrial features such as sinkholes or caves, and aquatic features such as streams, springs, seeps, wetlands and ponds that could be impacted by the proposed project.
- b) The locations of each of these features will be mapped and described in an Ecological Report, along with a description of impacts and any mitigation measures and permits deemed to be needed for the project. The ecological survey and report will be completed in accordance with the *Tennessee Environmental Procedures Manual* and the *TDOT Scope of Work for Ecological Studies, 2010*.

3. Hazardous Materials

- a) A Phase I Environmental Site Assessment (ESA) will be prepared to identify potential hazardous materials and underground storage tank sites in the vicinity of the proposed road alignment. The Work will be accomplished in accordance with the Environmental Divisions Environmental Procedures Manual. A baseline of conditions will be established for the area using updated files maintained by regulatory agencies (to be acquired through Environmental Data Resources). Once this information has been gathered, a field review will be conducted to determine whether there are other, unrecorded sites with potential contamination issues. In addition to a records investigation and field review, the Phase I Site Assessment may also involve interviews with property owners and regulatory agency personnel in order to collect historic land use information.
- b) The results of the Phase I Environmental Site Assessment (ESA) will be summarized in a Phase I ESA Report. The Phase I ESA will involve no sampling and/or testing for contaminated materials. If it is determined that a Phase II ESA is needed, the work may be accomplished under a separate contract or through a supplemental agreement.

**ARCADIS Scope of Work
Bradyville Pike Improvement Project
From US-41 to Rutherford Boulevard
Murfreesboro, Tennessee
05/24/2012**

4. Floodplains

- a) ARCADIS will conduct a floodplain finding which will involve the identification and mapping of the base floodplain, estimated acreage of impact, and type of impact.

5. Historic/Architectural Survey

A Historic/Architectural Survey will be conducted in accordance with the attached scope of work (See attached Scope of Work and Estimate from Thomason & Associates). The historic architecture survey will be conducted in accordance with 36 CFR 800 and will adhere to the guidelines of the Tennessee Historical Commission's *Historical and Architectural Survey Manual* and applicable TDOT guidelines.

6. Archaeological Survey

A Phase I Archaeological Survey will be conducted in accordance with the attached scope of work (See attached Scope of Work and Estimate from Panamerican Consultants, Inc). All work conducted will be consistent with Section 106 (36 CFR 800), and meet the Tennessee SHPO and the current TDOT guideline (Hodge and Kline 2006) guidelines for Phase I archaeological assessments.

7. D-List CE Document

- a) ARCADIS will complete a Purpose and Need document per TDOT requirements for local programs projects.
- b) ARCADIS will complete a D-List Categorical Exclusion Document to document and summarize public and agency involvement and the findings of the above studies.
- c) ARCADIS will revise the D-List Document per TDOT and FHWA comments.

8. Items to be provided by Neel-Schaffer

- a) Available aerial mapping in GIS format (or any other GIS mapping that is available).
- b) Preliminary project plans – must be delivered prior to beginning of technical studies.

***Assumptions of Scope**

This scope assumes that any work involving protected species will be handled through a separate contract. Scope also does not include budget for a Section 4(f) study, CO hot-spot analysis, a P.M 2.5 analysis, or quantitative noise modeling (such as TNM modeling). Also, this scope assumes the project will be processed as a D-List Document, and that the TESA process will not be incorporated into this project as the *Tennessee Environmental Procedures Manual* requires for EA and EIS documents. If the project is elevated to an EA or EIS, additional man-hours will be needed.

**D-LIST CATEGORICAL EXCLUSION, PUBLIC INVOLVEMENT AND ENVIRONMENTAL STUDIES
BRADYVILLE PIKE IMPROVEMENT PROJECT
MURFREESBORO, TENNESSEE**

TERMINI: FROM US-41 TO RUTHERFORD BOULEVARD

COUNTY: RUTHERFORD

CONSULTANT: ARCADIS U.S., INC.

SCOPE OF STUDIES: D-LIST CATEGORICAL EXCLUSION, PUBLIC INVOLVEMENT AND ENVIRONMENTAL STUDIES

DATE: JULY 2012

TASK	Hours Per Personnel Classification						
	PROJ MGR	ENVIRONMENTAL PLANNER	BIOLOGIST	ECOLOGIST	GEOLOGIST	GIS TECH	CLERICAL
1.0 Public and Agency Involvement							
a. Assist with City Council Meeting/Website Updates	2	16				8	
b. Prepare for and Attend Public Involvement Meeting	12	32				16	4
c. Gather Comments and Summarize Public Meeting	1	8					
Subtotal - Public and Agency Involvement	15	56	0	0	0	24	4
2.0 Ecology*							
a. Ecological Field Studies	8		47	89		28	4
b. Ecological Report	4		43	100		16	12
Subtotal - Ecology	12	0	90	189	0	44	16
3.0 Hazardous Materials							
a. Site Inspection, Documentation Review	3				24		
b. Prepare Phase I Hazardous Materials Report	8				40	12	10
Subtotal-Hazardous Materials	11	0	0	0	64	12	10
4.0 Floodplain Impacts							
a. Floodplain Analysis, Mapping And Finding		8				8	
Subtotal-Floodplain Impacts	0	8	0	0	0	8	0
5.0 Historical/Architectural Study**							
Subtotal-Noise	*See Attached Estimate and Scope						
6.0 Archaeological Study***							
Subtotal-Cultural Resources Study	**See Attached Estimate and Scope						
7.0 Categorical Exclusion Document							
a. Gather existing information, constraints, plans, etc.		16					
b. Purpose and Need Document	8	24					
c. Prepare D-List CE and Appendices	2	24				8	4
d. Revise Document Per TDO and FHWA Comments	2	16				2	2
Subtotal- Prepare D-List Form	12	80	0	0	0	10	6
TOTAL MAN-HOURS	50	144	90	189	64	98	36

* If Protected species or their critical habitats are discovered, protected species studies will be conducted under a separate contract.

** See attached scope and estimate submitted by Thomason & Associates.

*** See attached scope and estimate submitted by Panamerican Consultants, Inc.

COST ESTIMATE SUMMARY

Labor Costs

Project Manager	50	Hours	@	\$ 55.00	:	\$	2,750.00
Environmental Planner	144	Hours	@	\$ 45.00	:	\$	6,480.00
Biologist	90	Hours	@	\$ 35.00	:	\$	3,150.00
Ecologist	189	Hours	@	\$ 30.00	:	\$	5,670.00
Geologist	64	Hours	@	\$ 30.00	:	\$	1,920.00
GIS Tech	98	Hours	@	\$ 25.00	:	\$	2,450.00
Clerical	36	Hours	@	\$ 25.00	:	\$	900.00

Total Labor Costs \$ 23,320.00

Overhead (149.28%): \$ 34,812.10

Fixed Fee (Based on Direct Labor X 2.35 X 0.12) \$ 6,576.24

Direct Costs (Includes Subconsultants)

Travel Costs (See Attached Breakdown)	\$	2,485.90
Historical/Architectural Study (Thomason & Associates)	\$	8,099.80
Archaeological Study (Panamerican consultants, Inc.)	\$	8,548.21

Total Direct Costs: \$ 19,133.91

Total Project Costs: \$ 83,842.25

TRAVEL COSTS

1.0 Public Involvement

Mileage	350 miles	@	0.47 /mile	<u>\$164.50</u>
<i>Public Involvement Subtotal:</i>				<u>\$164.50</u>

2.0 Ecology

Mileage	1,220 miles	@	\$0.47 /mile	\$573.40
Per Diem (half days)	4 days	@	\$34.50 /day	\$138.00
Per Diem (full days)	2 days	@	\$46.00 /day	\$92.00
Lodging	4 night	@	\$77.00 /night	<u>\$308.00</u>
<i>Ecology Subtotal:</i>				<u>\$1,111.40</u>

3.0 Hazardous Materials

EDR Corridor Report	1 report	@	\$900.00 /report	\$900.00
Mileage (per State rates)	500 miles	@	\$0.47 /mile	\$235.00
Reproductions at TDEC	1 unit	@	\$75.00 /unit	<u>\$75.00</u>
<i>Hazardous Materials Subtotal:</i>				<u>\$1,210.00</u>

Total \$2,485.90



**COST PROPOSAL TO
ARCADIS INC.**

**ARCHITECTURAL AND HISTORICAL SURVEY
AND DOCUMENTATION OF EFFECTS
FOR THE PROPOSED IMPROVEMENTS OF
BRADYVILLE PIKE (SR 99)
MURFREESBORO, RUTHERFORD COUNTY, TENNESSEE**

**THOMASON AND ASSOCIATES
PRESERVATION PLANNERS, NASHVILLE, TN**

SCOPE OF WORK

Thomason and Associates, Preservation Planners (Contractor) does hereby submit a cost proposal to complete an architectural and historical survey and documentation of effects for the proposed improvements to Bradyville Pike (SR 99) extending 2.1 miles from SE. Broad Street to S. Rutherford Boulevard in Murfreesboro, Tennessee. The Contractor proposes to complete the following scope of work in order to meet these requirements.

- The architectural and historical survey will be completed in accordance with standards set forth by the Tennessee Department of Transportation (TDOT) and the Tennessee Historical Commission (THC). All properties within the project corridor area will be inventoried or assessed in accordance with these guidelines. Within the APE the Contractor will complete inventory forms for properties having particular architectural or historical significance. The project corridor extends through a number of subdivisions which were developed within the past fifty to sixty years. The subdivisions shall be assessed for their potential to meet National Register criteria as historic districts.
- For each property surveyed the Contractor will provide an assessment of National Register-eligibility. For properties identified as eligible the Contractor will assess the effects of the project in accordance with Section 106 and Section 4f guidelines.
- At the conclusion of the survey and research effort, two draft copies will be provided to the Client for their review and submission to TDOT. Once the report is finalized, the Contractor will provide twelve (12) final hard copies as well as copies and digital images to the Client for final reproduction and submittal.

Including travel time, the Contractor estimates that no more than three days of field survey and research would be required. Completing the report will require five days of total time by the Project Principal and Assistant. This project is located within one hour's drive of Nashville and no overnight stays would be required.

SCHEDULE

The Contractor will complete the field work and draft of the survey report within four weeks of a notice to proceed. The final report will be completed within three weeks of receipt of comments from TDOT and the THC.

COST PROPOSAL

LABOR COSTS

Project Principal:	32 hrs @ \$50/hr	\$1,600.00
Project Assistant:	64 hrs @ \$25/hr	\$1,600.00
Total Labor Cost:		\$3,200.00
Overhead @ 119%		\$3,808.00
Profit @ 10%		\$700.80
<u>Total Labor/Overhead/Profit Cost</u>		<u>\$7,708.80</u>

DIRECT COSTS

Mileage: 300 miles @ .47 mile	\$141.00
Copies	\$250.00
<u>Total Direct Costs</u>	<u>\$391.00</u>
<u>Total Project Cost</u>	<u>\$8,099.80</u>



Panamerican Consultants, Inc.

Cultural Resource Management
Maritime Archaeology
Architectural History



15 July 2012

Parrish Strickland, AICP
Sr. Environmental Planner parrish.strickland@arcadis-us.com
ARCADIS U.S., Inc.
6009-A Monticello Drive
Montgomery, AL 36117
parrish.strickland@arcadis-us.com

RE: Revised Proposal to conduct an Archaeological Assessment for the Bradyville Road Project, Murfreesboro, Tennessee.

Dear Mr. Strickland:

Panamerican Consultants, Inc. (Panamerican) is pleased to re-submit you this proposal to conduct an archaeological assessment for the Bradyville Road project, Murfreesboro, Tennessee. As you know, Panamerican is a registered corporation that specializes in cultural resource management, and we have a current continuing services agreement with the Tennessee Department of Transportation (TDOT). Additional information regarding Panamerican's Memphis branch office can be obtained by visiting our corporate home page on the Internet www.panamconsultants.com or the Lamar Terrace Archaeology Project web page www.lamarterracedig.com.

Key staff that will be assigned to this project include me (Buchner) as Principal Investigator, Andrew Saatkamp as Project Archaeologist. We are both certified by and listed on the Register of Professional Archaeologists (RPA) (see <http://www.rpanet.org/>). Our resumes can be provided on request.

This proposal presents our view of the level of work necessary to complete an archaeological survey of additional Areas of Potential Effect (APE) in a manner compliant with the Scope of Work (SOW) for Tennessee Department of Transportation (TDOT) Phase I Archaeological Assessments (Hodge and Kline 2006) and the *Tennessee SHPO Standards and Guidelines for Archaeological Resource Management Studies* (as revised, March 2009). Panamerican has successfully completed numerous similar studies for TDOT since 1990. An itemized cost proposal for the proposed additional work is attached.

Task 1: Background Research

Prior to initiating fieldwork, a standard archaeological site files check will be conducted at the Tennessee Division of Archaeology (TDOA), Tennessee State Library and Archives (TSLA), and National Archaeological Database (NADB) (Hodge and Kline 2006:2). Information regarding previously recorded archaeological sites within 2 km of the project APE will be compiled during this research. Reports detailing past archaeological investigations in and near the project alternatives will be consulted as necessary.

91 Tillman Street ♦ Memphis, Tennessee 38111
Phone (901) 454-4733 ♦ Fax (901) 454-4736

www.panamconsultants.com

Task 2: Fieldwork

A two-person crew that will consist of RPA certified archaeologist and an Archaeological Technician I will conduct a standard Phase I archaeological assessment of the ROW. Given the cover—pasture or yards, and developed lots—shovel testing at 20 m intervals will be the primary site detection method (per the TDOT SOW; see Hodge and Kline 2006). Graded/developed portions of the ROW will be documented, but not shovel tested. Given the setting, an urban developed area, it is assumed that only roughly 50% of the corridor can shovel tested; thus no more than 170 shovel tests are expected to be required to complete the survey.

The study corridor is roughly 2.1 mi. long. The ROW is assumed to extend no more than 20 m (65 ft.) from each side of the existing roadway. As a result only one archaeological transect will be required on each side of the existing road.

Archaeological site boundaries, if identified, will be delineated via surface and subsurface investigations as appropriate. Sketch maps will be prepared for each identified site/property, and copies of these maps will be included in the report.

NRHP recommendations (i.e., Eligible, Undetermined, or Not Eligible) will be offered for each individual archaeological site and historic property that is delineated within the tract during the survey. Supporting arguments will be provided for each recommendation.

Task 3: Analysis and Curation

Recovered artifacts, if any, will be analyzed and prepared for curation at a Tennessee facility.

Task 4: Report Preparation

A draft report (four copies) will be submitted to your office. The report will contain sufficient information and documentation to assess the need (if any) for further archaeological investigations for the project to comply with Section 106 of the National Historic Preservation Act. The report will be a well-illustrated, scientifically sound document that meets or exceeds the current TDOA and THC guidelines for archaeological assessments, and the current TDOT archaeology guidelines (Hodge and Kline 2006).

Following the 30-day SHPO draft review period, any of your comments and the SHPO's comments will be incorporated in the document and Final report will be prepared. Ten (10) PVC bound copies and one CD (.pdf format) copies of the Final report will be submitted to you for distribution as necessary. According to the state guidelines, eight copies of the final report must be submitted to the TN SHPO.

As part of the reporting requirements, archaeological site cards will be completed and submitted to TDOA site files curator for all identified sites.

All work conducted will be consistent with Section 106 (36 CFR 800), and meet the Tennessee SHPO and the current TDOT guideline (Hodge and Kline 2006) guidelines for Phase I archaeological assessments.

Schedule

Field investigations will require five business days (one week), barring weather delays. The draft technical report will be delivered to you within one month of the completion of the fieldwork.

Panamerican Consultants, Inc.

Proposal to conduct an Archaeological Assessment for the Bradyville Road Project

Page - 3

Proof of insurance can be provided to you if requested. Feel free to contact me at (901) 454-4733 or via e-mail at dbuchner@panamconsultants.com or datum994@aol.com as necessary regarding this proposal.

Best regards,

C. Andrew Buchner

PANAMERICAN CONSULTANTS, INC.

C. Andrew Buchner, RPA

Vice-president and Memphis Branch Manager

Attachment: cost proposal

Cost Proposal

LABOR				
<i>Task 1: Literature & Records Check (Nashville)</i>				
Field Director	8	HR	\$15.14	\$121.12
<i>Task 2: Fieldwork</i>				
Field Director	40	HR	\$15.14	\$605.60
Archaeological Technician I	40	HR	\$17.35	\$694.00
<i>Task 3: Artifact Analysis and Curation</i>				
Laboratory Supervisor	8	HR	\$12.15	\$97.20
<i>Task 4: Report Preparation</i>				
Principal Investigator	8	HR	\$38.94	\$311.52
Field Director	40	HR	\$15.14	\$605.60
Office Manager	4	HR	\$15.79	\$63.16
Editor	4	HR	\$12.15	\$48.60
			<i>Labor subtotal:</i>	<i>\$2,546.80</i>
			TDOT audited overhead (127.17%):	\$3,238.77
			<i>Labor plus overhead:</i>	<i>\$5,785.57</i>
			Net fee (Raw labor x 2.35 x 0.12):	\$718.20
			Labor Total:	\$6,503.77
DIRECT EXPENSES				
<i>Task 1: Literature & Records Check (Nashville)</i>				
Vehicle mileage	420	MI	\$0.47	\$197.40
<i>Task 2: Fieldwork</i>				
Per diem-lodging	10	DY	\$77.00	\$770.00
Per diem-meals	10	DY	\$46.00	\$460.00
Vehicle mileage	632	MI	\$0.47	\$297.04
<i>Task 4: Report Preparation</i>				
Shipping	2	EA	\$20.00	\$40.00
Bound report copies	14	EA	\$20.00	\$280.00
			Direct Expenses Total:	\$2,044.44
			TOTAL PROPOSED COST:	\$8,548.21



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

FINANCE DIVISION
SUITE 800 JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TN 37243-0329
(615) 741-2261

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

June 23, 2012

Board of Directors
ARCADIS U.S., Inc.

The Tennessee Department of Transportation (TDOT) External Audit Section received your company's Combined Statement of Direct Labor, Fringe Benefits, and General Overhead for the year ended December 31, 2011, which was audited for compliance with the accounting principles prescribed by Federal Acquisition Regulation Part 31. TDOT External Audit reviewed the Independent Auditors Report dated May 31, 2012 prepared by KPM LLP and concurs with the report.

In addition, an indirect cost rate has been developed in accordance with TDOT Policy No. 301-01 for 100% state funded projects.

We accept the following rates, which include the FCCM rate of 00.30%:

	Federally Funded	State Funded ¹
Home Office	149.28%	146.97%
Field Office	118.19%	115.88%

¹ Indirect cost rates are capped at 145% for projects that are 100% funded by the State.

This letter is not a cognizant letter and is solely for the use of TDOT and ARCADIS U.S., Inc.

If you have any questions, please feel free to contact me.

Sincerely,

Richard Emerson, CFE
External Audit Fiscal Director
Phone: (615) 253-4273
Richard.Emerson@tn.gov



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

FINANCE DIVISION
SUITE 800 JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TN 37243-0329
(615) 741-2261

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

July 5, 2012

Panamerican Consultants Inc.
sreed@panamericaninc.com
Attn: Steven Reed, Business Manager

Dear Mr. Reed:

Tennessee Department of Transportation (TDOT) External Audit received Panamerican's overhead rate schedule, audited by JamersonMoneyFarmer PC for the year ended December 31, 2011. For the purpose of setting forth indirect cost rates for as described in 23 USC 112, Part 31 of the Federal Acquisition Regulations (FAR) and FAR Subpart 9900. Based on the TDOT External review of the audited indirect cost schedule TDOT concurs with the scheduled Overhead rate Home 129.29% (128.54% Home plus 0.75% FCCM).

This is not a cognizant letter

However after the adjustment per TDOT Standard Procurement of Engineering and Technical Services Policy (301-01) for contracts fully (100%) funded by the State of Tennessee, the Home Rate to be used on these contracts is 127.17%.

Very Truly Yours

A handwritten signature in black ink, appearing to read "Keith Gore".

Keith Gore
External Audit
505 Deaderick Street
Nashville, Tennessee 37243

**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 1

**Roadway Widening
Length: 2.1 miles**

Proposed Scope

- Boring frequency: one per approximately 400 linear feet
- Borings will alternate between left and right of centerline, where possible, considering overhead and underground utilities, trees/vegetation, and other obstructions
- Total borings: 28, of which approximately 19 borings (2/3 of total) will be auger borings without SPT sampling and 9 borings (1/3 of total) will be test borings with SPT sampling
- Boring depth – fill areas: 10 feet or refusal, whichever is less
- Boring depth – cut areas: 10 feet below cut depth or auger refusal, whichever is less (assume average cut depth = 5 feet; assume maximum boring depth = 15 feet)
- Rock coring: If refusal in SPT borings in cut areas is encountered above the planned cut depth, rock coring will be performed to extend the boring at least 5 feet below the cut depth; minimum core depth: 10 feet (assume five locations will be cored)
- Maximum soil drilling footage: 355 linear feet
 - Maximum auger drilling footage (w/o SPT sampling): 240 linear feet
 - Maximum test drilling footage (w/ SPT sampling): 115 linear feet
- Maximum rock drilling footage: 50 linear feet
- Bulk samples will be collected for laboratory testing of moisture-density, CBR, and classification.
- Laboratory index testing (moisture content and classification) will be performed on selected soil samples (other than bulk samples).
- KSWA representative will accompany drill crew to coordinate field activities and log the borings.
- Each boring will be backfilled with soil auger cuttings upon completion.

Assumptions

- Half (14) of the borings will be drilled in cut areas and half (14) of the borings will be drilled in fill areas.
- Borings will be performed within the existing right-of-way. Access to private properties for the purposes of performing the proposed borings will not be required.
- Stability analysis of cut and fill slopes will not be required.
- Embankment settlement analysis will not be required.

**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 1

Retaining Walls
Assume Four Walls
Assumed Length: 250 feet each

Proposed Scope

- Borings per wall: 4
- Boring frequency: one test boring per apx. 83 linear feet
- Total borings: 16
- Boring depth: 15 feet or refusal, whichever is less
- If refusal is encountered at an average depth of 10 ft or less (at an individual wall), we will core 10 feet at one to two locations at each wall (total of six core locations)
- Maximum test boring footage: 240 linear feet
- Maximum rock coring footage 60 linear feet
- Representative Shelby tube samples of foundations soils will be attempted; assume 3 per wall.
- Laboratory strength tests and index tests will be performed on selected soil samples.
- KSWA representative will accompany drill crew to coordinate field activities and log the borings.
- Each boring will be backfilled with soil auger cuttings upon completion.

Assumptions

- Some borings on private property may be required. Assume right-of-access to enter properties required to perform the proposed scope of services will be arranged for and coordinated by others.
- Estimated project fee assumes right-of-entry to all necessary properties will be obtained prior to mobilization of equipment. Additional mobilizations required to drill borings on properties individually as property owners grant right-of-entry will incur additional mobilization charges.

**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 1

General Assumptions – All Drilling Tasks:

The following assumptions apply to all drilling tasks:

- Project includes widening approximately 2.1 miles of roadway and constructing up to four, 250-foot long, maximum 6-foot high retaining walls
- Layout plans depicting the existing and proposed construction will be provided to KSWA prior to the field work.
- The centerline will be marked on 50 foot centers by Neel-Schaffer prior to our field activities.
- ATV drill
- Day work
- Utility notification (TN 1 Call) to be performed by KSWA
- Boring layout: to be performed by KSWA based on drawings and centerline stakes provided by Neel-Schaffer
- Site restoration: ruts caused by KSWA's field activities will be repaired by smoothing with hand tools or a backhoe (depending upon severity) and spreading grass seed and straw over the exposed soils.
- Safety signage will be required to advise traveling public of workers in the right-of-way.
- Flaggers may be required at selected locations due to proximity to active roadway.
- Lane closures and uniformed patrol officers will not be required.
- Auger cuttings which are not consumed as boring backfill will be spread on the ground surface adjacent to the boring. Leaving piles of soil will be avoided.
- The overburden materials can be penetrated with auger drilling methods.
- Materials encountered at boring locations are not contaminated and environmental protocols are not required.
- Borings in existing pavement are not generally anticipated. However, if borings in existing pavement are required (for example, at an off right-of-way location), the borings will be patched with quick-set cement grout.
- Borings will be drilled in areas accessible to the drilling equipment.
- Bulldozer clearing or grading to access boring locations is not included. Boring locations will be adjusted to avoid the need for modifying grades or removing vegetation.

**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 1

Exceptions:

We understand the features listed below are not included in the project and related geotechnical services will not be required. Therefore, our proposed scope and fee does not include exploration for the following features:

- Sound barriers
- High mast lighting
- Stormwater management structures (e.g., retention/detention ponds, culverts, etc.)

In addition, our proposed scope and fee do not include services related to the following:

- Return trips to "top off" boring backfill which may settle over time
- Monitoring of progress of site stabilization (for disturbed areas repaired as part of this project)
- Surveying of horizontal and vertical boring coordinates
- Sampling and testing the soil, rock, groundwater, surface water, or air along the project for the possible presence of environmental contaminants
- Evaluation of asbestos, organic growth and toxic mold, wetlands, radon, PCBs, endangered and threatened species, and archaeological and historic sites.
- Obtaining right-of-entry to private properties, if required to perform proposed services or if incidental to proposed services.

**K.S. Ware and Associates, LLC
Bradyville Pike Widening
Murfreesboro, Tennessee**

Proposed Scope of Services and Assumptions – Rev. 1

Deliverables:

**Geotechnical Report
Geotechnical Sheets for Inclusion in Design Plan Set**

Proposed Scope

- Geotechnical report and drawings to be prepared in accordance with guidelines and requirements of TDOT Geotechnical Branch (Geotechnical Consultant Manual, 03/15/2007)
- Draft report and drawings to be provided for review by Neel-Schaffer
- Final report to be issued following resolution of Neel-Schaffer questions/comments

Assumptions

- Engineering analyses of geotechnical design parameters will include the following:
 - Retaining walls
- Drawings will include the following:
 - Boring plan and profile sheets
 - Soil sheet*
 - Geotechnical notes sheet*
 - Geotechnical details sheet*
 - Typical sections
 - Retaining wall sheets (boring locations and profiles, acceptable wall types, geotechnical design data, foundation notes and details, special notes as required)

*sheets may be combined



version 3.3

TENNESSEE DEPARTMENT OF TRANSPORTATION

**DIVISION OF MATERIALS AND TESTS
GEOTECHNICAL ENGINEERING SECTION**

GEOTECHNICAL SERVICES

MANHOUR REQUIREMENTS AND COST ESTIMATE

Version 3.3, 3/18/10

Rutherford County

Bradyville Pike

Widening from SE Broad St to S Rutherford Blvd - Murfreesboro

K.S. Ware and Associates, L.L.C.

Prepared By: Melany L. Brite, PE

Date prepared: 5/30/2012

Project No. <PROJECT NO.>

Geotechnical Office No. <GEOTECH OFFICE NO.>

Contract No., Work Order No. <Contract No.>, <Work Order Number>
<Invoice Number>

Melany L. Brite, PE
K.S. Ware and Associates, L.L.C.
54 Lindsley Avenue
Nashville, TN 37210
615-255-9702
mbrite@kswarellc.com

Section III

Standard Cost Estimate For Soil And Geological Survey Report

1.00 Drilling Services

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Murfreesboro
Project No.: <PROJECT NO.>
Geotechnical Office No.: <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared: 5/30/2012
Contract Number: <Contract No.>, <Work Order Number>

For further explanation of Item No. and Description refer to attached "Pay Item Numbers and Methods of Measurement for Cost Estimates".

Item No.	Description	Estimated Quantities	Basis of Payment		Price	Amount
1.01	Mobilization	2	each	@	\$250.00	\$500.00
1.02	Project Mileage	600	mile	@	\$0.47	\$282.00
1.03	Drill Rig Moving \ Standby Time	4	hour	@	\$150.00	\$600.00
1.04	Soil Auger Drilling	240	vertical foot	@	\$9.00	\$2,160.00
1.05	Wash Boring		vertical foot	@		\$0.00
1.06	Soil Drilling and Split Barrel Type Sampling on Land	355	vertical foot	@	\$11.00	\$3,905.00
1.07	Tube Type Sampling on Land	12	each	@	\$65.00	\$780.00
1.08	Rock Coring	110	vertical foot	@	\$50.00	\$5,500.00
1.09	Borehole Grouting		vertical foot	@		\$0.00
1.10	Water Hauling	11	hour	@	\$150.00	\$1,650.00
1.11	Bulldozer		operating hour	@		\$0.00
1.12	Traffic Control	1	direct cost	@	\$500.00	\$500.00
1.13	Site Restoration	1	per each	@	\$1,000.00	\$1,000.00
1.14	Erosion and Sed. Control		direct cost	@		\$0.00
Total Estimated Drilling Costs						\$16,877.00

Section III
Standard Cost Estimate for Soil and Geological Survey Report
2.00 Laboratory Services

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Murfre
Project No.: <PROJECT NO.>
Geotechnical Office No.: <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared: 5/30/2012
Contract Number: <Contract No.>, <Work Order Number>

For further explanation of Item No. and Description refer to attached "Pay Item Numbers and Methods of Measurement for Cost Estimates".

Item No.	Description	Estimated Quantities	Basis of Payment		Rate	Amount
2.01	Atterberg Limits	18	each	@	\$65.00	\$1,170.00
2.02	Natural Moisture Content	132	each	@	\$7.00	\$924.00
2.03	Particle Size Analysis	5	each	@	\$100.00	\$500.00
2.04	AASHTO Classification	5	each	@	\$100.00	\$500.00
2.05	Proctor Density Test	5	each	@	\$145.00	\$725.00
2.06	California Bearing Ratio	5	each	@	\$350.00	\$1,750.00
2.07	pH		each	@	\$35.00	\$0.00
2.08	Soil Resistivity		each	@	\$75.00	\$0.00
2.31	Acid-Base		each	@		\$0.00
2.40	Sulfate Soundness		each	@	\$150.00	\$0.00
2.09	Consolidation Properties		consolidation properties	@	\$350.00	\$0.00
2.10	Triaxial Compression UU		strength properties	@	\$450.00	\$0.00
2.11	Triaxial Compression CU	4	strength properties	@	\$1,350.00	\$5,400.00
2.12	Unconfined Compression	4	per test strength	@	\$65.00	\$260.00
2.63	CD Direct Shear		properties	@		\$0.00
Total Estimated Laboratory Services Cost:						\$11,229.00

Section III
Standard Cost Estimate for Soil and Geological Survey Report

3.00 Manpower Requirements

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Murfreesboro
Project No.: <PROJECT NO.>
Geotechnical Office No.: <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared: 5/30/2012
Contract Number: <Contract No.>, <Work Order Number>

See "Pay Item Numbers and Methods of Measurement for Cost Estimates" for further description of services required by state.

Item No.	ACTIVITY	PRINCIPAL	SENIOR ENGINEER	STAFF ENGINEER	GEOLOGIST	TRAINING ENGINEER	SUPERVISING DRILLER	STAFF CADD TECHNICIAN
		MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR
3.10	Project Planning and Coordination	8.0	24.0	40.0	16.0	20.0		
3.20	Field Activities		12.0	135.0				
3.30	Data Assimilation		20.0	30.0	24.0			
3.40	Engineering Analyses		20.0	40.0				
3.50	Report Preparation		40.0	80.0	16.0			
3.60	Drawing Preparation			40.0				50.0
3.70	Post-Report Conference and Review	4.0	10.0	10.0	5.0			
Total Estimated Hours		12.0	126.0	375.0	61.0	20.0		50.0
Hourly Rate		\$157.55	\$127.79	\$78.72	\$100.51	\$57.29	\$0.00	\$55.05
Subtotal of Estimated Man-hour Costs		\$1,890.60	\$16,101.54	\$29,520.00	\$6,131.11	\$1,145.80	\$0.00	\$2,752.50

Total Estimate of Man-hour Requirements:	\$57,541.55
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Section III
Standard Cost Estimate for Soil and Geological Survey Report
3.00 Manpower Requirements, Hourly Rate Breakdown

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Murfreesboro
Project No.: <PROJECT NO.>
Geotechnical Office No. <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared 5/30/2012
Contract Number: <Contract No.>, <Work Order Number>

		PRINCIPAL	SENIOR ENGINEER	STAFF ENGINEER	GEOLOGIST	TRAINING ENGINEER	SUPERVISING DRILLER	STAFF CADD TECHNICIAN	STAFF TECHNICIAN
		MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR
Hourly Rate Breakdown									
	Direct Pay Rate	\$55.38	\$44.92	\$27.67	\$35.33	\$20.14	\$0.00	\$19.35	\$19.35
	Maximum Overhead Rate (no more than 1.45 for 100% State Funds)	1.5628	1.5628	1.5628	1.5628	1.5628	1.5628	1.5628	1.5628
	Profit Multiplier	2.35	2.35	2.35	2.35	2.35	2.35	2.35	2.35
	Profit Rate * (supplied in decimals)	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12
	* use the same rate as with the design contract for the project.								
Hourly Rate		\$157.55	\$127.79	\$78.72	\$100.51	\$57.29	\$0.00	\$55.05	\$55.05

Section III

Standard Cost Estimate for Soil and Geological Survey Report

4.0 Other Expenses

County: Rutherford County Project No.: <PROJECT NO.>
 Route: Bradyville Pike Geotechnical Office No.: <GEOTECH OFFICE NO.>
 Description: Widening from SE Broad St to S Ruth Consultant: K.S. Ware and Associates, L.L.C.
 Contract No: <Contract No.>, <Work Order Number> Prepared By: Melany L. Brite, PE
 Date Prepared: 5/30/2012

Distance to Jobsite: 40 miles

Company Headquarters: Nashville TN	Job Site: Murfreesboro TN
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Travel Expenses				
Item No.	Description	Days	Rate*	Total
4.10	Travel Day Per Diem			\$0.00
4.11	Non Travel Day Per Diem			\$0.00
4.12	Lodging			\$0.00

*Must be in accordance with applicable TDOT Travel Regulations

Milage\Transportation Expenses				
Item No.	Description	Miles	Milage Rate*	Total
4.20	Passenger Truck	1700	\$0.47	\$799.00
4.21	Tractor Trailer Truck			\$0.00
4.22	Water Truck			\$0.00
4.23	Truck Mounted Drill			\$0.00
4.24	Other Mileage			\$0.00

*Must be in accordance with applicable TDOT Travel Regulations

Equipment Rental				
Item No.	Description	Days	Daily Rate	Total
4.30	Equipment Rental			\$0.00

Plans Reproduction Costs				
Item No.	Description	Units	Unit Price	Total
4.40	Full Size Bond	17	\$4.80	\$81.60
4.41	Half-Size Bond	17	\$1.60	\$27.20
4.42	Full Size Mylar	17	\$12.00	\$204.00
4.43	Photocopies	1000	\$0.10	\$100.00

Other Expenses				
Item No.	Description	Units	Unit Rate	Total
4.50	Other Expenses			\$0.00

Total Estimate of Other Expenses:	\$1,211.80
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Section III
Standard Cost Estimate for Soil and Geological Survey Report
SUMMARY OF COST ESTIMATES

County: Rutherford County
Route: Bradyville Pike
Description: Widening from SE Broad St to S Rutherford Blvd - Murfreesboro
Project No.: <PROJECT NO.>
Geotechnical Office No.: <GEOTECH OFFICE NO.>
Consultant: K.S. Ware and Associates, L.L.C.
Prepared By: Melany L. Brite, PE
Date Prepared: 5/30/2012

1.00 Drilling Services	\$16,877.00
2.00 Laboratory Services	\$11,229.00
3.00 Manpower Requirements	\$57,541.55
4.00 Other Expenses	\$1,211.80

Total Not-to-Exceed Costs	\$86,859.35
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STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
FINANCE OFFICE
SUITE 800, JAMES K. POLK BUILDING
NASHVILLE, TENNESSEE 37243-0349
(615) 741-2261

To the Specified Users of the Report:

Paul Degges, Chief Engineer / Tennessee Department of Transportation – TDOT

Kathy Ware, Principal
K S Ware LLC

We have performed the procedures enumerated below, which were agreed to by K S Ware and the State of Tennessee Department of Transportation (TDOT), Design Division. This engagement to apply agreed-upon procedures was performed to prepare a Statement of Indirect Costs and Rate Calculation for the fiscal year ended December 31, 2010, in compliance with Federal Acquisition Regulations (FARs) and State TDOT Policy for the Standard Procurement of Engineering and Technical Services.

We performed our work in accordance with Generally Accepted Government Auditing Standards and the attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. We make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. In accordance with the Generally Accepted Government Auditing Standards, we have issued a statement dated May 31, 2011, on the procedures performed.

The procedures and associated findings are as follows:

- ◆ Auditor will obtain the financial statements and/or general ledger and prepare an unadjusted Schedule of Indirect Costs and Rate Calculation.
The general ledger was obtained and an unadjusted Schedule of Indirect Costs and Rate Calculation was prepared and agreed to the general ledger.
- ◆ Direct Labor will be calculated using a reasonable method appropriate to the consultant's payroll accounting system.
For the purposes of calculating direct labor for the Statement of Indirect Costs and Rate Calculation, the firm did appear to have a reasonable method of determining direct and indirect labor. These procedures resulted in the following labor related figures, included in the schedule:

	Home	Field
Direct Labor	[REDACTED]	[REDACTED]
Indirect Labor (Prin)	[REDACTED]	[REDACTED]
Indirect Labor (Emp)	[REDACTED]	[REDACTED]
Job Cost Variance	[REDACTED]	[REDACTED]
Indirect Labor Sales	[REDACTED]	[REDACTED]
PTO Pay	[REDACTED]	[REDACTED]
Bereavement Leave	[REDACTED]	[REDACTED]

Holiday Pay

Bonuses in the amount of \$ [REDACTED] (Owner's share [REDACTED]) are included in their respective indirect labor cost.

- ◆ Salaried employee timesheets will be reviewed and if more than 2,080 hours were recorded in a year, indirect costs will be adjusted for uncompensated overtime (OT).
The Job Cost System utilized by the firm to allocate direct and indirect labor calculates uncompensated overtime.
- ◆ Indirect salaries will be adjusted for TDOT indirect salary cap.
The indirect portions of salaries were calculated, and there was no portion that exceeded the TDOT indirect salary cap.
- ◆ Bonuses will be adjusted for compliance with TDOT allowance for ownership policy.
The bonuses for employees of 2% or more ownership of the company were accumulated and deducted in accordance with TN Legislative Caps.
- ◆ Premium overtime paid to hourly employees will be calculated and deducted from direct labor.
The Job Cost system tracks overtime premium costs which were deducted from the direct labor base in calculating the Indirect Rate.
- ◆ Employees with direct billable time will be scheduled by job classification, and hourly rates calculated. Those calculations will be averaged for the year and filed in the consultant's permanent file.
Employees with direct billable time were scheduled with their applicable job classifications, and an average rate per classification was calculated for inclusion in the permanent files in the External Audit Section.
- ◆ The Job Costing system was tested for one month to ensure that the job costing system performed adequately.
The Job Cost System was tested for two pay periods, May 1 thru May 16 and October 16 thru 31. The auditor did not find any discrepancies and therefore determined that the firm had an adequate job costing system in place.
- ◆ Materiality for expense account testwork will be calculated at 2% of the direct labor base.
The initial calculation of Direct Labor and Wages indicated it to be [REDACTED]. From this figure a planning materiality of [REDACTED] was calculated at 2% of direct labor and a tolerable misstatement of [REDACTED] was calculated at 50% of planning materiality.
- ◆ All expense categories in excess of the calculated materiality will be tested for compliance with Federal Acquisition Regulations Chapter 48, Part 31.2. Any items of non-compliance will be adjusted from the schedule. Any accounts tested on a sample basis will have a minimum sample size of 20% of account balance.
Certain accounts exceeded the materiality level and were reviewed with no discrepancies being noted. These accounts were Employer's FICA Tax, State Unemployment, Workers' Compensation, Health Care Insurance, Health Care Insurance - Member, 401(K) Contributions, Other Insurance, Utilities, Communications, Computer Maintenance, Prof Liability Insurance, Property & Other Taxes, and Airfare. Additionally, certain accounts, due to their nature, were tested with no discrepancies being noted. These accounts were Misc Payroll Expenses, Security Monitoring, Field Supplies, Field Equipment, Computer Services, Postage/Ship/Delivery, Equipment Rental, Repairs & Maintenance, Other Calibration, Licenses, Rental Car, and Mileage.

Due to the nature of certain accounts, they were selected for review. After review of these accounts, it was determined that testing was necessary. These accounts were Education & Seminars, Prof Registration & Dues, Rent, Office Supplies, Marketing & Recruiting, Membership Fees – Allowable, Printing & Reproductions, Other Office Expenses, Legal, Auto Gas & Oil, Auto Repairs/Maintenance, Auto Registration/Insurance, Per Diem, Hotels, and Depreciation Expense.

The following accounts were recognized by the auditor as being unallowable by definition and deducted without review: Lobbying, Employee Morale & Welfare, Charitable Contributions, Civic/Club Fees – Unallowable, and Meals.

Due to the nature of certain accounts, they were selected for review. After review of these accounts, it was determined that certain costs were unallowable and further testing was not warranted. These accounts were Direct and Indirect Labor-Employees.

- ♦ If applicable, an FCCM will be calculated for the firm.
The Facilities Capital Cost of Money Rate was calculated as 0.48%.

The above procedures resulted in the preparation of the attached Statement of Indirect Costs and Rate Calculation for the fiscal year ended December 31, 2010, in compliance with the Federal Acquisition Regulations (FARs) and TDOT Policy for the Standard Procurement of Engineering and Technical Services.

Users other than the State of Tennessee

The Statement indicates an indirect cost rate for users other than the State of Tennessee Home 155.79% and a Field 93.51%.

State of Tennessee – Federally funded contracts


Including the FCCM listed above, the indirect cost rate for jobs funded in whole or part with Federal Funds is calculated at Home 156.28 and Field 94.00%

State of Tennessee – State funded contracts

Including the FCCM listed above, the Home indirect cost rate for jobs fully funded by the State of Tennessee is calculated at 153.31%, which exceeds the legislated ceiling. Therefore the Home rate to be used on these contracts is 145.00% and Field rate of 92.24%.

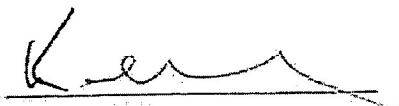
We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on the specified elements, accounts, or items. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the use and information of K S Ware LLC and the State of Tennessee Department of Transportation or other customers related to contracts employing the cost principles of the Federal Acquisition Regulation Standards and should not be used for any other purpose.



Richard Emerson
External Audit Fiscal Director

May 31, 2011



Keith Gore
External Audit Manager

May 31, 2011

TENNESSEE DEPARTMENT OF TRANSPORTATION

MANDAY ESTIMATE AND FEE PROPOSAL

For Survey Only

Bradyville Pike

From Southeast Broad (US-41) to Rutherford Blvd.

Rutherford County

Project Identification Number (PIN): <000000.00>

General Comments:

ROW Staking - ROW/Final Phase

Adams & Company Surveyors, LLC

Ed Adams

783 Old Hickory Blvd., Suite 102 East Brentwood, TN 37027

(615) 370-8830

(615) 370-8845

edams@aol.com

Prepared By:

Ed Adams

Date prepared:

7/14/2012

Project No.:

<00000-0000-00>

Version 2.23

Survey Summary

Petroleum Pipeline: ☐

"Exhbit B" Page 51

SURVEY MANDAY ESTIMATE
ROW/Final Phase

ESTIMATE FOR FIELD SURVEYS

PROJECT DESCRIPTION:

Version 2.23

Route: Bradyville Pike
Description: From Southeast Broad (US-41) to Rutherford Blvd.
County: Rutherford Prepared By: Ed Adams
Consultant: Adams & Company Surveyors, LLC Date Prepared: 7/14/2012
Project No.: <00000-0000-00>

TOTAL LENGTH(miles): 0.00
OFFICE TRAVEL TIME PER DAY(hrs): 1.50
CREW TRAVEL TIME PER DAY(hrs): 1.50

ACTIVITY	PROJECT MANAGER	OFFICE CADD TECH.	PARTY CHIEF	INSTRUMENT MAN	RODMAN	RODMAN	FLAGGER	FLAGGER	Total
	PM	O	P	I	R	R	F	F	
1. Establish & Stake Alignments									
2. Update Survey									
3. Control Traverses									
4. Set Aerial Control									
5. Bench Levels									
6. Develop Digital Terrain Model									
7. R.O.W., Deed & Utility Research									
8. Property Owner Contact									
9. Locate Property & Pres. R.O.W. Lines									
10. Obtain Topo/Verify Aerial									
11. Drainage Surveys (Culverts)									
12. Bridge Surveys (bridge details, stream alignment, topo, profile, flood plain sections, high water, etc.)									
13. Railroad Surveys									
14. Utilities									
15. Stake R.O.W. & Easements	2.0		14.1	14.1	14.1				44.3
16. Geotechnical Staking (24 Points)									
17. Note Reduction & other Calculations									
18. Plot Plan, Profiles, Property Map, Drainage Map, Bridge Survey, Control Point Table, etc.									
19. Supervision									
20. Travel Time (8 HOUR MAN-DAYS)	0.6		3.3	3.3	3.3				10.5
TOTALS (8 HOUR MAN-DAYS)	2.6		17.4	17.4	17.4				54.8

SURVEY MANDAY ESTIMATE
ROW/Final Phase

PROJECT DESCRIPTION:

Version 2.23

Route: Bradyville Pike
Description: From Southeast Broad (US-41) to Rutherford Blvd.
County: Rutherford
Consultant: Adams & Company Surveyors, LLC
Project No.: <00000-0000-00>

TOTAL LENGTH(miles): 0.00
Date Prepared: 7/14/2012 Prepared By: Ed Adams

	OFFICE DIFFICULTY	FIELD DIFFICULTY	REMARKS
Align.	1.0	1.0	
Update	1.0	1.0	0 Survey Updates
Control	0.0	0.0	
Aerial	0.0	0.0	0 0 NUMBER HORIZONTAL & NUMBER VERTICAL POINTS
Levels	0.0	0.0	ZERO IF NOT REQUIRED
DTM	0.0	0.0	100% PERCENT SKIPS 200 DTM WIDTH(feet)
Research	0.0	0.0	186 NUMBER OF TRACTS
Contacts	0.0	0.0	
Property	0.0	0.0	DO NOT EDIT THESE CELLS
Topo	0.0	0.0	
Culverts	0.0	0.0	
Bridges	1.0	1.0	0 0 0 NUMBER OF SMALL, MEDIUM, LARGE BRIDGES
RR	1.0	1.0	0 NUMBER OF RR CROSSINGS
Utilities	0.0	0.0	7 Number of Different Utilities Involved
R.O.W.	1.0	1.0	DO NOT EDIT THESE CELLS
Geotech.	1.0	1.0	
	1.0		242 178 0 Number of IP's, 1-stake, 2-stakes
Plotting	0.0		0 Number of Geotechnical Staking Points
	1.0		#DIV/0! 8 - Hr MD/MILE not including travel
	1.0	1.0	#DIV/0! 8 - Hr MD/MILE

SURVEY LABOR DIRECT EXPENSES
ROW/Final Phase

SURVEY DIRECT LABOR COST

PROJECT DESCRIPTION:

ROUTE: Bradyville Pike
 DESCRIPTION: From Southeast Broad (US-41) to Rutherford Blvd.
 COUNTY: Rutherford
 CONSULTANT: Adams & Company Surveyors, LLC
 TOTAL LENGTH(miles): 0.00


Prepared By: Ed Adams
 Date Prepared: 7/14/2012

	Abbrv.	Personnel Classification	8 - Hr Man-Days	Approved Hours	Rate Per Hr	Direct Labor
1	PM	PROJECT MANAGER	2.6	8.0	\$ 39.16	\$ 814.53
2	O	OFFICE CADD TECH.	0.0	8.0	\$ 35.00	\$ -
3	P	PARTY CHIEF	17.4	8.0	\$ 29.64	\$ 4,125.89
4	I	INSTR. MAN	17.4	8.0	\$ 17.50	\$ 2,436.00
5	R	RODMAN	17.4	8.0	\$ 15.00	\$ 2,068.00
6	R	RODMAN	0.0	8.0	\$ 15.00	\$ -
7	F	FLAGGER	0.0	8.0	\$ 12.00	\$ -
8	F	FLAGGER	0.0	0.0	\$ 12.00	\$ -
		TOTALS	54.8			\$ 9,464.42

Direct Labor Cost Per 8 - Hour Man-Day	\$ 172.71
--	-----------

7/14/2012

Version 2.23

SURVEY DIRECT EXPENSES				
PROJECT DESCRIPTION: ROUTE: Bradyville Pike DESCRIPTION: From Southeast Broad (US-41) to Rutherford Blvd. COUNTY: Rutherford CONSULTANT: Adams & Company Surveyors, TOTAL LENGTH(miles): 0.00				
			Prepared By: Ed Adams Date Prepared: 7/14/2012 Project No.: <00000-0000-00>	
			Item Subtotal	Item Total Cost
Reproduction Costs				
	Item Description	Number / Unit	Unit Price	
	Xerographic Bond	0	\$ 49.04	\$ -
	Blueline Fullsize	0	\$ 0.25	\$ -
	Photo-Copies	0	\$ 0.25	\$ -
	Deeds	0	\$ 0.50	\$ -
			Subtotal	\$ -
Travel				
Survey Crew Travel Calculations				
From:	Brentwood, TN			
To:	Murfreesboro, TN			
	Number of Trips	No. of Miles/No. of People	* RATE	
Travel Day Per Diem	4.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$ -
Non Travel Day Per Diem	14.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$ -
Transportation	18.00 Man-Days	X 90.00 Miles X	\$ 0.47 Per Mile	\$ 761.40
Lodging	14.00 Nights	X 0.00 People X	\$ 0.00 Per Person	\$ -
			Subtotal	\$ 761.40
Office Personnel Travel Calculations				
From:				
To:				
	Number of Trips	No. of Miles/No. of People	* RATE	
Travel Day Per Diem	0.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$ -
Non Travel Day Per Diem	0.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$ -
Transportation	0.00 Round Trips	X 0.00 Miles X	\$ 0.47 Per Mile	\$ -
Lodging	0.00 Nights	X 0.00 People X	\$ 0.00 Per Person	\$ -
			Subtotal	\$ -
Other Expenses				
	Item Description	Number / Unit	Unit Price	
	FIELD BOOK	0	\$ 6.55	\$ -
	PK NAILS	1	\$ 12.99	\$ 12.99
	PAINT	12	\$ 4.00	\$ 48.00
	FLAGGING	12	\$ 1.00	\$ 12.00
	STAKES (BUNDLES)	17	\$ 25.00	\$ 425.00
		0	\$ -	\$ -
		0	\$ -	\$ -
			Subtotal	\$ 497.99
TOTAL DIRECT EXPENSES				\$ 1,250.39

* Rate must agree with most current State of Tennessee travel regulations.
First and last day of travel must be at the 75% Per Diem Rate.

FEE PROPOSAL
ROW/Final Phase

FEE PROPOSAL										
ROUTE:	Bradyville Pike				Project No.:	<00000-0000-00>				
DESCRIPTION:	From Southeast Broad (US-41) to Rutherford Blvd				PIN No.:	<0000000.00>				
COUNTY:	Rutherford									
CONSULTANT:	Adams & Company Surveyors, LLC									
Prepared By:	Ed Adams									
Date Prepared:	7/14/2012									
COMPLETE SURVEY SHEETS FIRST IF SURVEY IS INCLUDED IN THE CONTRACT.										
PROCEED WITH FEE PROPOSAL IF SURVEY IS NOT INCLUDED.										
This sheet computes percent net fee and performs fee proposal calculations for each phase of the project and total project.										
Enter the appropriate overhead rate & fill in shaded boxes that apply for each phase.										
Version 2.23										
Data For Fee Calculations										
Overhead Rate = 1.5500 **										
** (State Project Maximum overhead rate = 1.45)										
** (Federal Project Maximum overhead rate per External Audit Report)										
Design Direct Labor =					\$	-				
Survey Direct Labor =					\$	9,464.42				
Total Direct Labor =					\$	9,464.42				
Cost for net fee basis =					\$	24,134.26 *				
Net Fee = (Rounded to Nearest Tenth)					12.0% *	NOTE: Net Fee for Supplements shall be the same as the original contract. It may be necessary to modify net fee calculated on supplement requests.				
* Net fee is based on cost of contract not including direct cost and net fee as follows:										
Survey & Design / Design Only Rates					Survey Only Rates					
\$ 0 - \$ 100,000 =	13.0%				\$ 0 - \$ 50,000 =	13.0%				
\$ 100,000 - \$ 500,000 =	12.5%				\$ 50,000 - \$ 200,000 =	12.5%				
> \$ 500,000 =	12.0%				> \$ 200,000 =	12.0%				
(Place X in adjacent box to remove instructions prior to printing.)										
SURVEYS										
1	Direct Labor					=	\$	9,464.42		
2	Overhead	(Overhead Rate = 1.5500)				=	\$	14,669.84		
	(Overhead rate X direct labor)									
3	Subtotal 1 + 2					=	\$	24,134.26		
7/14/2012										
4	Net Fee =	12.0%				(Rounded to nearest \$10.)	=	\$	2,670.00	
	(Direct labor X 2.35 X 0.NF)									
5	Subtotal 3 + 4					=	\$	26,804.26		
6	Direct Expense					=	\$	1,259.39		
7	Premium Labor					=	\$	-		
	(Premium Labor is only eligible if the survey crew works greater than a 40 hour work week.)									
8	Total Survey					=	\$	28,063.65		
	(Total 5 + 6 + 7)									

FEE PROPOSAL
ROW/Final Phase

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FEE PROPOSAL
ROW/Final Phase

Version 2.23									
Construction Design									
1	Direct Labor					=	\$	-	
2	Overhead	(Overhead Rate = 1.5500)				=	\$	-	
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2					=	\$	-	
4	Net Fee =	12.0%		(Rounded to nearest \$10.)		=	\$	-	
	(Direct labor X 2.35 X 0.NF)								
5	Subtotal 3 + 4					=	\$	-	
6	Direct Expense					=	\$	-	
7	Premium Labor					=	\$	-	
8	Total Construction Plans					=	\$	-	
	(Total 5 + 6 + 7)								
Total Project									
1	Direct Labor					=	\$	9,464.42	
	(Sum of Survey, Prel., R.O.W., & Const. Direct Labor)								
2	Overhead	(Overhead Rate = 1.5500)				=	\$	14,669.85	
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2					=	\$	24,134.27	
4	Net Fee =	12.0%		(Rounded to nearest \$10.)		=	\$	2,670.00	
	(Sum of Survey, Prel., R.O.W., & Const. Net Fee)								
5	Subtotal 3 + 4					=	\$	26,804.27	
6	Direct Expense	(Itemize and attach)				=	\$	1,259.39	
	(Sum of Survey, Prel., R.O.W., & Const. Direct Expenses)								
7	Premium Labor					=	\$	-	
	(Sum of Survey, Prel., R.O.W., & Const. Premium Labor)								
8	Total Project					=	\$	28,063.66	
	(Total 5 + 6 + 7)								
Total Contract							\$	28,063.66	
DESIGN COST PER MILE							#DIV/0!		
SURVEY COST PER MILE							#DIV/0!		
TOTAL COST PER MILE							#DIV/0!		

FEE PROPOSAL SUMMARY

FEE PROPOSAL SUMMARY
ROW/Final Phase

ROUTE: Bradyville Pike
 DESCRIPTION: From Southeast Broad (US-41) to Rutherford
 COUNTY: Rutherford
 CONSULTANT: Adams & Company Surveyors, LLC
 Prepared By: Ed Adams

Project No.:

<00000-0000-00>

Rutherford PIN No.:

<000000.00>

Date Prepared:

7/14/2012

mark the appropriate box below an values for the initial ceiling will be calculated.



Version 2.23

Survey Fee Proposal Summary								
	Direct Labor	Overhead	Subtotal Direct Labor & Overhead	Net Fee	Subtotal Direct Labor, Overhead, & Net Fee	Direct Expense	Premium Labor	Total Phase
SURVEY	\$ 9,464.42	\$ 14,669.84	\$ 24,134.26	\$ 2,670.00	\$ 26,804.26	\$ 1,259.39	\$ -	\$ 28,063.65

Design Fee Proposal Summary								
	Direct Labor	Overhead	Subtotal Direct Labor & Overhead	Net Fee	Subtotal Direct Labor, Overhead, & Net Fee	Direct Expense	Premium Labor	Total Phase
PRELIMINARY PLANS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
RIGHT-OF-WAY PLANS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal Preliminary & Right-of-Way Plans	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CONSTRUCTION PLANS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal Preliminary, R.O.W., & Construction Plans	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Total Survey & Design	\$ 9,464.42	\$ 14,669.84	\$ 24,134.26	\$ 2,670.00	\$ 26,804.26	\$ 1,259.39	\$ -	\$ 28,063.65
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(Place a X in appropriate box indicating the point of the initial contract ceiling. Only one (1) block should have an X placed.)

(Note: (Survey thru Const. Plans) can be checked if no initial contract ceiling is to be set.)

<input checked="" type="checkbox"/>	Survey
<input type="checkbox"/>	Survey thru Prel. Plans
<input type="checkbox"/>	Survey thru R.O.W. Plans
<input type="checkbox"/>	Survey thru Const. Plans
<input type="checkbox"/>	Prel. Plans
<input type="checkbox"/>	Prel & R.O.W. Plans
<input type="checkbox"/>	Prel. Thru Const. Plans

7/14/2012

INITIAL CONTRACT CEILING								
	Direct Labor	Overhead	Subtotal Direct Labor & Overhead	Net Fee	Subtotal Direct Labor, Overhead, & Net Fee	Direct Expense	Premium Labor	Total Ceiling
Contract will initially be authorized for: Survey	\$ 9,464.42	\$ 14,669.84	\$ 24,134.26	\$ 2,670.00	\$ 26,804.26	\$ 1,259.39	\$ -	\$ 28,063.65

(Place X in adjacent box to remove instructions prior to printing.)

Source:

General ledger and Adjusted Trial Balance provided by Emily Paris, Administrative Assistant.

Scope:

Overhead computation for FYE 12-31-10

Conclusion:

A working schedule was prepared, accounts were reviewed based upon materiality and auditor judgement. Unallowable transactions/accounts have been removed from the schedule and a preliminary rate calculated. The statement will be used to support the audit report and official Schedule of Indirect Costs and Rate Calculation.

	COST PER GENERAL LEDGER	COST QUESTIONED	ALLOWABLE COSTS	
DIRECT LABOR BASE	\$ 158,104.13	\$ -	\$ 158,104.13	
FRINGE BENEFITS				
Payroll Taxes	\$ 21,193.73		\$ 21,193.73	13.40%
Health Insurance - Employees	40,292.33	-	40,292.33	25.48%
Retirement	28,501.19	-	28,501.19	18.03%
Benefits - Paid Time Off	28,131.14	-	28,131.14	17.79%
Insurance - Workers Compensation	2,786.00	-	2,786.00	1.76%
TOTAL FRINGE BENEFITS	\$ 120,904.39	\$ -	\$ 120,904.39	76.47%
GENERAL OVERHEAD				
Indirect Labor	\$ 163,964.12	\$ -	\$ 163,964.12	103.71%
Bonuses	16,313.52	-	16,313.52	10.32%
Premium Portion of Overtime	1,769.78	1,769.78	-	0.00%
Accounting Fees	780.00	-	780.00	0.49%
Contract Labor	85,344.60	85,344.60	-	0.00%
Depreciation Expense	13,426.00	8,896.20	4,629.80	2.87%
Direct Job Supplies	21,715.19	21,715.19	-	0.00%
Dues & Subscriptions	1,892.00	1,176.20	715.80	0.45%
Employee & Public Relations	2,896.24	2,896.24	-	0.00%
Indirect Job Supplies	11,587.41	591.48	10,995.93	6.95%
Professional Liability Insurance	7,992.00	-	7,992.00	5.05%
Office Expense	10,214.84	651.33	9,563.51	6.05%
Office Rent	16,210.14	-	16,210.14	10.25%
Phone & Internet	13,776.71	642.46	13,134.25	8.31%
Taxes & Licenses	3,373.00	874.79	2,498.21	1.58%
Vehicle Expenses	29,904.22	29,904.22	-	0.00%
Auto Insurance	8,800.00	7,861.20	938.80	0.59%
Commercial Insurance	3,046.00	-	3,046.00	1.93%
TOTAL GENERAL OVERHEAD	\$ 413,005.77	\$ 162,323.69	\$ 250,682.08	158.56%
TOTAL FRINGE & GENERAL OVERHEAD	\$ 533,910.16	\$ 162,323.69	\$ 371,586.47	
AASHTO GUIDELINES INDIRECT RATE			235.03%	
LESS TDOT POLICY ADJUSTMENTS			\$ -	(1)
TOTAL TDOT INDIRECT & LABOR BURDEN			\$ 371,586.47	
INDIRECT RATE FOR TN FUNDED CONTRACTS			235.03%	
FACILITIES CAPITAL COST OF MONEY RATE			0.44%	

DRAFT

Federal: 235.47%

Negotiated: 155.00% (7/16/2012)
between Engineer
and Subconsultant

TENNESSEE DEPARTMENT OF TRANSPORTATION
MANDAY ESTIMATE AND FEE PROPOSAL

For Survey Only

Bradyville Pike

From Southeast Broad (US-41) to Rutherford Blvd.

Rutherford County

Project Identification Number (PIN): <000000.00>

General Comments:

Centerline and Geotech Staking - ROW/Final Phase

Adams & Company Surveyors, LLC

Ed Adams

783 Old Hickory Blvd., Suite 102 East Brentwood, TN 37027

(615) 370-8830

(615) 370-8845

edams@aol.com

Prepared By:

Ed Adams

Date prepared:

7/14/2012

Project No.:

<00000-0000-00>

Version 2.23

SURVEY MANDAY ESTIMATE
ROW/Final Phase

ESTIMATE FOR FIELD SURVEYS

Version 2.23

PROJECT DESCRIPTION:

Route: Bradyville Pike
Description: From Southeast Broad (US-41) to Rutherford Blvd.
County: Rutherford Prepared By: Ed Adams
Consultant: Adams & Company Surveyors, LLC Date Prepared: 7/14/2012
Project No.: <00000-0000-00>

TOTAL LENGTH(miles): 2.14
OFFICE TRAVEL TIME PER DAY(hrs): 1.50
CREW TRAVEL TIME PER DAY(hrs): 1.50

ACTIVITY	PROJECT MANAGER	OFFICE CADD TECH.	PARTY CHIEF	INSTRUMENT MAN	RODMAN	RODMAN	FLAGGER	FLAGGER	Total
	PM	O	P	I	R	R	F	F	
1. Establish & Stake Alignments	0.9		4.3	4.3	4.3				13.8
2. Update Survey									
3. Control Traverses									
4. Set Aerial Control									
5. Bench Levels									
6. Develop Digital Terrain Model									
7. R.O.W., Deed & Utility Research									
8. Property Owner Contact									
9. Locate Property & Pres. R.O.W. Lines									
10. Obtain Topo/Verify Aerial									
11. Drainage Surveys (Culverts)									
12. Bridge Surveys (bridge details, stream alignment, topo, profile, flood plain sections, high water, etc.									
13. Railroad Surveys									
14. Utilities									
15. Stake R.O.W. & Easements									
16. Geotechnical Staking (24 Points)	0.1	0.1	0.5	0.5	0.5	0.5			2.2
17. Note Reduction & other Calculations	2.1								2.1
18. Plot Plan, Profiles, Property Map, Drainage Map, Bridge Survey, Control Point Table, etc.									
19. Supervision	2.1								2.1
20. Travel Time (8 HOUR MAN-DAYS)	0.6		1.1	1.1	1.1				3.9
TOTALS (8 HOUR MAN-DAYS)	5.8	0.1	5.9	5.9	5.9	0.5			24.1

SURVEY MANDAY ESTIMATE
ROW/Final Phase

PROJECT DESCRIPTION:

Version 2.23

Route: Bradyville Pike
Description: From Southeast Broad (US-41) to Rutherford Blvd.
County: Rutherford
Consultant: Adams & Company Surveyors, LLC
Project No.: <00000-0000-00>
TOTAL LENGTH(miles): 2.14
Date Prepared: 7/14/2012 Prepared By: Ed Adams

	OFFICE DIFFICULTY	FIELD DIFFICULTY	REMARKS
Align.	1.0	1.0	
Update	1.0	1.0	0 Survey Updates
Control	0.0	0.0	
Aerial	0.0	0.0	0 0 NUMBER HORIZONTAL & NUMBER VERTICAL POINTS
Levels	0.0	0.0	ZERO IF NOT REQUIRED
DTM	0.0	0.0	100% PERCENT SKIPS 200 DTM WIDTH(feet)
Research	0.0	0.0	186 NUMBER OF TRACTS
Contacts	0.0	0.0	
Property	0.0	0.0	DO NOT EDIT THESE CELLS
Topo	0.0	0.0	
Culverts	0.0	0.0	
Bridges	1.0	1.0	0 0 0 NUMBER OF SMALL, MEDIUM, LARGE BRIDGES
RR	1.0	1.0	0 NUMBER OF RR CROSSINGS
Utilities	0.0	0.0	7 Number of Different Utilities Involved
R.O.W.	2.0	2.0	DO NOT EDIT THESE CELLS
Geotech.	1.0	1.0	
	1.0		0 0 0 Number of IP's, 1-stake, 2-stakes
Plotting	0.0		20 Number of Geotechnical Staking Points
	1.0		9.4 8 - Hr MD/MILE not including travel
	1.0	1.0	11.3 8 - Hr MD/MILE

SURVEY LABOR DIRECT EXPENSES
ROW/Final Phase

SURVEY DIRECT LABOR COST

PROJECT DESCRIPTION:

ROUTE: Bradyville Pike
 DESCRIPTION: From Southeast Broad (US-41) to Rutherford Blvd.
 COUNTY: Rutherford
 CONSULTANT: Adams & Company Surveyors, LLC
 TOTAL LENGTH(miles): 2.14

Prepared By: Ed Adams
 Date Prepared: 7/14/2012

	Abbrv.	Personnel Classification	8 - Hr Man-Days	Approved Hours	Rate Per Hr	Direct Labor
1	PM	PROJECT MANAGER	5.8	8.0	\$ 39.16	\$ 1,817.02
2	O	OFFICE CADD TECH.	0.1	8.0	\$ 35.00	\$ 28.00
3	P	PARTY CHIEF	5.9	8.0	\$ 29.64	\$ 1,399.01
4	I	INSTR. MAN	5.9	8.0	\$ 17.50	\$ 826.00
5	R	RODMAN	5.9	8.0	\$ 15.00	\$ 708.00
6	R	RODMAN	0.5	8.0	\$ 15.00	\$ 60.00
7	F	FLAGGER	0.0	8.0	\$ 12.00	\$ -
8	F	FLAGGER	0.0	8.0	\$ 12.00	\$ -
		TOTALS	24.1			\$ 4,838.03

Direct Labor Cost Per 8 - Hour Man-Day					\$ 200.75
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7/14/2012

Version 2.23

SURVEY DIRECT EXPENSES						
PROJECT DESCRIPTION: ROUTE: Bradyville Pike DESCRIPTION: From Southeast Broad (US-41) to Rutherford Blvd. COUNTY: Rutherford CONSULTANT: Adams & Company Surveyors, TOTAL LENGTH(miles): 2.14						
Prepared By: Ed Adams Date Prepared: 7/14/2012 Project No.: <00000-0000-00>						
				Item Subtotal	Item Total Cost	
Reproduction Costs						
	Item Description	Number / Unit	Unit Price			
	Xerographic Bond	0	\$ 49.04	\$ -		
	Blue-line Fullsize	0	\$ 0.25	\$ -		
	Photo-Copies	0	\$ 0.25	\$ -		
	Deeds	0	\$ 0.50	\$ -		
				Subtotal	\$ -	
Travel						
Survey Crew Travel Calculations						
From:	Brentwood, TN					
To:	Murfreesboro, TN					
	Number of Trips	No. of Miles/No. of People	* RATE			
Travel Day Per Diem	2.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$ -		
Non Travel Day Per Diem	5.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$ -		
Transportation	8.00 Man-Days	X 90.00 Miles X	\$ 0.47 Per Mile	= \$ 253.80		
Lodging	5.00 Nights	X 0.00 People X	\$ 0.00 Per Person	\$ -		
				Subtotal	= \$ 253.80	
Office Personnel Travel Calculations						
From:						
To:						
	Number of Trips	No. of Miles/No. of People	* RATE			
Travel Day Per Diem	0.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$ -		
Non Travel Day Per Diem	0.00 Man-Days	X 0.00 People X	\$ 0.00 Per Day	\$ -		
Transportation	0.00 Round Trips	X 0.00 Miles X	\$ 0.47 Per Mile	\$ -		
Lodging	0.00 Nights	X 0.00 People X	\$ 0.00 Per Person	\$ -		
				Subtotal	\$ -	
Other Expenses						
	Item Description	Number / Unit	Unit Price			
	FIELD BOOK	0	\$ 6.55	\$ -		
	PK NAILS	1	\$ 12.99	\$ 12.99		
	PAINT	12	\$ 4.00	\$ 48.00		
	FLAGGING	12	\$ 1.00	\$ 12.00		
	STAKES (BUNDLES)	17	\$ 25.00	\$ 425.00		
		0	\$ -	\$ -		
		0	\$ -	\$ -		
				Subtotal	\$ 497.99	
TOTAL DIRECT EXPENSES					\$ 751.79	

* Rate must agree with most current State of Tennessee travel regulations.
First and last day of travel must be at the 75% Per Diem Rate.

FEE PROPOSAL
ROW/Final Phase

FEE PROPOSAL									
ROUTE:	Bradyville Pike				Project No.:	<00000-0000-00>			
DESCRIPTION:	From Southeast Broad (US-41) to Rutherford Blvd				PIN No.:	<000000.00>			
COUNTY:	Rutherford								
CONSULTANT:	Adams & Company Surveyors, LLC								
Prepared By:	Ed Adams								
Date Prepared:	7/14/2012								
COMPLETE SURVEY SHEETS FIRST IF SURVEY IS INCLUDED IN THE CONTRACT.									
PROCEED WITH FEE PROPOSAL IF SURVEY IS NOT INCLUDED.									
This sheet computes percent net fee and performs fee proposal calculations for each phase of the project and total project.									
Enter the appropriate overhead rate & fill in shaded boxes that apply for each phase.									
Version 2.23									
Data For Fee Calculations									
Overhead Rate = 1.5500 **									
** (State Project Maximum overhead rate = 1.45)									
** (Federal Project Maximum overhead rate per External Audit Report)									
Design Direct Labor = \$ -									
Survey Direct Labor = \$ 4,838.03									
Total Direct Labor = \$ 4,838.03									
Cost for net fee basis = \$ 12,336.98 *									
Net Fee = (Rounded to Nearest Tenth) 12.0% *									
NOTE: Net Fee for Supplements shall be the same as the original contract. It may be necessary to modify net fee calculated on supplement requests.									
* Net fee is based on cost of contract not including direct cost and net fee as follows:									
Survey & Design / Design Only Rates									
Survey Only Rates									
\$ 0 - \$ 100,000 = 13.0%									
\$ 100,000 - \$ 500,000 = 12.5%									
> \$ 500,000 = 12.0%									
\$ 0 - \$ 50,000 = 13.0%									
\$ 50,000 - \$ 200,000 = 12.5%									
> \$ 200,000 = 12.0%									
(Place X in adjacent box to remove instructions prior to printing.)									
SURVEYS									
1	Direct Labor				=	\$	4,838.03		
2	Overhead	(Overhead Rate = 1.5500)			=	\$	7,498.95		
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2				=	\$	12,336.98		
7/14/2012	4	Net Fee = 12.0%		(Rounded to nearest \$10.)	=	\$	1,360.00		
	(Direct labor X 2.35 X 0.NF)								
5	Subtotal 3 + 4				=	\$	13,696.98		
6	Direct Expense				=	\$	751.79		
7	Premium Labor				=	\$	-		
	(Premium Labor is only eligible if the survey crew works greater than a 40 hour work week.)								
8	Total Survey				=	\$	14,448.77		
	(Total 5 + 6 + 7)								

FEE PROPOSAL
ROW/Final Phase

Version 2.23									
Preliminary Design									
1	Direct Labor					=	\$	-	
2	Overhead	(Overhead Rate = 1.5500)				=	\$	-	
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2					=	\$	-	
4	Net Fee =	12.0%		(Rounded to nearest \$10.)		=	\$	-	
	(Direct labor X 2.35 X 0.NF)								
5	Subtotal 3 + 4					=	\$	-	
6	Direct Expense					=	\$	-	
7	Premium Labor					=	\$	-	
8	Total Preliminary Plans					=	\$	-	
	(Total 5 + 6 + 7)								
Right-of-Way Design									
1	Direct Labor					=	\$	-	
2	Overhead	(Overhead Rate = 1.5500)				=	\$	-	
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2					=	\$	-	
4	Net Fee =	12.0%		(Rounded to nearest \$10.)		=	\$	-	
	(Direct labor X 2.35 X 0.NF)								
5	Subtotal 3 + 4					=	\$	-	
6	Direct Expense					=	\$	-	
7	Premium Labor					=	\$	-	
8	Total Right-of-Way Plans					=	\$	-	
	(Total 5 + 6 + 7)								

FEE PROPOSAL
ROW/Final Phase

Version 2.23									
Construction Design									
1	Direct Labor				=	\$	-		
2	Overhead	(Overhead Rate = 1.5500)			=	\$	-		
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2				=	\$	-		
4	Net Fee = 12.0%		(Rounded to nearest \$10.)		=	\$	-		
	(Direct labor X 2.35 X 0.NF)								
5	Subtotal 3 + 4				=	\$	-		
6	Direct Expense				=	\$	-		
7	Premium Labor				=	\$	-		
8	Total Construction Plans				=	\$	-		
	(Total 5 + 6 + 7)								
Total Project									
1	Direct Labor				=	\$	4,838.03		
	(Sum of Survey, Prel., R.O.W., & Const. Direct Labor)								
2	Overhead	(Overhead Rate = 1.5500)			=	\$	7,498.95		
	(Overhead rate X direct labor)								
3	Subtotal 1 + 2				=	\$	12,336.98		
4	Net Fee = 12.0%		(Rounded to nearest \$10.)		=	\$	1,360.00		
	(Sum of Survey, Prel., R.O.W., & Const. Net Fee)								
5	Subtotal 3 + 4				=	\$	13,696.98		
6	Direct Expense	(Itemize and attach)			=	\$	751.79		
	(Sum of Survey, Prel., R.O.W., & Const. Direct Expenses)								
7	Premium Labor				=	\$	-		
	(Sum of Survey, Prel., R.O.W., & Const. Premium Labor)								
8	Total Project				=	\$	14,448.77		
	(Total 5 + 6 + 7)								
Total Contract						\$	14,448.77		
DESIGN COST PER MILE						#DIV/0!			
SURVEY COST PER MILE						\$	6,400.46		
TOTAL COST PER MILE						#DIV/0!			

FEE PROPOSAL SUMMARY

FEE PROPOSAL SUMMARY
ROWFinal Phase

ROUTE: Bradyville Pike
 DESCRIPTION: From Southeast Broad (US-41) to Ruther PIN No.:
 COUNTY: Rutherford
 CONSULTANT: Adams & Company Surveyors, LLC
 Prepared By: Ed Adams

Project No.:

<00000-0000-00>

<000000.00>

Date Prepared: 7/14/2012
 mark the appropriate box below an values for the initial ceiling will be calculated.

Version 2.23

Survey Fee Proposal Summary								
	Direct Labor	Overhead	Subtotal Direct Labor & Overhead	Net Fee	Subtotal Direct Labor, Overhead, & Net Fee	Direct Expense	Premium Labor	Total Phase
SURVEY	\$ 4,838.03	\$ 7,498.95	\$ 12,336.98	\$ 1,360.00	\$ 13,696.98	\$ 751.79	\$ -	\$ 14,448.77

Design Fee Proposal Summary								
	Direct Labor	Overhead	Subtotal Direct Labor & Overhead	Net Fee	Subtotal Direct Labor, Overhead, & Net Fee	Direct Expense	Premium Labor	Total Phase
PRELIMINARY PLANS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
RIGHT-OF-WAY PLANS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal Preliminary & Right-of-Way Plans	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CONSTRUCTION PLANS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal Preliminary, R.O.W., & Construction Plans	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Survey & Design	\$ 4,838.03	\$ 7,498.95	\$ 12,336.98	\$ 1,360.00	\$ 13,696.98	\$ 751.79	\$ -	\$ 14,448.77

(Place a X in appropriate box indicating the point of the initial contract ceiling. Only one (1) block should have an X placed.)
 (Note: (Survey thru Const. Plans) can be checked if no initial contract ceiling is to be set.)

- ☒ Survey
☐ Survey thru Prel. Plans
☐ Survey thru R.O.W. Plans
☐ Survey thru Const. Plans
☐ Prel. Plans
☐ Prel & R.O.W. Plans
☐ Prel. Thru Const. Plans

7/14/2012

INITIAL CONTRACT CEILING								
	Direct Labor	Overhead	Subtotal Direct Labor & Overhead	Net Fee	Subtotal Direct Labor, Overhead, & Net Fee	Direct Expense	Premium Labor	Total Ceiling
Contract will initially be authorized for: Survey	\$ 4,838.03	\$ 7,498.95	\$ 12,336.98	\$ 1,360.00	\$ 13,696.98	\$ 751.79	\$ -	\$ 14,448.77

(Place X in adjacent box to remove instructions prior to printing.)

MANDAY ESTIMATE

ROUTE: SR 99, Bradyville Pike
DESCRIPTION: Bradyville Pike Widening - Constructability Review
COUNTY: Rutherford
CONSULTANT: Neel-Schaffer
Prepared By: David Donoho
Date Prepared: 7/16/2012
Project No.: N/A

TASK	Manhours					
	PM	Project Engineer	Construction Mgr	Engineer Intern	Admin	Total Per Task
Constructability Review 60%	16		8		2	26
Constructability Review 90%	16		8		2	26
TOTAL	32	0	16	0	4	52
% of Total Project	61.54%	0.00%	30.77%	0.00%	7.69%	100.00%

PERSONNEL	MANHOUR RATE	MANHOURS	DIRECT LABOR COST
PROJECT MANAGER	\$61.07	32	\$1,954.24
PROJECT ENGINEER	\$35.10	0	\$0.00
CONSTRUCTION MANAGER	\$43.26	16	\$692.16
ENGINEER INTERN	\$26.52	0	\$0.00
ADMIN	\$16.00	4	\$64.00
TOTAL NUMBER OF MANHOURS		52	\$2,710.40

FEE SUMMARY	
1. Direct Cost	\$ 2,710.40
2. Overhead (173.54%) 173.54%	\$ 4,703.63
3. Subtotal (1 + 2)	\$ 7,414.03
4. Net Fee (Direct labor X 2.35 X 12%)	\$ 764.33
5. Subtotal (3 + 4)	\$ 8,178.36
6. Direct Cost (See Sheet 2)	\$ 56.40
7. TOTAL (5 + 6)	\$ 8,234.76

DESIGN DIRECT EXPENSES



DESIGN DIRECT EXPENSES

ROUTE: SR 99, Bradyville Pike
 DESCRIPTION: Bradyville Pike Widening - Constructability Review
 COUNTY: Rutherford
 CONSULTANT: Neel-Schaffer
 Prepared By: David Donoho
 Date Prepared: 7/16/12
 Project No.: N/A

				Item Subtotal	Item Total Cost
Reproduction Costs:					
Item Description	Number / Unit	Unit Price			
Photo-copies		\$ 0.20		\$ -	
Full size bond		\$ 2.00		\$ -	
Half size bond		\$ 1.00		\$ -	
Full size vellum		\$ 2.00		\$ -	
Half size vellum		\$ 1.00		\$ -	
Full size mylar		\$ 2.00		\$ -	\$ -
Travel:					
Number of Trips	No. of Miles/No. of People				
Per Diem (75%)				\$ -	
Per Diem		\$ 30.00 Per Day			
Transportation	2.00 Round Trips X 60.00 Miles X	\$ 0.47 Per Mile	=	\$ 56.40	
Lodging	0.00 Nights X 0.00 People X	\$ 70.00 Per Person		\$ -	\$ 56.40
* Rate must agree amounts in effect with State of Tennessee travel regulations. First and last day of travel must be at the 75% Per Diem Rate.					
Other Expenses:					
Item Description	Number / Unit	0			
				\$ -	
				\$ -	
	0			\$ -	
	0			\$ -	
	0			\$ -	
	0			\$ -	
	0			\$ -	
	0			\$ -	\$ -
TOTAL DESIGN DIRECT EXPENSES					\$ 56.40

MANDAY ESTIMATE

ROUTE: SR 99, Bradyville Pike
DESCRIPTION: Bradyville Pike Widening - Bid Prep
COUNTY: Rutherford
CONSULTANT: Neel-Schaffer
Prepared By: David Donoho
Date Prepared: 7/16/2012
Project No.: N/A

TASK	Manhours					
	PM	Project Engineer	Construction Mgr	Engineer Intern	Admin	Total Per Task
Proposal and Specifications	16		8		4	28
Bid Assistance	8				2	10
TOTAL	24	0	8	0	6	38
% of Total Project	63.16%	0.00%	21.05%	0.00%	15.79%	100.00%

PERSONNEL	MANHOUR RATE	MANHOURS	DIRECT LABOR COST
PROJECT MANAGER	\$61.07	24	\$1,465.68
PROJECT ENGINEER	\$35.10	0	\$0.00
CONSTRUCTION MANAGER	\$43.26	8	\$346.08
ENGINEER INTERN	\$26.52	0	\$0.00
ADMIN	\$16.00	6	\$96.00
TOTAL NUMBER OF MANHOURS		38	\$1,907.76

FEE SUMMARY	
1. Direct Cost	\$ 1,907.76
2. Overhead (173.54%) 173.54%	\$ 3,310.73
3. Subtotal (1 + 2)	\$ 5,218.49
4. Net Fee (Direct labor X 2.35 X 12%)	\$ 537.99
5. Subtotal (3 + 4)	\$ 5,756.48
6. Direct Cost (See Sheet 2)	\$ 56.40
7. TOTAL (5 + 6)	\$ 5,812.88

DESIGN DIRECT EXPENSES



DESIGN DIRECT EXPENSES

ROUTE: SR 99, Bradyville Pike
 DESCRIPTION: Bradyville Pike Widening - Bid Prep
 COUNTY: Rutherford
 CONSULTANT: Neel-Schaffer
 Prepared By: David Donoho
 Date Prepared: 7/16/12
 Project No.: N/A

				Item Subtotal	Item Total Cost
Reproduction Costs:					
Item Description	Number / Unit	Unit Price			
Photo-copies		\$ 0.20	\$ -		
Full size bond		\$ 2.00	\$ -		
Half size bond		\$ 1.00	\$ -		
Full size vellum		\$ 2.00	\$ -		
Half size vellum		\$ 1.00	\$ -		
Full size mylar		\$ 2.00	\$ -	\$ -	
Travel:					
Number of Trips	No. of Miles/No. of People				
Per Diem (75%)			\$ -		
Per Diem		\$ 30.00 Per Day			
Transportation	2.00 Round Trips X 60.00 Miles X	\$ 0.47 Per Mile	= \$ 56.40		
Lodging	0.00 Nights X 0.00 People X	\$ 70.00 Per Person	\$ -	\$ 56.40	
* Rate must agree amounts in effect with State of Tennessee travel regulations. First and last day of travel must be at the 75% Per Diem Rate.					
Other Expenses:					
Item Description	Number / Unit	0			
			\$ -		
			\$ -	\$ -	
	0		\$ -	\$ -	
	0		\$ -	\$ -	
	0		\$ -	\$ -	
	0		\$ -	\$ -	
	0		\$ -	\$ -	
				\$ -	
TOTAL DESIGN DIRECT EXPENSES					\$ 56.40



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

FINANCE DIVISION
SUITE 800 JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TN 37243-0329
(615) 741-2261

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

November 9, 2011

Smith Seckman Reid, Inc
2995 Sidco Drive
Nashville, Tennessee 37204
Attn: Stephen C. Lane, Executive Vice President

Mr. Lane:

We have performed a cognizant review of the examination, and supporting work papers, of the Indirect Cost Rate of Smith Seckman Reid, Inc the year ended January 31, 2011 in accordance with our role as Cognizant Agency as defined in 23 U.S.C. 112(b)(2)(c) and 23 CFR 172.3 and 172.7. The examination was performed by the independent CPA firm of Crowe Horwath, LLP. The CPA represented that the examination was conducted in accordance with Government Auditing Standards as promulgated by the Comptroller General of the United States of America, and the examination was designed to determine that the indirect cost rate was established in accordance with Cost Principles contained in the Federal Acquisition Regulation, 48 CFR Part 31. Our cognizant review was performed in accordance with the AASHTO Review Program for CPA Audits of Consulting Engineers' Indirect Cost Rates.

In connection with our cognizant review, nothing came to our attention that caused us to believe that the examination, and supporting work papers for the Indirect Cost Rate(s), and the related Accountant's Report, did not conform in all material respects to the aforementioned regulations and auditing standards.

We accept the following rates as provisional only. The rates already include the FCCM of 0.45%:

	Federally Funded	State Funded
Home Office	173.54%	170.31%
Field Office	146.81%	146.03%

Note: The Home Office rate will be capped at 145% for state funded contracts.

Richard Emerson, Fiscal Director

Tennessee Department of Transportation (TDOT)
Phone 615 253 4273
Fax 615 253 4274
Richard.Emerson@tn.gov

EXHIBIT C

DISPUTE RESOLUTION

- A. In the event a dispute arises between OWNER and ENGINEER relating to any obligation undertaken in this agreement, they agree to utilize the following procedure to resolve any such dispute.
- B. OWNER and ENGINEER will attempt to resolve all disputes by first engaging in good faith negotiations between them as soon as possible after the dispute arises.
- C. If negotiations are not successful, OWNER and ENGINEER will submit their dispute to a mutually acceptable mediator for nonbinding mediation.
- D. If mediation is not successful and if the amount in dispute is less than \$75,000, OWNER and ENGINEER agree to resolve their dispute by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (AAA) then in effect, subject to the following restrictions and additions.
- E. OWNER and ENGINEER will each appoint one arbitrator, and the two arbitrators chosen will select a third arbitrator. In the alternative, OWNER and ENGINEER may agree to use an arbitration panel provided by the AAA.
- F. As a part of the preparation for the arbitration hearing, both the OWNER and ENGINEER shall have the right to engage in discovery to the extent that each may submit to the other up to 30 interrogatories and up to 15 requests for production of documents. In addition, each may take up to five depositions, but no deposition shall last for longer than one normal business day (eight hours). Discovery disputes shall be submitted to the arbitration panel.
- G. If mediation is not successful and if the amount in dispute is \$75,000 or more, OWNER and ENGINEER will seek a resolution of their dispute through the normal legal process in a court of competent jurisdiction.
- H. If a dispute is resolved through the procedure of paragraph 7.6.4 or paragraph 7.6.5, the prevailing party shall be entitled to recover from the other all court costs or arbitration fees.
- I. If the complete resolution of a dispute requires the joinder of a third party that does not agree to follow the procedure set out in paragraph 7.6, such dispute shall not be resolved between OWNER and ENGINEER in accordance with said paragraph if formal written notice of objection is given by the party wishing to utilize this subsection to avoid the procedure set forth in paragraph 7.6 within 30 days of formal notice of the dispute invoking paragraph 7.6.

EXHIBIT D
SPECIAL PROVISIONS

The ENGINEER and the CITY mutually agree as follows:

- A. **GENERAL COMPLIANCE WITH LAWS.** The ENGINEER is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The ENGINEER shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this agreement. In the event such laws, ordinances, regulations, instructions, or orders are modified after the date of this agreement, the ENGINEER shall be compensated for the Additional Services required to allow the ENGINEER to effect compliance with such changed laws, ordinances, regulations, instructions, or order.
- B. **TITLE VI, CIVIL RIGHTS ACT OF 1964.** During the performance of this contract, the ENGINEER, for itself, its assignees, and successors in interest (hereinafter referred to as the "ENGINEER") agrees as follows:
- a) **Compliance with Regulations:** The ENGINEER shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation, Title 49, Code of Federal Regulations, Part 21 through Appendix C, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
 - b) **Nondiscrimination:** The ENGINEER, with regard to the work performed by itself during the contract, shall not discriminate on the grounds of race, color, religion, sex, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The ENGINEER shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - c) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the ENGINEER for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by the ENGINEER of the ENGINEER'S obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, religion, sex, or national origin.
 - d) **Information and Reports:** The ENGINEER shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by parties participating in the funding of this agreement to be pertinent to ascertain compliance with such regulations or directives. Where any information required of the ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information, the ENGINEER shall so certify and shall set forth what efforts it has made to obtain the information.

- e) Sanctions for Noncompliance: In the event of the ENGINEER'S noncompliance with the nondiscrimination provisions of this contract, the regulating parties shall impose such contract sanctions as it may determine to be appropriate, including, but not necessarily limited to:
 - i) withholding of payments to the ENGINEER under the contract until the ENGINEER complies, and/or
 - ii) cancellation, termination, or suspension of the contract in whole or in part.
- f) Incorporation of Provisions: The ENGINEER shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The ENGINEER shall take such action with respect to any subcontract or procurement as the Owner or other parties participating in the funding of this agreement may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided that in the event the ENGINEER becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such directions, the ENGINEER may request the Owner to enter into such litigation to protect the interests of the Owner, and, in addition and as appropriate, the ENGINEER may request the United States to enter into such litigation to protect the interests of the United States.

- C. EQUAL EMPLOYMENT OPPORTUNITY. During the performance of work under this agreement the ENGINEER agrees to comply with the policies set forth in Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- D. ENVIRONMENTAL PROTECTION REGULATIONS. Under this agreement the ENGINEER shall give due consideration to and, as applicable, comply with the standards, orders, or requirements set forth under Section 306 of the Clean Air Act (42 U.S.C. 1857 h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- E. ENERGY POLICY AND CONSERVATION ACT. Under this agreement the ENGINEER shall give due consideration to and, as applicable, comply with the standards, orders, and requirements relating to energy efficiency contained in the State energy conservation plans issued in compliance with the Energy Policy and Conservation Act (P.L. 94-165).
- F. ADDITIONAL EMPLOYMENT REGULATIONS. The ENGINEER shall comply with the Vocational Rehabilitation Act of 1973 as approved by Congress on September 26, 1973, herein incorporated by reference, which prohibits employment discriminations against physically handicapped persons. Further, the ENGINEER shall comply with Section 2012 of the Vietnam Era Veterans Readjustment Act of 1974 which requires the ENGINEER to take affirmative action to employ and advance in employment qualified veterans of the Vietnam Era.
- G. CERTIFICATION FOR GRANTS, LOANS, AND COOPERATIVE AGREEMENTS.

The ENGINEER certifies, by signing this agreement to the best of its knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the ENGINEER, to any person for influencing or attempting to influence an officer or employee of any Federal 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 this agreement, 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 this agreement, or any Federal contract, grant, loan, or cooperative agreement.

The ENGINEER agrees that if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this agreement, the ENGINEER shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The ENGINEER understands that this certification is a material representation of fact upon which reliance was placed when this agreement was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code.

The ENGINEER also agrees that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

The ENGINEER agrees that during the period of performance of this agreement it and its subrecipients must file a disclosure form at the end of each calendar year quarter in which there occurs any event that requires disclosure or materially affects the accuracy of the information contained in any previously filed disclosure form. Events that are considered to materially affect the accuracy of information reported are described in Subpart A, Section 1230.110(c) of the Office of Management and Budget interim final guidance pertaining to Federal government-wide restrictions on lobbying established by Section 319 of Public Law 101-121.

H. PROHIBITION OF ILLEGAL IMMIGRANTS. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any AGREEMENT to supply goods or services to the state of Tennessee, shall be a material provision of this AGREEMENT, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this AGREEMENT.

- a) The ENGINEER hereby attests, certifies, warrants, and assures that the ENGINEER shall not knowingly utilize the services of an illegal immigrant in the performance of this AGREEMENT and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this AGREEMENT. The ENGINEER shall reaffirm this attestation, in writing, by submitting to the STATE a completed and signed copy of the document as Attachment 1, hereto, semi-annually during the period of this AGREEMENT. Such attestations shall be maintained by the ENGINEER and made available to state officials upon request.
- b) Prior to the use of any subcontractor in the performance of this AGREEMENT, and semi-annually thereafter, during the period of this AGREEMENT, the ENGINEER

shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this AGREEMENT and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this AGREEMENT. Attestations obtained from such subcontractors shall be maintained by the ENGINEER and made available to state officials upon request.

- a) The ENGINEER shall maintain records for all personnel used in the performance of this AGREEMENT. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- b) The ENGINEER understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit the ENGINEER from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after the ENGINEER is discovered to have knowingly used the services of illegal immigrants during the performance of this AGREEMENT.
- c) For purposes of this AGREEMENT, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the AGREEMENT.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/30/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER Phone: (601) 939-7700 Fax: (601) 939-8800

KATHY B TAYLOR

THE NOWELL AGENCY INC.

105 KATHERINE DR., BLDG. A

FLOWOOD MS 39232

CONTACT NAME: Andrea Jenkins

PHONE

(A/C, No, Ext): (601) 992-4444

FAX

(A/C, No): (601) 709-4444

E-MAIL

ADDRESS: andrea.jenkins@nowellagency.com

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A : Nationwide Property and Casualty Ins. Co.

37877

INSURER B :

INSURER C :

INSURER D :

INSURER E :

INSURER F :

INSURED

NEEL-SCHAFFER, INC. ET AL

P.O. BOX 22625

JACKSON MS 39225

COVERAGES

CERTIFICATE NUMBER: 57241

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X		BPOK5614886691	04/01/12	04/01/13	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			GLKO5614886691	04/01/12	04/01/13	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED. EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
A	AUTOMOBILE LIABILITY	X		BAK5614886691	04/01/12	04/01/13	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				OTH ER \$
							E.L. EACH ACCIDENT \$
							E.L. DISEASE-EA EMPLOYEE \$
							E.L. DISEASE-POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, If more space is required)

Thirty (30) days prior to cancellation, notice thereof shall be given to the below certificate holder.

City of Murfreesboro is listed as additional insured as their interest may appear.

RE: Bradyville Pike Improvement Project

CERTIFICATE HOLDER

CANCELLATION

City of Murfreesboro
111 West Vine Street
Murfreesboro TN 37130

Attention:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Andrea W. Jenkins

EFFECTIVE DATE: 12:01 AM Standard Time,
(at your principal place of business)

BUSINESSOWNERS
PB 25 00 (01-01)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT
CAREFULLY.**

GENERAL CHANGE ENDORSEMENT

IT IS AGREED THAT THE POLICY IS CHANGED AS FOLLOWS:

**SUBJECT TO ALL TERMS AND CONDITIONS OF THE POLICY, IT IS UNDERSTOOD AND AGREED
THAT:**

BLANKET ADDITIONAL INSURED:

**SECTION II WHO IS AN INSURED IS AMENDED TO INCLUDE AS AN ADDITIONAL INSURED:
ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN
ADDITIONAL INSURED UNDER THIS POLICY, AS A RESULT OF ANY CONTRACT OR AGREEMENT
YOU ENTER INTO WHICH REQUIRES YOU TO FURNISH INSURANCE TO THAT PERSON OR
ORGANIZATION OF THE TYPE PROVIDED BY THIS POLICY. ONLY WITH RESPECT TO
LIABILITY, ARISING OUT OF YOUR OPERATIONS OR "YOUR WORK" PERFORMED FOR THAT
INSURED AND INCLUDED IN THE PRODUCTS COMPLETED OPERATIONS HAZARDS OR PREMISES
OWNED BY OR RENTED TO YOU.**

HOWEVER, THE INSURANCE PROVIDED WILL NOT EXCEED THE LESSOR OF:

- THE COVERAGE AND/OR LIMITS OF THIS POLICY, OR**
 - THE COVERAGE AND/OR LIMITS REQUIRED BY SAID CONTRACT OR AGREEMENT**
- PRIMARY NON-CONTRIBUTORY**

OTHER INSURANCE

**D. THIS INSURANCE IS PRIMARY FOR THE PERSON OR ORGANIZATION SHOWN IN THE
SCHEDULE BUT ONLY WITH RESPECT TO LIABILITY, ARISING OUT OF YOUR OPERATIONS OR
"YOUR WORK" PERFORMED FOR THAT INSURED AND INCLUDED IN THE PRODUCTS-COMPLETED
OPERATIONS HAZARD. OTHER INSURANCE AFFORDED TO THAT INSURED WILL APPLY AS
EXCESS AND NOT CONTRIBUTE AS PRIMARY TO THE INSURANCE AFFORDED BY THIS
ENDORSEMENT.**

**ALL TERMS AND CONDITIONS OF THE POLICY APPLY UNLESS MODIFIED BY THIS
ENDORSEMENT.**

All terms and conditions of this policy apply unless modified by this endorsement.

PB 25 00 (01-01)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

28 (01-86)

GENERAL CHANGE ENDORSEMENT

IT IS AGREED THAT THE POLICY IS CHANGED AS FOLLOWS:

SUBJECT TO ALL TERMS AND CONDITIONS OF THE POLICY, IT IS UNDERSTOOD AND AGREED THAT:

BLANKET ADDITIONAL INSURED:

SECTION II WHO IS AN INSURED IS AMENDED TO INCLUDE AS AN ADDITIONAL INSURED: ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED UNDER THIS POLICY, AS A RESULT OF ANY CONTRACT OR AGREEMENT YOU ENTER INTO WHICH REQUIRES YOU TO FURNISH INSURANCE TO THAT PERSON OR ORGANIZATION OF THE TYPE PROVIDED BY THIS POLICY. ONLY WITH RESPECT TO LIABILITY, ARISING OUT OF YOUR OPERATIONS OR "YOUR WORK" PERFORMED FOR THAT INSURED AND INCLUDED IN THE PRODUCTS COMPLETED OPERATIONS HAZARDS OR PREMISES OWNED BY OR RENTED TO YOU.

HOWEVER, THE INSURANCE PROVIDED WILL NOT EXCEED THE LESSOR OF:

- THE COVERAGE AND/OR LIMITS OF THIS POLICY, OR**
 - THE COVERAGE AND/OR LIMITS REQUIRED BY SAID CONTRACT OR AGREEMENT**
- PRIMARY NON-CONTRIBUTORY**

OTHER INSURANCE

D. THIS INSURANCE IS PRIMARY FOR THE PERSON OR ORGANIZATION SHOWN IN THE SCHEDULE BUT ONLY WITH RESPECT TO LIABILITY, ARISING OUT OF YOUR OPERATIONS OR "YOUR WORK" PERFORMED FOR THAT INSURED AND INCLUDED IN THE PRODUCTS-COMPLETED OPERATIONS HAZARD. OTHER INSURANCE AFFORDED TO THAT INSURED WILL APPLY AS EXCESS AND NOT CONTRIBUTE AS PRIMARY TO THE INSURANCE AFFORDED BY THIS ENDORSEMENT.

ALL TERMS AND CONDITIONS OF THE POLICY APPLY UNLESS MODIFIED BY THIS ENDORSEMENT.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/21/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER 1-601-956-5810
Arthur J. Gallagher Risk Management Services, Inc.
P.O. Drawer 16447
Jackson, MS 39236-6447

CONTACT NAME: Chris F. Brantley
PHONE (A/C No. Ext): 601-956-5810 FAX (A/C No.): 601-957-7098
E-MAIL ADDRESS: chris_brantley@aig.com

INSURER(S) AFFORDING COVERAGE NAIC #
INSURER A: WAUSAU UNDERWRITERS INS CO 26042

INSURED
Neel-Schaffer, Inc. Maptech, Inc., SoilTech
Consultants, Inc., Premier Emergency Management, LLC
True North Emergency Mgmt, LLC; Engineers Constructors Inc
P. O. Box 22625
Jackson, MS 39202

INSURER B:
INSURER C:
INSURER D:
INSURER E:
INSURER F:

COVERAGES

CERTIFICATE NUMBER: 28754204

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY						EACH OCCURRENCE \$
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>						MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
							GENERAL AGGREGATE \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO						BODILY INJURY (Per person) \$
	ALL-OWNED AUTOS						BODILY INJURY (Per accident) \$
	HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$						\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WCJZ91454190012	04/01/12	04/01/13	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N <input checked="" type="checkbox"/> N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

10 Day Notice of Cancellation for Non-Payment of Premium/ 30 Day Notice for other reasons.
Project: Bradyville Pike Improvement Project

CERTIFICATE HOLDER

CANCELLATION

City of Murfreesboro

111 West Vine Street

Murfreesboro, TN 37133

USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2010 ACORD CORPORATION. All rights reserved.

SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE
08/21/2012

NAME OF INSURED: Neal-Schaffer, Inc. Maptech, Inc., SoilTech
Consultants, Inc., Premier Emergency Management, LLC

Additional Description of Operations/Remarks from Page 1:

Additional Information:

The Producer will endeavor to mail 30 days written notice to the Certificate Holder named on the certificate if any policy listed on the certificate is cancelled prior to the expiration date. Failure to do so shall impose no obligation or liability of any kind upon the Producer or otherwise alter the policy terms.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/21/2012

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PRODUCER 1-601-956-5810
Arthur J. Gallagher Risk Management Services, Inc.
P.O. Drawer 16447
Jackson, MS 39236-6447

CONTACT NAME: Chris Brantley
PHONE (A/C, No, Ext): 601-956-5810 FAX (A/C, No): 601-957-7098
E-MAIL ADDRESS: chris_brantley@ajg.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: LEXINGTON INS CO	19437
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Neel-Schaffer, Inc., Maptech, Inc., WCG/Neel-Schaffer, Inc.,
SoilTech Consultants, Inc. Premier Emergency Management LLC
True North Emergency Mgmt, LLC, Engineers Constructors Inc
125 South Congress Street, Suite 1100
Jackson, MS 39201

COVERAGES

CERTIFICATE NUMBER: 28754176

REVISION NUMBER:

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INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY					EACH OCCURRENCE \$
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR					MED EXP (Any one person) \$
						PERSONAL & ADV INJURY \$
						GENERAL AGGREGATE \$
	GEN'L AGGREGATE LIMIT APPLIES PER:					PRODUCTS - COMP/OP AGG \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					\$
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident) \$
						\$
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR				EACH OCCURRENCE \$
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N <input type="checkbox"/> N/A					E.L. EACH ACCIDENT \$
	(Mandatory in NH)					E.L. DISEASE - EA EMPLOYEE \$
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - POLICY LIMIT \$
A	Architects & Engineers		016017333	11/15/11	11/15/12	Each Claim 2,000,000
	Professional Liab. and					Aggregate 4,000,000
	Contractors Pollution Liab.					Retention Per Cl 200,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

10 Day Notice of Cancellation for Non-Payment of premium / 30 Day Notice for other reasons.

Project: Bradyville Pike Improvement Project

CERTIFICATE HOLDER

City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37133

USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

©1988-2010 ACORD CORPORATION. All rights reserved.

SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE
08/21/2012

NAME OF INSURED: Neel-Schaffer, Inc., Maptech, Inc., WCG/Neel-Schaffer, Inc.,
SoilTech Consultants, Inc. Premier Emergency Management LLC

Additional Description of Operations/Remarks from Page 1:

Additional Information:

The Producer will endeavor to mail 30 days written notice to the Certificate Holder named on the certificate if any policy listed on the certificate is cancelled prior to the 10 days notice for non-payment of premium. Failure to do so shall impose no obligation or liability of any kind upon the Producer or otherwise alter the policy terms.

COUNCIL COMMUNICATION

Meeting Date: 6/26/2025

Item Title: Old Fort Parkway Technical Report Amendment No. 3

Department: Transportation

Presented by: Jim Kerr, Transportation Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider approval of Amendment No. 3 to Old Fort Parkway Technical Report Contract with Kimley-Horn.

Staff Recommendation

Approve Contract Amendment No. 3.

Background Information

On December 2, 2022, Council approved a contract with Kimley-Horn and Associates, Inc. to complete a technical report for the proposed widening of Old Fort Parkway. Since that time, TDOT has requested additional coordination and deliverables to support the project's inclusion in their 10-year "Build with Us" plan.

As part of this amendment, Kimley-Horn prepared and completed a presentation to TDOT Region III leadership and staff on February 6, 2025. Following this, TDOT provided feedback on the Concept Report, Cost Estimating Tool, and Concept Graphic Scroll. Kimley-Horn addressed all comments, made the requested modifications, and compiled a Comment Resolution Matrix to document the changes. The final deliverables were submitted to both City and TDOT staff.

These additional services required an increase of \$21,430, bringing the total contract amount to \$164,030.

Council Priorities Served

Expand infrastructure

Improvements to this roadway will increase capacity and help traffic flow to alleviate congestion in this highly traveled area.

Fiscal Impact

The additional expenditure for this amendment, or \$21,430, is funded from Council's

allocation to MTE Proceeds prior to transfer to the Community Investment Trust.

Attachments

1. Amendment No. 3
2. Amendment No. 2
3. Amendment No. 1
4. Original Contract
5. Site Map

**AMENDMENT NUMBER 03 TO THE AGREEMENT BETWEEN
THE CITY OF MURFREESBORO, TENNESSEE
AND KIMLEY-HORN AND ASSOCIATES, INC.**

This is Amendment number 03 dated May 07, 2025 to the agreement between The City of Murfreesboro ("Client") and Kimley-Horn and Associates, Inc. ("Consultant") dated December 2, 2022, ("the Agreement") concerning Old Fort Parkway Technical Report (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

The Agreement is amended to include services to be performed by Consultant for compensation as set forth below in accordance with the terms of the Agreement, which are incorporated by reference.

Additional Services:

Via coordination with the Tennessee Department of Transportation (TDOT), they requested a presentation of the project to their Region III leadership team along with various Region III department staff members. Kimley-Horn prepared a Microsoft-PowerPoint presentation which was presented and discussed with City of Murfreesboro and TDOT Region III staff on February 06, 2025. TDOT also had multiple departments provide a review of the recently completed Concept Report / Cost Estimating Tool / Concept Graphic Scroll and requested several additions and modifications be added in an effort to help the project receive funding and be placed into TDOT's 10-year Plan. Kimley-Horn staff addressed each of TDOT's comments, made additions and modifications to the deliverables, and prepared a comment resolution matrix so that TDOT and City staff could track the changes that were made and the reasons behind the changes / additions. The entire packet (Concept Report / Cost Estimating Tool / Concept Graphic Scroll / Comment Resolution Matrix) was finalized and submitted to City and TDOT staff.

Additional Compensation:

The current contracted budget for the project is \$142,600. The recently completed Additional Services referenced above required an additional \$21,430, which brings the overall contract total to \$164,030.

Following the completion of these Additional Services, the project was placed into TDOT's recently announced "Build with Us" 10-year plan, which puts the project in the queue for design and ultimately construction.

CLIENT:

CONSULTANT:

CITY OF MURFREESBORO, TENNESSEE

KIMLEY-HORN AND ASSOCIATES, INC.

By: _____

By: Chris D. Rhodes

Printed Name: Shane McFarland

Printed Name: Christopher D. Rhodes

Title: Mayor

Title: Senior Vice President

Date: _____

Date: May 07, 2025

Rev. 7/18

Signed by:
APPROVED AS TO FORM
Adam F. Tucker
Adam F. Tucker Attorney

**AMENDMENT NUMBER 02 TO THE AGREEMENT BETWEEN
THE CITY OF MURFREESBORO, TENNESSEE
AND
KIMLEY-HORN AND ASSOCIATES, INC.**

This is Amendment number 02 dated October 22, 2024 to the agreement between The City of Murfreesboro ("Client") and Kimley-Horn and Associates, Inc. ("Consultant") dated December 2, 2022, ("the Agreement") concerning Old Fort Parkway Technical Report (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

The Agreement is amended to include services to be performed by Consultant for compensation as set forth below in accordance with the terms of the Agreement, which are incorporated by reference.

Additional Services:

Via coordination with the Tennessee Department of Transportation (TDOT), two (2) additional analysis scenarios were requested: (1) Future No-Build Conditions, and (2) Future Build Conditions considering the widening to six (6) lanes only (no other intersection enhancements or access management strategies being considered). These two (2) additional analysis scenarios will be analyzed and compiled within the Concept Report format provided by TDOT.

Adjusted Schedule:

Once given notice to proceed via execution of this Amendment, Kimley-Horn will complete the project based up a mutually agreed upon schedule.

Additional Compensation:

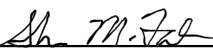
The current contracted budget for the project is \$129,400. To complete the requested additional services an additional \$13,200 is needed, which brings the overall contract total to \$142,600.


CLIENT:

CONSULTANT:

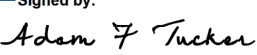
CITY OF MURFREESBORO, TENNESSEE

KIMLEY-HORN AND ASSOCIATES, INC.

DocuSigned by:
By: 
A2F6A4BF7CD7457
Printed Name: Mayor Shane McFarland
Title: Mayor
Date: 12/6/2024

By: 
Printed Name: Christopher D. Rhodes
Title: Senior Vice President
Date: October 22, 2024

APPROVED AS TO FORM

Signed by:

40A2005E51F0401...
Adam F. Tucker, City Attorney

**AMENDMENT NUMBER 01 TO THE AGREEMENT BETWEEN
THE CITY OF MURFREESBORO, TENNESSEE
AND
KIMLEY-HORN AND ASSOCIATES, INC.**

This is Amendment number 01 dated February 16, 2023 to the agreement between The City of Murfreesboro ("OWNER") and Kimley-Horn and Associates, Inc. ("ENGINEER") dated December 2, 2022, ("the Agreement") concerning Old Fort Parkway Technical Report (the "Project").

WHEREAS, ENGINEER has entered into the Agreement with OWNER for the furnishing of professional services related to the Project;

WHEREAS, the Agreement provides for lump-sum payments to the ENGINEER for Basic Services and invoiced compensation for Additional Services;

WHEREAS, the parties now desire to amend the Agreement to provide for compensation for both Basic and Additional Services to be invoiced and paid based on an hourly rate schedule; and

WHEREAS, Section 8.2 of the Agreement provides for amendments to the Agreement to be in a duly executed written instrument.

NOW, THEREFORE, the Agreement is hereby amended as follows:

1. Exhibit A, Further Description of Basic Engineering Services and Related Matters, is amended by deleting the section labeled "Fee and Billing" and replacing said section with the provisions attached hereto as Exhibit A-1.
2. The rates provided in Exhibit A-1 shall be invoiced and paid pursuant to Section 5 of the Agreement.
3. The contract ceiling shall remain the same at \$129,400. Hourly rates will be billed according to the attached rate schedule referenced as Exhibit A.
4. All other terms and conditions of the Agreement shall remain the same.

OWNER:

CITY OF MURFREESBORO, TENNESSEE

DocuSigned by:

By: 

A2F6A4BF7CD74E7...

Printed Name: Mayor Shane McFarland

Title: Mayor

Date: 3/3/2023

ENGINEER:

KIMLEY-HORN AND ASSOCIATES, INC.

By: 

Printed Name: Christopher D. Rhodes

Title: Vice President

Date: February 16, 2023

APPROVED TO AS FORM

By: 

Adam F. Tucker, City Attorney

EXHIBIT A-1

KIMLEY-HORN AND ASSOCIATES, INC.

HOURLY RATE SCHEDULE
(Effective through June 30, 2023)

Classification	Rate
Analyst	\$130 - \$175
Professional	\$170 - \$225
Senior Professional I	\$220 - \$300
Senior Professional II	\$290 - \$320
Support Staff	\$100 - \$125
Senior Technical Support	\$140 - \$230
Technical Support	\$120 - \$155

**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT made as of December 2, 2022, between the CITY OF MURFREESBORO, TENNESSEE, (OWNER) and KIMLEY-HORN AND ASSOCIATES, INC. (ENGINEER).

OWNER intends to secure professional services to perform transportation planning services for the Old Fort Parkway Technical Report (hereinafter called the Project.)

OWNER and ENGINEER in consideration of their mutual covenants herein agree in respect of the performance of professional Engineering services by ENGINEER and the payment for those services by OWNER as set forth below.

**SECTION 1
BASIC SERVICES OF ENGINEER**

1.1 General

1.1.1 ENGINEER shall provide the OWNER professional Engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional Engineering representative for the Project, providing professional Engineering consultation and advice and furnishing customary civil, structural, ~~mechanical~~ and electrical engineering services ~~and customary architectural services~~ incidental hereto.

The Specific Scope of Services for the Project are detailed in Exhibit A.

**SECTION 2
ADDITIONAL SERVICES OF ENGINEER**

2.1 Services Requiring Authorization in Advance

If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1 through 2.1.14, inclusive. These services are not included part of Basic Services except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters;" these will be paid for by OWNER as indicated in Section 5.

2.1.1 Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3 Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond ENGINEER's control.

2.1.4 Providing renderings or models for OWNER's use.

2.1.5 Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.

2.1.6 Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7 Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, ~~mechanical~~ and electrical engineering ~~and customary architectural~~ design incidental thereto); and providing data or services of the type described in paragraph 3.4 when OWNER employs ENGINEER to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

~~2.1.8 If ENGINEER's compensation is on the basis of a lump sum or percentage of Construction Cost or cost plus a fixed fee method of payment, services resulting from the award of more separate prime contracts for construction, materials, or equipment for the Project than are contemplated by paragraph 5.1.1.2. If ENGINEER's compensation is on the basis of a percentage of Construction Cost and ENGINEER has been required to prepare Contract Documents on the assumption that more than one prime contract will be awarded for construction, materials and equipment, but only one prime contract is awarded for construction, materials and equipment for the Project, services attributable to the preparation of contract documentation that was rendered unusable and any revisions or additions to contract documentation used that was necessitated by the award of only one prime contract.~~

2.1.9 Services during out-of-town travel required of ENGINEER other than visits to the site or OWNER's office as required by Section 1.

2.1.10 Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services called for in paragraph 6.2.2.5.

2.1.11 Providing any type of property surveys or related Engineering services needed for the transfer of interests in real property and field surveys for

design purposes and Engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.12 Preparation of operating, maintenance, and staffing manuals to supplement Basic Services under paragraph 1.7.3.

2.1.13 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration, or other legal or administrative proceeding involving the Project (except for assistance in consultations which is included as part of Basic Services under paragraphs and 1.4.2).

2.1.14 Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Article 3, and services not otherwise provided for in this Agreement.

2.2 Required Additional Services (See Sections 8.3 and 8.5)

When required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall furnish or obtain from others, as circumstances require during construction and without waiting for specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive (except to the extent otherwise provided in Exhibit A, "Further Description of Basic Engineering Services and Related Matter"). These services are not included as part of Basic Services. ENGINEER shall advise OWNER promptly after starting any such Additional Services which will be paid for by OWNER as indicated in Section 5.

2.2.1 Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation of Basic Services is not commensurate with the additional services rendered.

2.2.2 Services in making revision to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3 Services resulting from significant delays, changes, or price increases occurring as a direct or

indirect result of material, equipment, or energy shortages.

2.2.4 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, and (4) default by any Contractor.

2.2.5 Services (other than Basic Services during the Operational Phase) in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.

2.2.6 Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

SECTION 3 OWNER'S RESPONSIBILITY

OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER.

3.1 The City Engineer shall act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have primary authority to transmit instruction, receive information, and interpret and define OWNER's policies and decisions with respect to ENGINEER's services for the Project.

3.2 The OWNER has provided the information deemed necessary for the ENGINEER to carry out the services scoped in EXHIBIT A.

3.3 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

3.4 Furnish to ENGINEER, as required for performance of ENGINEER's Basic Services (except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters") the following:

3.4.1 Data prepared by or services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;

3.4.2 appropriate professional interpretations of all the foregoing;

3.4.3 environmental assessment and impact statements;

~~3.4.4 property, boundary, easement, right of way, topographic, and utility surveys;~~

~~3.4.5 property descriptions;~~

3.4.6 zoning, deed, and other land use restrictions; and

3.4.7 other special data or consultations not covered in Section 2;

all of which ENGINEER may use and rely upon in performing services under this Agreement.

3.6 Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

3.7 Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER; obtain advice of an attorney, insurance counselor, and other consultants as OWNER deems appropriate for such examination; and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.

3.8 Facilitate approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

3.9 Provide such accounting, independent cost estimating, and insurance counseling services as may be required for the Project, such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code, or order applicable to their furnishing and performing the work.

3.10 If OWNER designates a person to represent OWNER at the site who is not ENGINEER or ENGINEER's agent or employee, the duties, responsibilities, and limitations of authority of such other person and the effect thereof on the duties and responsibilities of ENGINEER will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.

3.11 If more than one prime contract is to be awarded for construction, materials, equipment, and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

3.12 Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.7 through 3.11, inclusive, and other costs of the type referred to in paragraph 1.2.6) so that ENGINEER may make the necessary findings to support opinions of probable Total Project Costs.

3.13 Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and substantial completion inspections, and final payment inspections.

3.14 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services, or any defect or non-conformance in the work of any Contractor.

3.15 Furnish or direct ENGINEER to provide Additional Services as stipulated in paragraph 2.1 of this Agreement, or other services as required.

3.16 Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 PERIODS OF SERVICE

4.1 The provisions of this Section 4 and the various rates of compensation for ENGINEER's services provided elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project. ENGINEER's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts, construction, and initial

operation of the Project, including extra work and required extensions thereto. If in Exhibit A, "Further Description of Basic Engineering Services and Related Matters," specific periods of time for rendering services are set forth, or specific dates by which services are to be completed are provided, and if such dates are exceeded through no fault of ENGINEER, all rates, measure, and amount of compensation provided herein shall be subject to equitable adjustments.

4.2 The services called for in the Tasks will be completed within the stipulated period indicated in Exhibit A, "Further Description of Basic Engineering Services and Related Matters," after written authorization to proceed with the phase of services which will be given by OWNER within thirty days after ENGINEER has signed this Agreement.

SECTION 5 PAYMENTS TO ENGINEER

5.1 Methods of Payment for Services and Expense of ENGINEER

5.1.1 For Basic Planning and Study Report Services. OWNER shall pay ENGINEER for Basic Services rendered under Section 1 as amended and supplemented by Exhibit A, "Further Description of Basic Engineering Services and Related Matters".

5.1.1A For Basic Design Services. OWNER shall pay ENGINEER for Basic Services rendered under Section 1 as amended and supplemented by Exhibit A, "Further Description of Basic Engineering Services and Related Matters".

5.1.2 For Additional Services. OWNER shall pay ENGINEER for Additional Services rendered under Section 2 as follows:

5.1.2.1 General. For Additional Services of ENGINEER's principals and employees engaged directly on the Project and rendered pursuant to paragraph 2.1 or 2.2 (except services as a consultant or witness under paragraph 2.1.13) on the basis of ENGINEER's hourly rates provided in paragraph 8.4.

5.1.2.2 Professional Associates and Consultants. For Services and Reimbursable Expenses of independent professional associates and consultant employed by ENGINEER to render Additional Services pursuant to paragraph 2.1 or 2.2, the amount billed to

ENGINEER therefor times a factor of 1.00. (See Section 8.4.)

5.1.2.3 Serving as a Witness. For services rendered by ENGINEER's principals and employees as consultants or witnesses in any litigation, arbitration, or other legal or administrative proceeding in accordance with paragraph 2.1.13, at the rate of \$1,920.00 per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, arbitration, or proceeding will be on the basis provided in paragraph 5.1.2.1). Compensation for ENGINEER's independent professional associates and consultants will be on the basis provided in paragraph 5.1.2.2.

5.1.3 For Reimbursable Expenses. In addition to payments provided for in paragraphs 5.1.1 and 5.1.2, OWNER shall pay ENGINEER the actual costs of all Reimbursable Expenses incurred in connection with all Basic and Additional Services.

5.1.4 As used in this paragraph 5.1, the terms "Salary Costs" and "Reimbursable Expenses" have the meanings assigned to them in paragraph 5.4; and the term "Construction Cost" has the meaning assigned to it in paragraph 6.1. ~~When Construction Cost is used as a basis for payment, it will be based on one of the following sources with precedence in the order listed for work designed or specified by ENGINEER:~~

~~5.1.4.1 For completed construction work, the total cost of all work performed as designed or specified by ENGINEER.~~

~~5.1.4.2 For work designed or specified but not constructed, the lowest bona fide bid received from a qualified bidder for such work; or, if the work is not bid, the lowest bona fide negotiated proposal for such work.~~

~~5.1.4.3 For work designed or specified but not constructed and for which no such bid or proposal is received, the most recent estimate of Construction Cost; or, if none is available, ENGINEER's most recent opinion of probable Construction Cost.~~

~~Labor furnished by OWNER for the Project will be included in the Construction Cost at current market rates, including a reasonable allowance for overhead and profit. Materials and equipment furnished by OWNER will be included at current market prices. No deduction is to be made from Construction Costs on account of any penalty, liquidated damages, or~~

~~other amounts withheld from payments to Contractor(s).~~

5.2 Time of Payments

5.2.1 ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. ~~The statements will be based upon ENGINEER's estimate of the proportion of the total services actually completed at the time of billing.~~ OWNER shall make prompt monthly payments in response to ENGINEER's monthly statements.

5.3 Other Provisions Concerning Payments

5.3.1 If OWNER fails to make any undisputed payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's statement therefor, the amounts due ENGINEER will be increased at the rate of 1 percent per month from said thirtieth day; and in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and charges.

5.3.2 In the event of termination by OWNER under paragraph 7.1 upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase on the Basis of Section 8.4 for services rendered by ENGINEER's principals and employees engaged directly on the Project during that phase to date of termination. In the event of any such termination, ENGINEER will also be reimbursed for the charges of independent professional associates and consultants employed by ENGINEER to render Basic Services, and for all unpaid Additional Services and unpaid Reimbursable Expenses.

5.3.3 Records of ENGINEER's Salary Costs pertinent to ENGINEER's compensation under this Agreement will be kept in accordance with generally accepted accounting principles. Copies will be made available to OWNER at cost on request prior to final payment for ENGINEER's services.

5.3.4 Whenever a factor is applied to Salary Costs in determining compensation payable to ENGINEER, that factor will be adjusted periodically and equitably to reflect changes in the various elements that

comprise such factor. All such adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by ENGINEER and consistent with ENGINEER's overall compensation practices and procedures.

5.4 Definitions

5.4.1 Salary Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all ENGINEER's personnel engaged directly on the Project, including but not limited to engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including but not limited to social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday and other group benefits. For the purposes of this Agreement, the principals of ENGINEER and their current hourly Salary Costs are defined in Section 8.4.

5.4.1.1 The hourly Salary Costs of principals of ENGINEER will be adjusted equitably to reflect changes in personnel and in ENGINEER's overall compensation procedures and practices.

~~5.4.1.2 The amount of customary and statutory benefits of all other personnel of ENGINEER will be considered equal to 35 percent of salaries and wages, subject to equitable adjustment to reflect changes in ENGINEER's overall compensation procedures and practices.~~

5.4.2 Reimbursable Expenses mean the actual expenses incurred by ENGINEER or ENGINEER's independent professional associates or consultants, directly or indirectly in connection with the Project, such as expenses for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Section 1; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates. See Sections 8.3, 8.5, and 8.6.

SECTION 6 (RESERVED)

SECTION 7 GENERAL CONSIDERATION

7.1 Termination

The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

7.2 Reuse of Documents

All documents, including Drawings and Specifications, prepared or furnished by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement are instruments of service in respect of the Project; and ENGINEER shall retain an ownership and property interest therein, whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Project by OWNER and others; however, such documents may be suitable for reuse by OWNER or others on extensions of the Project. Any reuse without written verification or adaptation by ENGINEER for the specific purposes intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants; and OWNER shall, to the extent currently permitted under state law, indemnify and hold harmless ENGINEER and ENGINEER's independent professional associates and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

7.3 Insurance

7.3.1 ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury, including personal injury, sickness or disease, or death of any and all employees, or of any person other than such employees, and from claims or damages because of injury to or destruction of property, including loss of use resulting therefrom. ENGINEER shall carry, and shall provide proof of coverage, a minimum of \$1,000,000 in errors and

omissions insurance for four years from execution of agreement. ENGINEER shall, at its own expense, procure and maintain throughout the term of this Agreement comprehensive general liability insurance at \$1,000,000 per occurrence and comprehensive automobile liability insurance at \$1,000,000 per occurrence.

7.4 Controlling Law

This Agreement is to be governed by the laws of Tennessee.

7.5 Successors and Assigns

7.5.1 OWNER and ENGINEER each is hereby bound; and the partners, successors, executors, administrators, and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 7.5.2, the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect to all covenants, agreements, and obligations of this Agreement.

7.5.2 Neither OWNER nor ENGINEER shall assign, sublet, or transfer any rights under or interest in (including without limitation monies that may become due or monies that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates and consultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.

7.5.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

7.6 Dispute Resolution If and to the extent that OWNER and ENGINEER have agreed on a method and procedure for resolving disputes between them

arising out of or relating to this Agreement, such dispute resolution method and procedure, if any, is set forth in Exhibit C, "Dispute Resolution." OWNER and ENGINEER agree to negotiate in good faith for a period of thirty days from the date of notice of all disputes between them prior to exercising their rights under Exhibit C or other provisions of this Agreement or under law.

**SECTION 8
EXHIBITS AND SPECIAL PROVISIONS**

8.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement

8.1.1 Exhibit A, "Further Description of Basic Engineering Services and Related Matters," consisting of 18 pages.

8.1.2 Exhibit B, "Dispute Resolution," consisting of one page.

8.2 This Agreement (consisting of pages 1 through 11 inclusive, and the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may be amended, supplemented, modified, or canceled only by a duly executed written instrument.

8.3 In the event an error is made in the plans, the ENGINEER will correct the error in the plans, and the ENGINEER's services rendered in connection with correcting the error shall be considered as part of the Basic Services. However, if the cost to the OWNER for correcting the error includes tearing out or redoing any portion of the Project, the cost associated with the tearing out or redoing shall not be considered a part of the overall Project Cost for the purposes of calculating the ENGINEER's fee for Basic Services.

~~8.4 Notwithstanding any provision to the contrary, the maximum billing rates shall be as follows:~~

Principal	\$280/hour
Senior Professional	\$260/hour
Professional	\$195/hour
Production Team Member	\$155/hour
Clerical Staff	\$110/hour

~~These hourly rates shall be valid for a period of at least twelve (12) months. Increases in the hourly rates~~

~~may be necessary to reflect changes in salary, benefits, or other statutory requirements which could affect the hourly rates established herein. Any changes in these billing rates will be submitted for review and discussion prior to effecting such changes.~~

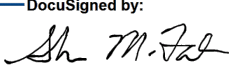
8.5 ENGINEER will obtain prior written approval before performing such work considered "Additional Services" and charging for same.

8.6 Notwithstanding any provision to the contrary, OWNER will not be invoiced for travel within Davidson, Williamson, and Rutherford Counties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

CITY OF MURFREESBORO

DocuSigned by:
By: 
A2F6A4BF7CD74E7...

Title: Mayor

Address for giving notice:
Engineering Department
City of Murfreesboro
111 West Vine Street
Murfreesboro, Tennessee 37130

ENGINEER:

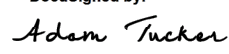
KIMLEY-HORN AND ASSOCIATES, INC.

By: 
(Christopher D. Rhodes, P.E.)

Title: Vice President

Address for giving notice:
Kimley-Horn and Associates, Inc.
10 Lea Avenue, Suite 400
Nashville, Tennessee 37210
Phone: 615-564-2701

APPROVED AS TO FORM:

DocuSigned by:

43A2035E51F9401
City Attorney, Adam Tucker

**EXHIBIT A****FURTHER DESCRIPTION OF BASIC ENGINEERING SERVICES
AND RELATED MATTERS**

This is an Exhibit attached to, made a part of and incorporated by reference into the Agreement made on December 2, 2022, between the City of Murfreesboro, Tennessee, (OWNER or City) and Kimley-Horn and Associates, Inc. (ENGINEER or Kimley-Horn), for providing professional engineering services. The Basic Services of ENGINEER and the responsibility of the OWNER as described in the Agreement are amended or supplemental as indicated below, and the time periods for the performance of certain services as indicated in Section 4 of the Agreement are as indicated below.

This exhibit details transportation planning services for the Old Fort Parkway (State Route 96) Technical Report. A detailed description of the ENGINEER's Scope of Services, Schedule, and Fee are as follows:

Based on the information provided, we understand that the City of Murfreesboro wishes to study the Old Fort Parkway corridor to address congestion and accessibility issues with potential multimodal improvements (additional vehicle capacity, pedestrian / bicycle / transit enhancements, and potential safety improvements) from the Interstate 24 Interchange to the single point urban interchange (SPUI) with Broad Street (US Route 41) covering approximately 2.2 miles. The corridor consists of the following existing intersections:

- 1) Old Fort Parkway at Interstate 24 Westbound Ramps (signalized)
- 2) Old Fort Parkway at Interstate 24 Eastbound Ramps (signalized)
- 3) Old Fort Parkway at North Thompson Lane / Chaffin Place (signalized)
- 4) Old Fort Parkway at Mall Circle Drive / Market Place (signalized)
- 5) Old Fort Parkway at Mall Circle Drive / Bridge Avenue (signalized)
- 6) Old Fort Parkway at Stones River Mall Boulevard (signalized)
- 7) Old Fort Parkway at Old Fort Parkway Frontage Road (unsignalized median opening)
- 8) Old Fort Parkway at New Salem Road / Golf Lane (signalized)
- 9) Old Fort Parkway at Ordway Street / North Kings Highway (unsignalized two-way stop control)

The eastern terminus of the study area will be positioned prior to Old Fort Parkway overpassing Broad Street, which is located at the eastbound off-ramp and westbound on-ramps of Old Fort Parkway to / from broad Street. No improvements will be proposed for the Old Fort Parkway / Broad Street SPUI .

The Technical Report will be studied and prepared in a manner that consistent with the Tennessee Department of Transportation's (TDOT) Strategic Transportation Investment Division's Technical Report format and procedures.

Task 1 – Project Coordination Services

This task will consist of general project management, administrative, and accounting activities for the project. It will further consist of a kick-off meeting with City of Murfreesboro staff, project status and



review meetings, preparing and distributing reports and memos, scheduling of review meetings and activities, monthly project status reporting, and discussion of any project issues during the project. In addition, this task will consist of monthly work planning efforts and will comprise the initial schedule development and monthly maintenance of the scope of services and project milestones.

Task 1.1 – Kick-off Meeting

Kimley-Horn will coordinate and facilitate a kick-off meeting with City of Murfreesboro staff after the official notice-to-proceed (NTP) has been received. The purpose of this meeting will be to introduce the participants to the project, review project scope, discuss key issues, and identify other issues so they can be resolved early in the process. Along with City staff, project stakeholders (i.e., TDOT, etc.) can be invited to participate in the kick-off meeting, project meetings, and/or conference calls as deemed appropriate by City staff.

Task 1.2 – Project Status Meetings

Kimley-Horn will coordinate and facilitate periodic project meetings on a monthly basis. These meeting will be scheduled virtually via Microsoft Teams and/or in-person – with each meeting venue being determined via coordination with City staff. Each meeting will consist of project status updates, schedule review, and discussion of upcoming milestones for both the project team and City of Murfreesboro staff. Up to six (6) project status meetings have been budgeted for this sub-task, with the kick-off meeting being budgeted as one of these meetings.

Task 1 Kimley-Horn Deliverables: Meeting Agendas, Meeting Minutes, Action Items (electronic PDF format)
Invoices on a Monthly Basis (electronic PDF format)

Task 2 – Data Collection Services

This task will encompass the collection of base mapping necessary for the development of the Technical Report and the necessary traffic data collection services for the project. Furthermore, it will consist of field visits to determine and verify field geometry and existing ITS / traffic signal system equipment along the corridor.

Task 2.1 – Assemble Base Mapping

This sub-task includes the initial coordination with TDOT and the City to acquire the base mapping for the project. We will request existing ground data provided by TDOT consisting of a Digital Terrain Model (DTM), Digital Elevation Model (DEM), and/or post processed Light Detection and Ranging (LiDAR) data. In parallel we will also request the City's Geographic Information System (GIS) files for the project limits. Utilizing one or both of these sets of digital data, we will prepare base mapping suitable for project use. Kimley-Horn will assemble the base mapping to use as the conceptual design plan sheets. This consists of the following: incorporating additional mapping, cutting and arranging the base mapping onto plan sheets, creating match lines (if deemed necessary), labeling route numbers / adjacent roadways within the base map limits, developing title blocks, and development of a station line for the corridor (if deemed necessary).

Task 2.2 – Field Inventories and Observation

Field inventories / observations will be performed by Kimley-Horn along the corridor to confirm roadway geometry, ITS / signal infrastructure, and any multimodal features related to pedestrian, bicycle, and/or transit modes. We will build off existing field inventories performed at each signalized intersection as part of the TDOT I-24 Smart Corridor project for this sub-task. Additional photographs will also be taken, as deemed appropriate, along the corridor to supplement earlier data collection efforts.

Task 2.3 – Traffic and Crash Data Collection

City staff, via existing fisheye video detection technology that exists at each signalized intersection will provide weekday turning movement counts (TMC) from 6:00 AM – 8:00 PM. Kimley-Horn staff, via a data collection sub-consultant we frequently utilize, will perform TMC's at the two unsignalized intersections (intersections 7 and 9) for the same time periods. Directional Average Annual Daily Traffic (AADT) tube counts will also be acquired along the corridor from TDOT.

Kimley-Horn will also acquire exiting crash data along the corridor, available from TDOT over a three (3) year period. Utilizing this data, Kimley-Horn will prepare a three (3)-year period crash analysis for the project corridor along with crash diagrams and crash summary tables along the corridor consistent with TDOT Technical Report guidelines. Utilizing the results of the crash analysis, Kimley-Horn will identify potential safety deficiencies along the corridor for discussion during Task 3 efforts below.

Task 2.4 – Coordinate with Adjoining Projects

Kimley-Horn will coordinate with City and TDOT staff to identify and understand any adjacent planned or underway projects. We will acquire existing data (studies, conceptual designs, construction plans, etc.) for adjoining projects in an effort to demonstrate connectivity / continuity with potential adjoining projects.

Task 2 Kimley-Horn Deliverables: Turning Movement Counts – two (2) locations (electronic PDF format)

Task 2 City Deliverables: GIS Base Mapping
Turning Movement Counts (seven (7) locations)
Information regarding potential adjoining projects

Task 3 – Field Review

An on-site field review will be facilitated by Kimley-Horn staff with the following agencies:

- City of Murfreesboro Transportation Department
- City of Murfreesboro Engineering Department
- City of Murfreesboro Planning Department
- City of Murfreesboro Transit (Rover)
- WeGo Public Transit
- Nashville Area Metropolitan Planning Organization (MPO)
- TDOT Region 3 Project Development Office

- TDOT Region 3 Traffic Office
- TDOT Region 3 Design
- TDOT Traffic Operations Division
- TDOT Environmental Division
- TDOT Strategic Transportation Investments Division (STID)
- TDOT Long Range Planning Division
- TDOT Multimodal Division

Kimley-Horn will provide the front-end coordination, facilitation during, and documentation afterward of this field review meeting. The scope of the project, design considerations, and preliminary purpose and need will be discussed and determined amongst the Field Review team members. Prior to the Field Review, Kimley-Horn will develop the following items as part of a field review packet to be shared with the attendees beforehand:

- Project map and summary of project to be delivered
- Technical Report schedule
- Existing route information (functional classification, typical section, speed limit, geometric conditions)
- Pertinent traffic information (AADT, TMC)
- Corridor crash diagrams and crash summary tables

Task 3 Kimley-Horn Deliverables: Field Review Packet (electronic PDF format)

Task 4 – Evaluate Existing Conditions

Task 4 efforts will consist of compiling and validating the data collected in Task 2 and discussed during the Task 3 Field Review and preparing an operational analysis for the corridor with the goal of addressing three (3) primary objectives:

- Increased roadway capacity in both directions along Old Fort Parkway (i.e., studying the feasibility of widening from a four (4)-lane divided facility to a six (6)-lane divided facility and associated improvements,
- Identifying ways to enhance multimodal operations and access along the corridor consisting of pedestrian, bicycle, and transit modes, and
- Identifying and attempting to mitigate high crash locations along the corridor with the improvements recommended in this study.

Task 4.1 – Data Compilation / Validation

Prior to developing new coordination timings, it is important to understand and validate the existing conditions. Using the data collected in the field and knowledge of the conditions observed during the field observations / Field Review (Tasks 3 and 4), a network will be developed by Kimley-Horn for each peak using *Synchro*. Existing geometry and traffic volumes along with existing signal timings / settings

provided by City staff will be modeled in *Synchro*. The *Synchro* model will be developed using aerial photography as the background.

Task 4.2 – Operational Analysis

Once the field data has been collected and compiled, Kimley-Horn will perform an operational analysis along the corridor for the weekday AM and PM peak hours. Capacity analyses consistent with the *Highway Capacity Manual* will be performed to document existing conditions and recommended improvements along the corridor. Recommended improvements will be identified based upon the following inputs: (a) crash analysis from Task 2, (b) Field Review input from Task 3, (c) capacity deficiencies identified in this sub-task, and (d) multimodal deficiencies to be identified during this sub-task.

During this task, Kimley-Horn will project future weekday traffic conditions (AADT and TMC) along the corridor for future years associated with a five (5) and 25-year horizon (2027 and 2047) Build and No-Build scenarios, which is consistent with our most recent Technical Reports we have prepared for TDOT.

Task 5 – Conceptual Design Services

Building off the findings and recommendations in Task 4, Kimley-Horn will prepare a conceptual design along the corridor addressing the following items:

- Horizontal alignment
- Vertical alignment (incorporating any sight distance needs associated with any unsignalized intersections)
- Side street impacts
- Potential Right-of-Way (ROW) and/or easement impacts
- Structure needs (bridge, retaining wall, box culvert, etc.)
- Signal system / Intelligent Transportation System (ITS) enhancements and/or modifications
- Multimodal enhancements (pedestrian [sidewalks, signalized pedestrian crossings], bicycle facility needs, and transit operations [bus stops, shelters, exclusive lanes])
- Environmental concerns and mitigation techniques

During this task, Kimley-Horn will also identify and document any environmentally sensitive locations where design adjustments may be necessary.

The conceptual design will be presented in a conceptual plan set that consists of:

- Title sheet
- Typical sections
- 200-scale plan view conceptual layout figures consisting of:
 - Existing parcel data
 - Estimated proposed ROW and slope lines
 - Environmental features (wetlands, streams, churches, parks, schools, etc.)



- Roadway centerline
- Pavement markings
- Structures (guardrail, retaining walls, bridges, box culverts)
- Slope adjustments
- Locations where design exceptions are recommended

Additionally, Environmental Technical Study Areas (ETSA) figures will be developed once the concept is accepted.

Task 6 – Engineer’s Opinion of Probable Cost

Kimley-Horn will prepare a detailed engineer's opinion of the probable cost (i.e., cost estimate) of the recommended improvements along the corridor consistent with TDOT Technical Report standards via the TDOT Cost Estimate Tool.

Task 7 – Technical Report Preparation

Kimley-Horn will prepare the draft Technical Report based upon templates utilized by TDOT. The report will consist of the following items:

- Cover sheet
- Executive summary
 - Purpose of the report
 - Overview of adjoining projects
 - Description of existing conditions
 - Existing and horizon traffic
- Table of contents
- Introduction
 - Report goals
 - Project initiation
- Study area, vicinity, existing roadway network maps, Flood Insurance Rate Maps (FIRM Maps)
- Preliminary purpose and need
- Description of existing conditions
 - Existing lane and shoulder widths
 - Functional classification
 - Speed limit
 - Pavement condition
 - Description of existing geometrics
- Demographics
 - Census data, county/city growth rate
- Existing land use and zoning
- Preliminary environmental constraints
 - Parks, schools, churches, wetlands, institutions etc.
- Existing utility infrastructure


OLD FORT PARKWAY TECHNICAL REPORT
**EXHIBIT A
MURFREESBORO, TENNESSEE**

- Additional traffic engineering analyses
- Additional signal system design outside of the scope referenced
- Attendance at review meetings and / or public hearings
- Others as requested by the City

INFORMATION PROVIDED BY CLIENT

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

- Existing GIS and/or digital photography data for the project area
- TMC data for seven (7) of the corridor signals
- As-built traffic signal plans or file drawings (if available)
- Existing signal timing parameters (coordination, time-of-day / day-of-week, and local controller settings data)
- Information regarding adjoining projects

SCHEDULE

Given a notice to proceed and contract execution, Kimley-Horn is prepared to provide these services based upon a mutually agreed upon schedule.

FEE AND BILLING

Kimley-Horn will perform the services described in Tasks 1 through 7 for a total lump sum fee (inclusive of labor and expenses) summarized below.

<i>Task 1 – Project Coordination Services</i>	<i>\$12,600</i>
<i>Task 2 – Data Collection Services</i>	<i>\$19,700</i>
<i>Task 3 – Field Review</i>	<i>\$8,400</i>
<i>Task 4 – Evaluate Existing Conditions</i>	<i>\$32,200</i>
<i>Task 5 – Conceptual Design Services</i>	<i>\$35,600</i>
<i>Task 6 – Engineer's Opinion of Probable Cost</i>	<i>\$3,800</i>
<i>Task 7 – Technical Report Preparation</i>	<i>\$17,100</i>

Total Lump Sum Fee:	\$129,400
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Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary. Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.



OLD FORT PARKWAY TECHNICAL REPORT

**EXHIBIT A
MURFREESBORO, TENNESSEE**

Kimley-Horn will perform the services described in Task 8 (Additional Services) of the Scope of Services on a labor fee plus expense basis or an agreed upon lump sum value. Effort associated with Task 8 will not be performed without authorization from the City of Murfreesboro.

EXHIBIT B

DISPUTE RESOLUTION

- 7.6.1 In the event a dispute arises between OWNER and ENGINEER relating to any obligation undertaken in this agreement, they agree to utilize the following procedure to resolve any such dispute.
- 7.6.2 OWNER and ENGINEER will attempt to resolve all disputes by first engaging in good faith negotiations between them as soon as possible after the dispute arises.
- 7.6.3 If negotiations are not successful, OWNER and ENGINEER will submit their dispute to a mutually acceptable mediator for nonbinding mediation.
- 7.6.4 If mediation is not successful, OWNER and ENGINEER will seek a resolution of their dispute through the normal legal process in a court of competent jurisdiction.
- 7.6.5 If a dispute is resolved through the procedure of paragraph 7.6.4, the prevailing party shall be entitled to recover from the other all court costs.
- 7.6.6 If the complete resolution of a dispute requires the joiner of a third party that does not agree to follow the procedure set out in paragraph 7.6, such dispute shall not be resolved between OWNER and ENGINEER in accordance with said paragraph. However, this paragraph 7.6.6 shall have no application unless formal written notice of objection is given by the party wishing to utilize this subsection to avoid the procedure set forth in paragraph 7.6 within 30 days of formal notice of the dispute invoking paragraph 7.6.

COUNCIL COMMUNICATION

Meeting Date: 6/26/2025

Item Title: Asphalt and Concrete Purchase Report

Department: Street

Presented by: Tracy Brown – Assistant Director, Street

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

Summary

Asphalt and concrete purchases report.

Background Information

Purchases of asphalt and concrete are made throughout the month and reported with Street Department construction projects. The attached report is provided pursuant to City Code, § 2-10(E)(7) in compliance with this reporting requirement.

Pursuant to the Code, a purchase of perishable commodities made on the open market does not require public advertisement and competitive bids if a record is made by the person authorizing the purchase which specifies the amount paid, the items purchased and from whom the purchase was made in accordance with T.C.A. §6-56-304(7).

Council Priorities Served

Responsible budgeting

Proper procurement ensures the best cost savings to the Department and our customers.

Fiscal Impacts

Asphalt purchases, \$120,000, and concrete purchases, \$60,000, are funded by the Department's FY25 Budget.

Attachments

Asphalt and Concrete Purchases Report

FY25 STREET DEPARTMENT ASPHALT PURCHASES

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/26/2024	Hawkins	411D 64-22	\$ 87.90	3.80	\$ 334.02	\$ 334.02
8/14/2024	Hawkins	411E	\$ 90.97	9.10	\$ 827.83	\$ 1,161.85
12/12/2024	Hawkins	411E	\$ 85.97	9.97	\$ 857.12	\$ 2,018.97
12/19/2024	Hawkins	411E	\$ 85.97	5.44	\$ 467.68	\$ 2,486.64

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/1/2024	Vulcan	307BM PG 64-22	\$ 76.00	9.69	\$ 736.44	\$ 736.44
8/14/2024	Vulcan	307BM PG 64-22	\$ 76.00	4.32	\$ 328.32	\$ 1,064.76
8/28/2024	Vulcan	411E PG 64-22	\$ 87.50	5.31	\$ 464.63	\$ 1,529.39
8/29/2024	Vulcan	411E PG 64-22	\$ 87.50	6.40	\$ 560.00	\$ 2,089.39
9/6/2024	Vulcan	411E PG 64-22	\$ 87.50	4.29	\$ 375.38	\$ 2,464.77
10/4/2024	Vulcan	411E PG 64-22	\$ 84.70	12.32	\$ 1,043.50	\$ 3,508.27
10/31/2024	Vulcan	307BM PG 64-22	\$ 73.90	10.28	\$ 759.69	\$ 4,267.96
10/31/2024	Vulcan	411E PG 64-22	\$ 134.45	1.26	\$ 169.41	\$ 4,437.37
10/31/2024	Vulcan	411E PG 64-22	\$ 140.00	1.21	\$ 169.40	\$ 4,606.77
10/31/2024	Vulcan	411E PG 64-22	\$ 152.61	1.11	\$ 169.40	\$ 4,776.17
10/29/2024	Vulcan	411E PG 64-22	\$ 84.70	8.31	\$ 703.86	\$ 5,480.02
10/29/2024	Vulcan	411E PG 64-22	\$ 84.70	4.17	\$ 353.20	\$ 5,833.22
10/29/2024	Vulcan	411E PG 64-22	\$ 84.70	3.24	\$ 274.43	\$ 6,107.65
11/4/2024	Vulcan	411E PG 64-22	\$ 84.27	5.27	\$ 444.10	\$ 6,551.75
11/5/2024	Vulcan	411E PG 64-22	\$ 84.27	14.11	\$ 1,189.05	\$ 7,740.80
11/15/2024	Vulcan	411E PG 64-22	\$ 84.27	4.40	\$ 370.79	\$ 8,111.59
11/15/2024	Vulcan	411E PG 64-22	\$ 84.27	2.42	\$ 203.93	\$ 8,315.52
11/21/2024	Vulcan	411E PG 64-22	\$ 84.27	3.43	\$ 289.05	\$ 8,604.57
12/16/2024	Vulcan	411E PG 64-22	\$ 85.58	4.12	\$ 352.59	\$ 8,957.16
1/17/2025	Vulcan	411E PG 64-22	\$ 88.67	20.61	\$ 1,827.49	\$ 10,784.65
2/13/2025	Vulcan	411E PG 64-22	\$ 88.84	21.90	\$ 1,945.60	\$ 12,730.24
2/14/2025	Vulcan	307BM PG 64-22	\$ 78.26	15.84	\$ 1,239.64	\$ 13,969.88
2/24/2025	Vulcan	411E PG 64-22	\$ 88.84	18.07	\$ 1,605.34	\$ 15,575.22
2/26/2025	Vulcan	411E PG 64-22	\$ 88.84	10.11	\$ 898.17	\$ 16,473.39
2/26/2025	Vulcan	411E PG 64-22	\$ 88.84	16.29	\$ 1,447.20	\$ 17,920.60
2/27/2025	Vulcan	411E PG 64-22	\$ 88.84	16.22	\$ 1,440.98	\$ 19,361.58
2/27/2025	Vulcan	411E PG 64-22	\$ 88.84	10.14	\$ 900.84	\$ 20,262.42
2/28/2025	Vulcan	411E PG 64-22	\$ 88.84	6.09	\$ 541.04	\$ 20,803.45
2/28/2025	Vulcan	411E PG 64-22	\$ 88.84	14.18	\$ 1,259.75	\$ 22,063.21
3/3/2025	Vulcan	411E PG 64-22	\$ 88.84	16.09	\$ 1,429.44	\$ 23,492.64
3/4/2025	Vulcan	411E PG 64-22	\$ 89.19	10.44	\$ 931.14	\$ 24,423.79
3/7/2025	Vulcan	411E PG 64-22	\$ 89.19	6.13	\$ 546.73	\$ 24,970.52
3/10/2025	Vulcan	411E PG 64-22	\$ 87.19	10.30	\$ 898.06	\$ 25,868.58
3/11/2025	Vulcan	411E PG 64-22	\$ 87.19	15.08	\$ 1,314.83	\$ 27,183.40
3/12/2025	Vulcan	411E PG 64-22	\$ 87.19	10.76	\$ 938.16	\$ 28,121.57
3/13/2025	Vulcan	307BM PG 64-22	\$ 76.51	14.57	\$ 1,114.75	\$ 29,236.32
3/14/2025	Vulcan	411E PG 64-22	\$ 87.19	13.40	\$ 1,168.35	\$ 30,404.66
3/19/2025	Vulcan	411E PG 64-22	\$ 87.19	2.07	\$ 180.48	\$ 30,585.15
3/19/2025	Vulcan	411E PG 64-22	\$ 87.18	2.19	\$ 190.92	\$ 30,776.07
3/19/2025	Vulcan	411E PG 64-22	\$ 174.37	1.00	\$ 174.37	\$ 30,950.44
3/19/2025	Vulcan	411E PG 64-22	\$ 147.77	1.18	\$ 174.37	\$ 31,124.81
3/19/2025	Vulcan	411E PG 64-22	\$ 87.19	5.11	\$ 445.54	\$ 31,570.35
3/19/2025	Vulcan	411E PG 64-22	\$ 87.19	5.55	\$ 483.90	\$ 32,054.25
3/19/2025	Vulcan	411E PG 64-22	\$ 87.19	15.06	\$ 1,313.08	\$ 33,367.34
3/20/2025	Vulcan	411E PG 64-22	\$ 145.30	1.20	\$ 174.36	\$ 33,541.70
3/20/2025	Vulcan	411E PG 64-22	\$ 151.62	1.15	\$ 174.36	\$ 33,716.06
3/20/2025	Vulcan	411E PG 64-22	\$ 144.11	1.21	\$ 174.37	\$ 33,890.43
3/20/2025	Vulcan	411E PG 64-22	\$ 121.09	1.44	\$ 174.37	\$ 34,064.80
3/20/2025	Vulcan	411E PG 64-22	\$ 87.18	6.29	\$ 548.36	\$ 34,613.16
3/20/2025	Vulcan	411E PG 64-22	\$ 87.19	2.19	\$ 190.95	\$ 34,804.11
3/20/2025	Vulcan	411E PG 64-22	\$ 87.18	8.39	\$ 731.44	\$ 35,535.55
3/20/2025	Vulcan	411E PG 64-22	\$ 164.50	1.06	\$ 174.37	\$ 35,709.92
3/20/2025	Vulcan	411E PG 64-22	\$ 87.19	13.00	\$ 1,133.47	\$ 36,843.39
3/21/2025	Vulcan	411E PG 64-22	\$ 89.19	8.11	\$ 723.33	\$ 37,566.72
3/21/2025	Vulcan	411E PG 64-22	\$ 87.19	8.08	\$ 704.50	\$ 38,271.22
3/21/2025	Vulcan	411E PG 64-22	\$ 87.19	16.22	\$ 1,414.22	\$ 39,685.44
4/1/2025	Vulcan	411E PG 64-22	\$ 87.19	7.31	\$ 637.36	\$ 40,322.80
4/10/2025	Vulcan	411E PG 64-22	\$ 87.19	2.05	\$ 178.74	\$ 40,501.54
4/10/2025	Vulcan	411E PG 64-22	\$ 87.19	4.04	\$ 352.25	\$ 40,853.78
4/11/2025	Vulcan	411E PG 64-22	\$ 87.19	2.17	\$ 189.20	\$ 41,042.99

FY 25 STREET DEPARTMENT ASPHALT PURCHASES

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
4/11/2025	Vulcan	411E PG 64-22	\$ 87.19	3.03	\$ 264.19	\$ 41,307.17
4/14/2025	Vulcan	411E PG 64-22	\$ 87.19	3.15	\$ 274.65	\$ 41,581.82
4/14/2025	Vulcan	411E PG 64-22	\$ 87.19	15.42	\$ 1,344.47	\$ 42,926.29
4/14/2025	Vulcan	411E PG 64-22	\$ 87.19	3.25	\$ 283.37	\$ 43,209.66
4/16/2025	Vulcan	411E PG 64-22	\$ 87.19	3.54	\$ 308.65	\$ 43,518.31
4/17/2025	Vulcan	411E PG 64-22	\$ 87.19	2.11	\$ 183.97	\$ 43,702.28
4/22/2025	Vulcan	411E PG 64-22	\$ 87.19	3.06	\$ 266.80	\$ 43,969.08
5/13/2025	Vulcan	411E PG 64-22	\$ 87.19	3.66	\$ 319.12	\$ 44,288.20
5/29/2025	Vulcan	411E PG 64-22	\$ 87.19	8.77	\$ 764.66	\$ 45,052.85
5/30/2025	Vulcan	411E PG 64-22	\$ 87.19	3.20	\$ 279.01	\$ 45,331.86

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/2/2024	Wiregrass Construction	Commercial 411-E	\$ 94.98	13.00	\$ 1,234.74	\$ 1,234.74
7/3/2024	Wiregrass Construction	Commercial 411-E	\$ 95.02	12.05	\$ 1,144.99	\$ 2,379.73
7/26/2024	Wiregrass Construction	TDOT 411-D PG 64-22	\$ 113.03	3.41	\$ 385.43	\$ 2,765.16
8/7/2024	Wiregrass Construction	TDOT 307-BM PG64-22	\$ 78.15	21.43	\$ 1,674.75	\$ 4,439.92
8/7/2024	Wiregrass Construction	TDOT 307-BM PG64-22	\$ 78.15	21.59	\$ 1,687.26	\$ 6,127.18
8/7/2024	Wiregrass Construction	TDOT 307-BM PG64-22	\$ 78.15	20.40	\$ 1,594.26	\$ 7,721.44
8/15/2024	Wiregrass Construction	Commercial 411-E	\$ 95.19	3.08	\$ 293.19	\$ 8,014.62
8/16/2024	Wiregrass Construction	Commercial 411-E	\$ 95.19	6.89	\$ 655.86	\$ 8,670.48
8/27/2024	Wiregrass Construction	Commercial 411-E	\$ 95.19	5.88	\$ 559.72	\$ 9,230.20
9/9/2024	Wiregrass Construction	Commercial 411-E	\$ 95.05	6.56	\$ 623.53	\$ 9,853.73
9/10/2024	Wiregrass Construction	Commercial 411-E	\$ 95.05	4.91	\$ 466.70	\$ 10,320.42
9/18/2024	Wiregrass Construction	Commercial 411-E	\$ 95.05	4.30	\$ 408.72	\$ 10,729.14
10/1/2024	Wiregrass Construction	Commercial 411-E	\$ 93.95	4.26	\$ 400.23	\$ 11,129.36
10/2/2024	Wiregrass Construction	Commercial 411-E	\$ 93.95	4.00	\$ 375.80	\$ 11,505.16
10/3/2024	Wiregrass Construction	Commercial 411-E	\$ 93.95	10.11	\$ 949.83	\$ 12,455.00
10/7/2024	Wiregrass Construction	Commercial 411-E	\$ 93.95	6.16	\$ 578.73	\$ 13,033.73
10/10/2024	Wiregrass Construction	Commercial 411-E	\$ 93.95	4.21	\$ 395.53	\$ 13,429.26
10/14/2024	Wiregrass Construction	Commercial 411-E	\$ 93.95	8.31	\$ 780.72	\$ 14,209.98
10/25/2024	Wiregrass Construction	Commercial 411-E	\$ 93.95	4.25	\$ 399.29	\$ 14,609.27
10/28/2024	Wiregrass Construction	Commercial 411-E	\$ 93.95	5.94	\$ 558.06	\$ 15,167.33
1/28/2025	Wiregrass Construction	TDOT 307-BM PG64-22	\$ 76.35	17.46	\$ 1,333.07	\$ 16,500.41
2/10/2025	Wiregrass Construction	Commercial 411-E	\$ 93.13	2.04	\$ 189.99	\$ 16,690.39
2/25/2025	Wiregrass Construction	Commercial 411-E	\$ 93.13	10.01	\$ 932.23	\$ 17,622.62
3/6/2025	Wiregrass Construction	Commercial 411-E	\$ 93.46	16.39	\$ 1,531.81	\$ 19,154.43
3/25/2025	Wiregrass Construction	Commercial 411-E	\$ 93.46	8.00	\$ 747.68	\$ 19,902.11
4/23/2025	Wiregrass Construction	Commercial 411-E	\$ 93.46	4.80	\$ 448.61	\$ 20,350.72
4/29/2025	Wiregrass Construction	Commercial 411-E	\$ 93.46	3.80	\$ 355.15	\$ 20,705.87
5/5/2025	Wiregrass Construction	Commercial 411-E	\$ 93.46	3.14	\$ 293.46	\$ 20,999.33
5/29/2025	Wiregrass Construction	Commercial 411-E	\$ 93.46	8.59	\$ 802.82	\$ 21,802.15

FY 25 STREET DEPARTMENT CONCRETE PURCHASES

Invoice Date	Vendor	Type	Rate	Yards	Surcharge	Total	FY Total
7/3/2024	Nashville Ready Mix	Flowable Fill TDOT	\$ 126.00	2.00		\$ 252.00	\$ 252.00
7/8/2024	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2.00		\$ 276.00	\$ 528.00
7/9/2024	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	4.00		\$ 552.00	\$ 1,080.00
		Min Load Charge	\$ 75.00	1.00		\$ 75.00	\$ 1,155.00
		Fuel Surcharge	\$ 50.00	1.00		\$ 50.00	\$ 1,205.00
		Retarder 2%	\$ 8.00	4.00		\$ 32.00	\$ 1,237.00
7/10/2024	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2.00		\$ 276.00	\$ 1,513.00
7/11/2024	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	1.50		\$ 207.00	\$ 1,720.00
7/12/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	2.00		\$ 276.00	\$ 1,996.00
7/15/2024	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	1.50		\$ 207.00	\$ 2,203.00
7/16/2024	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	1.00		\$ 138.00	\$ 2,341.00
7/17/2024	Nashville Ready Mix	3413CF5 3500 PSI Chips AE	\$ 138.00	1.50		\$ 207.00	\$ 2,548.00
7/18/2024	Nashville Ready Mix	3413CF5 3500 PSI Chips AE	\$ 138.00	2.50		\$ 345.00	\$ 2,893.00
7/25/2024	Nashville Ready Mix	3413CF5 3500 PSI Chips AE	\$ 138.00	1.50		\$ 207.00	\$ 3,100.00
7/26/2024	Nashville Ready Mix	3413CF5 3500 PSI Chips AE	\$ 138.00	1.00		\$ 138.00	\$ 3,238.00
7/29/2024	Nashville Ready Mix	3413CF5 3500 PSI Chips AE	\$ 138.00	1.00		\$ 138.00	\$ 3,376.00
8/2/2024	Nashville Ready Mix	4451 CF5 4000 PSI Chips AE	\$ 140.00	2.00		\$ 280.00	\$ 3,656.00
		Fiber 2 Full Fibers	\$ 5.00	2.00		\$ 10.00	\$ 3,666.00
8/5/2024	Nashville Ready Mix	3413CF5 3500 PSI Chips AE	\$ 138.00	1.00		\$ 138.00	\$ 3,804.00
8/5/2024	Nashville Ready Mix	3375LF5 3000 PSI AE	\$ 135.00	1.00		\$ 135.00	\$ 3,939.00
8/6/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	2.00		\$ 276.00	\$ 4,215.00
8/7/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	2.00		\$ 276.00	\$ 4,491.00
8/8/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	1.00		\$ 138.00	\$ 4,629.00
8/8/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	2.00		\$ 276.00	\$ 4,905.00
8/13/2024	Nashville Ready Mix	Flowable Fill TDOT	\$ 126.00	10.00		\$ 1,260.00	\$ 6,165.00
		Fuel Surcharge	\$ 50.00	1.00		\$ 50.00	\$ 6,215.00
8/13/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	2.50		\$ 345.00	\$ 6,560.00
8/15/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	1.00		\$ 138.00	\$ 6,698.00
8/26/2024	Nashville Ready Mix	3500 CF5 3500 PSI Chips AE	\$ 138.00	1.50		\$ 207.00	\$ 6,905.00
8/27/2024	Nashville Ready Mix	3500 CF5 3500 PSI Chips AE	\$ 138.00	1.00		\$ 138.00	\$ 7,043.00
		Fiber 1 half fibers	\$ 3.00	1.00		\$ 3.00	\$ 7,046.00
8/30/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	2.00		\$ 276.00	\$ 7,322.00
		Retarder 2%	\$ 8.00	2.00		\$ 16.00	\$ 7,338.00
		Fiber 2 Full Fibers	\$ 5.00	2.00		\$ 10.00	\$ 7,348.00
9/3/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	2.50		\$ 345.00	\$ 7,693.00
9/4/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	3.00		\$ 414.00	\$ 8,107.00
9/5/2024	Nashville Ready Mix	3413 CF5 3500 PSI Chips AE	\$ 138.00	1.50		\$ 207.00	\$ 8,314.00
9/6/2024	Nashville Ready Mix	3500LF5 PSI AE	\$ 137.00	2.00		\$ 274.00	\$ 8,588.00
		Fiber 2 Full Fibers	\$ 5.00	2.00		\$ 10.00	\$ 8,598.00
9/9/2024	Nashville Ready Mix	5555CF5	\$ 147.00	1.50		\$ 220.50	\$ 8,818.50
		Half-Fibers .50lb dose	\$ 3.00	1.50		\$ 4.50	\$ 8,823.00
9/11/2024	Nashville Ready Mix	3413CF5	\$ 138.00	1.00		\$ 138.00	\$ 8,961.00
9/13/2024	Nashville Ready Mix	3413CF5	\$ 138.00	1.00		\$ 138.00	\$ 9,099.00
9/16/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.00		\$ 276.00	\$ 9,375.00
9/17/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.00		\$ 276.00	\$ 9,651.00
9/19/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.50		\$ 207.00	\$ 9,858.00
9/20/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.00		\$ 138.00	\$ 9,996.00
9/26/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.50		\$ 207.00	\$ 10,203.00
10/8/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.50		\$ 207.00	\$ 10,410.00
10/9/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.00		\$ 138.00	\$ 10,548.00
10/11/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.50		\$ 207.00	\$ 10,755.00
10/15/2024	Nashville Ready Mix	3500 CF5	\$ 138.00	1.50		\$ 207.00	\$ 10,962.00
10/16/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.50		\$ 207.00	\$ 11,169.00
10/17/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.00		\$ 138.00	\$ 11,307.00
10/18/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.50		\$ 207.00	\$ 11,514.00
10/21/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.50		\$ 345.00	\$ 11,859.00
10/22/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.00		\$ 276.00	\$ 12,135.00
10/23/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.50		\$ 345.00	\$ 12,480.00
10/24/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.50		\$ 345.00	\$ 12,825.00
10/25/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.00		\$ 138.00	\$ 12,963.00
11/8/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.50		\$ 345.00	\$ 13,308.00
		ACCEL2 Non-Chloride	\$ 14.00	2.50		\$ 35.00	\$ 13,343.00

FY 25 STREET DEPARTMENT CONCRETE PURCHASES

Invoice Date	Vendor	Type	Rate	Yards	Surcharge	Total	FY Total
11/12/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.50		\$ 345.00	\$ 13,688.00
11/13/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.00		\$ 138.00	\$ 13,826.00
11/14/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.50		\$ 207.00	\$ 14,033.00
11/27/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	1.50		\$ 207.00	\$ 14,240.00
12/9/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.50		\$ 345.00	\$ 14,585.00
12/11/2024	Nashville Ready Mix	3413CF5	\$ 138.00	2.50		\$ 345.00	\$ 14,930.00
		ACCEL2 Non-Chloride	\$ 14.00	2.50		\$ 35.00	\$ 14,965.00
12/20/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	2.50		\$ 345.00	\$ 15,310.00
		ACCEL2 Non-Chloride	\$ 14.00	2.50		\$ 35.00	\$ 15,345.00
		Fiber2 Full Fibers	\$ 5.00	2.50		\$ 12.50	\$ 15,357.50
12/23/2024	Nashville Ready Mix	3413 CF5	\$ 138.00	3.00		\$ 414.00	\$ 15,771.50
		ACCEL2 Non-Chloride	\$ 14.00	3.00		\$ 42.00	\$ 15,813.50
		Hot Water	\$ 4.00	3.00		\$ 12.00	\$ 15,825.50
12/30/2024	Nashville Ready Mix	CRB40CF5	\$ 155.00	2.00		\$ 310.00	\$ 16,135.50
1/15/2025	Nashville Ready Mix	3413 CF5	\$ 138.00	2.00		\$ 276.00	\$ 16,411.50
		ACCEL2 Non-Chloride	\$ 14.00	2.00		\$ 28.00	\$ 16,439.50
		Hot Water	\$ 3.00	2.00		\$ 6.00	\$ 16,445.50
1/16/2025	Nashville Ready Mix	3413 CF5	\$ 138.00	2.50		\$ 345.00	\$ 16,790.50
		ACCEL2 Non-Chloride	\$ 14.00	2.50		\$ 35.00	\$ 16,825.50
		Hot Water	\$ 3.00	2.50		\$ 7.50	\$ 16,833.00
1/27/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	2.00		\$ 286.00	\$ 17,119.00
1/28/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	1.00		\$ 143.00	\$ 17,262.00
		ACCEL2 Non-Chloride	\$ 14.00	1.00		\$ 14.00	\$ 17,276.00
2/3/2025	Nashville Ready Mix	Flowable Fill TDOT	\$ 131.00	5.50		\$ 720.50	\$ 17,996.50
2/10/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	1.00		\$ 143.00	\$ 18,139.50
		ACCEL2 Non-Chloride	\$ 14.00	1.00		\$ 14.00	\$ 18,153.50
3/24/2025	Nashville Ready Mix	4000 PSI Curb & Gutter	\$ 150.00	1.50		\$ 225.00	\$ 18,378.50
4/15/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	1.50		\$ 214.50	\$ 18,593.00
4/16/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	2.50		\$ 357.50	\$ 18,950.50
4/17/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	2.00		\$ 286.00	\$ 19,236.50
4/18/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	2.00		\$ 286.00	\$ 19,522.50
4/23/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	2.00		\$ 286.00	\$ 19,808.50
4/24/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	2.00		\$ 286.00	\$ 20,094.50
4/28/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	3.50		\$ 500.50	\$ 20,595.00
4/29/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	3.00		\$ 429.00	\$ 21,024.00
4/30/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	2.00		\$ 286.00	\$ 21,310.00
5/2/2025	Nashville Ready Mix	3413 CF5/RET1	\$ 147.00	6.00		\$ 882.00	\$ 22,192.00
5/5/2025	Nashville Ready Mix	4451 CF5/ACCEL 2	\$ 159.00	3.00		\$ 477.00	\$ 22,669.00
5/6/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	1.00		\$ 143.00	\$ 22,812.00
5/8/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	2.00		\$ 286.00	\$ 23,098.00
5/9/2025	Nashville Ready Mix	4000 Curb & Gutter	\$ 150.00	2.00		\$ 300.00	\$ 23,398.00
5/21/2025	Nashville Ready Mix	4000 Curb & Gutter	\$ 150.00	1.50		\$ 225.00	\$ 23,623.00
5/22/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	1.00		\$ 143.00	\$ 23,766.00
5/27/2025	Nashville Ready Mix	3413 CF5	\$ 143.00	3.00		\$ 429.00	\$ 24,195.00
5/28/2025	Nashville Ready Mix	4000 Curb & Gutter	\$ 150.00	3.00		\$ 450.00	\$ 24,645.00
6/2/2025	Nashville Ready Mix	3500 CF5	\$ 143.00	2.00		\$ 286.00	\$ 24,931.00
6/3/2025	Nashville Ready Mix	4000 Curb & Gutter	\$ 150.00	1.50		\$ 225.00	\$ 25,156.00
6/5/2025	Nashville Ready Mix	4000 Curb & Gutter	\$ 150.00	1.50		\$ 225.00	\$ 25,381.00

Invoice Date	Vendor	Type	Rate	Yards	Surcharge	Total	FY Total
7/5/2024	Orgain Ready Mix	3000 PSI 1/2" AGG	\$ 139.00	1		\$ 139.00	\$ 139.00

Invoice Date	Vendor	Type	Rate	Yards	Surcharge	Total	FY Total
11/18/2024	Smyrna Ready Mix	3000 PSI Start Chips	\$ 144.00	1.50		\$ 216.00	\$ 216.00
11/27/2024	Smyrna Ready Mix	5000 PSI Strt Concrete	\$ 155.00	5.00		\$ 775.00	\$ 991.00
		Environmental/Fuel	\$ 40.00	1.00		\$ 40.00	\$ 1,031.00
		Residential Fibers	\$ 3.00	5.00		\$ 15.00	\$ 1,046.00
		System Short Load	\$ 100.00	1.00		\$ 100.00	\$ 1,146.00
12/26/2024	Smyrna Ready Mix	4000 PSI Concrete	\$ 146.00	2.00		\$ 292.00	\$ 1,438.00
		Environmental/Fuel	\$ 40.00	1.00		\$ 40.00	\$ 1,478.00
		System Short Load	\$ 150.00	1.00		\$ 150.00	\$ 1,628.00

COUNCIL COMMUNICATION

Meeting Date: June 26, 2025

Item Title: City Council Meeting Minutes
Department: Finance
Presented by: Erin Tucker, City Recorder/ Chief Financial Officer
Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Review and approval of City Council meeting minutes.

Staff Recommendation

Approve minutes as listed.

Background Information

City Council meetings are available on the City's website for reference to actions taken and discussion made as items are considered. In accordance with Meeting procedures, Council approves meeting minutes for these to become the official minutes of the meeting.

Attachments

Current Minutes
June 5, 2025 (Public Comment)
June 5, 2025 (Regular)



City of Murfreesboro City Council – Public Comment Special Session

Thursday, June 5, 2025 at 5:30 pm
City Council Chambers
111 West Vine Street, Murfreesboro, TN

MINUTES

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in public comment special session at its regular meeting place in the Council Chambers at City Hall at 5:33 p.m. on Thursday, June 5, 2025. Proper notice of this meeting was published in the *Murfreesboro Post* on Tuesday, May 27, 2025.

Council Members Present

Mayor Shane McFarland – Presiding
Jami Averwater
Madelyn Scales Harris
Austin Maxwell
Kirt Wade
Shawn Wright

Bill Shacklett was absent and excused from this meeting.

City Representatives Present

Darren Gore, City Manager
Adam Tucker, City Attorney
Erin Tucker, City Recorder/ Chief Financial Officer
Amanda DeRosia, Finance Director
Melanie Joy Peterson, City Clerk

Don Bartch, Assistant Director of Murfreesboro City Schools
Greg McKnight, Executive Director of Development
Michael Nevills, Communications
Mike Browning, Public Information Officer
Sam Huddleston, Assistant City Manager
Other City Staff

Public Comment

Mayor McFarland called the meeting to order and announced that this special meeting was being held for public comment and provided instructions for the public comment session. Mayor McFarland indicated that three people had pre-registered to speak and called the speakers forward to address the Council as follows.

1. Mike Gamber, 2140 Liberty Drive, Murfreesboro. Mr. Gamber spoke regarding his concerns about traffic and road safety, specifically as it relates to motorcycle accidents and

fatalities. He also explained activities that the Murfreesboro Riding Association is doing to assist and requested Council consider additional measures to make the roads safer for motorcyclists.

2. Will Lehew, 2455 Oak Hill Drive, Murfreesboro. Mr. Lehew spoke regarding traffic issues within the Villages of Garrison Cove neighborhood where he lives. He is concerned with the safety of children, residents and property due to unsafe driving. The neighborhood has previously requested speed cushions and been denied due to not meeting cushions. He requested Council consider solutions to resolve ongoing traffic safety issues.

3. James Farley, 5111 General Eisenhower Drive, Murfreesboro. Mr. Farley's name was called, but he did not come forward to speak.

Mayor McFarland provided an opportunity for anyone else present to come forward to speak to Council. There was no one present who wished to speak.

Council members considered possible solutions to the traffic concerns raised during the public comment period and asked City Manager Darren Gore to coordinate with staff for follow-up. Mayor McFarland requested an update on the Traffic Calming Program at a future Council meeting, allowing Council to consider further actions or planning related to traffic and road safety.

There being no further business, Mayor McFarland adjourned the meeting at 5:54 p.m.

SHANE MCFARLAND
MAYOR

ATTEST:

ERIN TUCKER
CITY RECORDER/ CHIEF FINANCIAL OFFICER

APPROVED BY COUNCIL: _____



City of Murfreesboro City Council – Regular Session

Thursday, June 5, 2025 at 6:00 pm
City Council Chambers
111 West Vine Street, Murfreesboro, TN

MINUTES

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 6:00 p.m. on Thursday, June 5, 2025. Proper notice of this meeting was published in the *Murfreesboro Post* on Tuesday, May 27, 2025.

Council Members Present

Mayor Shane McFarland – Presiding
Jami Averwater
Madelyn Scales Harris
Austin Maxwell
Kirt Wade
Shawn Wright

Bill Shacklett was absent and excused from this meeting.

City Staff Attendance

Darren Gore, City Manager
Adam Tucker, City Attorney
Erin Tucker, City Recorder / Chief Financial Officer
Amanda DeRosia, Finance Director
Melanie Joy Peterson, City Clerk

Barb Davis, Deputy Chief Court Clerk
Ben Newman, Director of Land Management and Planning
Brad Hennessee, Facilities Maintenance Director
Daniel Owens, Finance Director of Murfreesboro City Schools
Don Bartch, Assistant Director of Murfreesboro City Schools
Doug Swann, Water Resources Finance Director
Greg McKnight, Executive Director of Development
Mark McCluskey, Fire Chief
Matthew Blomeley, Assistant Planning Director
Michael Bowen, Chief of Police
Michael Nevills, Communications
Sam Huddleston, Assistant City Manager
Trey Duke, Director of Murfreesboro City Schools
Valerie Smith, Water Resources Director
Other City Staff

Prayer and Pledge of Allegiance

Mayor McFarland called the meeting to order and commenced the meeting with a prayer followed by the Pledge of Allegiance.

Public Comment on Actionable Agenda Items

Mayor McFarland asked if there were any registered speakers for public comment on actionable agenda items. Erin Tucker, City Recorder/ Chief Financial Officer, and Melanie Peterson, City Clerk indicated one person, Alex Sager, had registered to speak on Agenda Item 5. Mayor McFarland stated Ms. Sager had emailed the Council regarding her concerns and indicated she had to work late and would not be attending the meeting.

Consent Agenda

The Consent Agenda was presented for approval with Council Communications and corresponding documents for the following items:

- 1. Retail Liquor Certificate of Compliance – Boro Liquors – Location Change (Finance)**
- 2. Fox Collection Agency Fourth Amendment (Judicial)**
- 3. Mandatory Referral for Dedication of an Electric Easement along West College Street (Planning)**
- 4. Donation of Used Equipment to Scotts Hill Police Department (Police)**
- 5. Amendment No. 2 to the CentralSquare Solutions and Support Agreement for CAD Software (Police)**
- 6. Lease Agreement with Read To Succeed and City Schools (Schools)**
- 7. Asphalt Purchases Report (Water Resources)**
- 8. Third Amendment to MTSU MOU (Water Resources)**
- 9. WRRF Wet Weather Upgrades Change Order No. 1 (Water Resources)**
- 10. SSR Task Order Amendment 1 for SRWTP OSHG Improvements (Water Resources)**

Ms. Averwater made a motion to approve the Consent Agenda. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

Minutes

11. City Council Minutes (Finance). Erin Tucker, City Recorder / Chief Financial Officer, presented a Council Communication and documents regarding approval of City Council meeting minutes for the following meetings. The meeting minutes were not read aloud but were presented for approval as part of the agenda packet.

Current Minutes

May 1, 2025 (Public Comment)
May 1, 2025 (Regular)
May 8, 2025 (Workshop)
May 22, 2025 (Budget Review)
May 22, 2025 (Regular)

Mr. Maxwell made a motion to approve the minutes. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

Old Business

Ordinances

12. Ordinance 25-OZ-15 Amending the PID zoning from property along Joe B. Jackson Parkway (2nd and Final Reading) (Planning). The ordinance titled, "ORDINANCE 25-OZ-15 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to amend the conditions applicable to approximately 151 acres in the Planned Industrial Development (PID) District (Parkway Place PID) located on along Joe B Jackson Parkway, Richard Reeves Drive, and Logistics Way, as indicated on the attached map, Swanson Development, LP, applicant [2025-404]" which passed its first reading on May 22, 2025, was offered for passage on second and final reading.

Mr. Maxwell made a motion to approve Ordinance 25-OZ-15 on second and final reading. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

13. FY26 Budget Ordinances (Administration). Erin Tucker, City Recorder/ Chief Financial Officer, presented a Council Communication and documents regarding an amendment to Ordinance 25-O-09 and second reading of FY26 budget ordinances.

13a. Changes to Ordinance 25-O-09. Ms. Tucker identified revisions made to Exhibit A of Ordinance 25-O-09 regarding budget appropriations, prior to City Council's vote on second reading including:

- *General Fund:* Increased by \$79,000 to align with Sports Authority and MCIT budgets.

- *Debt Service*: Adjusted to reflect accurate transfers from City Schools and the Lone Bond Fund.
- *Airport Fund*: Updated to include a \$1.8 million state grant and related expenses.
- *Risk Management Fund*: Added \$27,000 in previously omitted operating expenses.

Planning Department Consultant Proposal (Mayor). Mayor McFarland recommended budgeting for a third-party consultant to evaluate the City's planning processes, procedures and ordinances. The consultant would help align planning operations with best practices and provide actionable recommendations to improve efficiency, simplify complex ordinances, and support long-term planning efforts. Mr. Wright agreed with this suggestion.

Adam Tucker, City Attorney, spoke on behalf of Cathy Smith, Purchasing Director, requesting Council approach this recommendation through the best procurement procedure – either a Request for Qualifications (RFQ) or Request for Competitive Sealed Proposals (RFCSP) to solicit bids. He suggested Council vote to approve soliciting proposals using an RFCSP, with the option to reevaluate as more information becomes available.

Erin Tucker, City Recorder/ Chief Financial Officer, explained that, since no dollar amount was specified, funding could be allocated from the unforeseen budget, existing contractual services, or a future budget amendment.

Mr. Wright made a motion to solicit proposals from third-party consultants to evaluate planning operations by using an RFCSP, with the option to reevaluate as more information becomes available. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

Mr. Wright made a motion to accept revisions to Ordinance 25-O-09. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

13b. Ordinance 25-O-09 FY26 Budget Appropriations (2nd and Final Reading). The ordinance titled, "ORDINANCE 25-O-09 adopting a budget and appropriations ordinance providing for appropriations out of the general and special funds of the City of Murfreesboro, Tennessee, of certain sums to defray the current, necessary and special expenses of said City for Fiscal Year 2026 (hereafter "FY2026"), and for other purposes" which passed its first reading on May 22, 2025, was offered for passage on second and final reading.

Mr. Wade made a motion to approve Ordinance 25-O-09, as amended, on second and final reading. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

13c. Ordinance 25-O-10 Tax Rate for 2025 (2nd and Final Reading). The ordinance titled, "ORDINANCE 25-O-10 providing for the levy and collection of a tax for the year 2025 upon all property, real, personal and mixed, within and subject to the jurisdiction of the City of Murfreesboro that is now taxable under the laws and Constitution of the State of Tennessee and the Charter of said City, and for the interest and costs to be added to such taxes after certain dates" which passed its first reading on May 22, 2025, was offered for passage on second and final reading. Upon ordinance passage and effective date, the 2025 tax rate shall be the sum of 95.26/100 Dollars (\$0.9526) on every hundred dollars.

Mr. Maxwell made a motion to approve Ordinance 25-O-10 on second and final reading. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

13d. Ordinance 25-O-19 Tax Due Date Change (2nd and Final Reading). The ordinance titled, "ORDINANCE 25-O-19 amending the Murfreesboro City Code, Chapter 18, Licenses and Ad Valorem Taxes, Article I, Section 18-1, regarding when real and personal property taxes

become past due and delinquent" which passed its first reading on May 22, 2025, was offered for passage on second and final reading. Upon ordinance passage and effective date, the tax delinquency date shall be revised from January 1 to March 1 following the tax due date.

Ms. Averwater made a motion to approve Ordinance 25-O-19 on second and final reading. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

Mayor McFarland requested CityTV produce an informational segment to notify City residents of the tax due date change.

14. Ordinance 25-O-18 FY25 Budget Appropriations (4th Amendment) (2nd and Final Reading) (Finance). Erin Tucker, City Recorder/ Chief Financial Officer, presented a Council Communication and documents regarding a second reading of a fourth amendment to the FY25 budget. The ordinance titled, "ORDINANCE 25-O-18 amending the Fiscal Year 2025 (hereafter "FY2025") Budget (4th Amendment)" which passed its first reading on May 8, 2025, was offered for passage on second and final reading.

Ms. Averwater made a motion to approve Ordinance 25-O-18 on second and final reading. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

15. Ordinance 25-O-17 FY26 Water Sewer Rate (2nd and Final Reading) (Water Resources). The ordinance titled, "ORDINANCE 25-O-17 amending Chapter 33, Water Resources, Section 33-1 of the Murfreesboro City Code, dealing with water resources rates and charges" which passed its first reading on May 22, 2025, was offered for passage on second and final reading.

Ms. Averwater made a motion to approve Ordinance 25-O-17 on second and final reading. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

New Business

Resolution

16. Resolution 25-R-20 City Schools FY25 Budget Amendment No. 11 (Schools). Dr. Trey Duke, City Schools Director, presented a Council Communication and documents regarding amendment number 11 to the FY25 schools budget to recognize new revenue of \$17,750 for the Supplemental Award in the 21st Century Community Learning Grant.

The resolution titled, “RESOLUTION 25-R-20 amending the Fiscal Year 2025 (hereafter “FY2025”) Murfreesboro City Schools Budget (11th Amendment)” was offered for passage on its first and only reading.

Ms. Scales Harris made a motion to approve Resolution 25-R-20. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

17. Resolution 25-R-05 Other Post Employment Benefits (OPEB) (Administration). Erin Tucker, City Recorder/ Chief Financial Officer, presented a Council Communication and documents regarding a FY26 other post-employment benefits. The resolution titled, “RESOLUTION 25-R-05 to provide other post-employment benefits (OPEB) for City of Murfreesboro retirees and long-term disabled employees for Fiscal Year 2026 (hereafter “FY2026”) to include health/medical, dental, vision, and life insurance benefits” was offered for passage on its first and only reading.

Ms. Scales Harris made a motion to approve Resolution 25-R-05. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

18. FY26 Budget Resolutions (Administration). Erin Tucker, City Recorder/ Chief Financial Officer, presented a Council Communication and documents regarding FY26 budget resolutions for Water Resources, City Schools, Community Investment Trust and Sports Authority.

18a. Resolution 25-R-06 Water Resources FY26 Budget. The resolution titled, “RESOLUTION 25-R-06 approving the budget of the Murfreesboro Water Resources Department for the Fiscal Year 2026 (hereafter “FY2026”)” was offered for passage on its first and only reading.

Mr. Wade made a motion to approve Resolution 25-R-06. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

18b. Resolution 25-R-08 City Schools FY26 Budget. The resolution titled, “RESOLUTION 25-R-08 approving the budget of the Murfreesboro City Schools for the Fiscal Year 2026 (hereafter “FY2026”), which budget includes the general purpose fund, the extended school program fund, the federal and state program funds, the cafeteria fund, and the debt service fund.” was offered for passage on its first and only reading.

Mr. Wright made a motion to approve Resolution 25-R-08. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

18c. Resolution 25-R-09 Community Investment Trust FY26 Budget. The resolution titled, “RESOLUTION 25-R-09 approving the budget of the Murfreesboro Community

Investment Trust (CIT) for the Fiscal Year 2026 (hereafter “FY2026”)” was offered for passage on its first and only reading.

Ms. Averwater made a motion to approve Resolution 25-R-09. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

18d. Resolution 25-R-10 Sports Authority FY26 Budget. The resolution titled, “RESOLUTION 25-R-10 approving the budget of the Murfreesboro Sports Authority for the Fiscal Year 2026 (hereafter “FY2026”)” was offered for passage on its first and only reading.

Mr. Wright made a motion to approve Resolution 25-R-10. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

On Motion

19. Purchase and Sale Agreement Henderson Family Properties 654 W Main Street (Administration). Sam Huddleston, Assistant City Manager, presented a Council Communication and documents regarding acquisition of 654 West Main Street. Mr. Huddleston requested Council approval of the Purchase and Sale Agreement with The Henderson Family Properties LTD Partnership and authorize the Mayor and City Manager to sign documents necessary for due diligence and completion of the real estate purchase.

Mr. Wade made a motion to approve the Purchase and Sale Agreement with The Henderson Family Properties LTD Partnership and authorize the Mayor and City Manager to sign necessary documents. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

20. Discovery School Interior Painting (Facilities). Brad Hennessee, Facilities Manager, presented a Council Communication and documents regarding an agreement with BJB Construction Company, Inc. for the interior repainting of Discovery School and requested Council approval.

Ms. Averwater made a motion to approve the agreement with BJB Construction Company, Inc. for the interior repainting of Discovery School. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

21. Hobgood Elementary Interior Painting (Facilities). Brad Hennessee, Facilities Manager, presented a Council Communication and documents regarding an agreement with CMG Contractors, Inc. for the interior repainting of Hobgood Elementary School and requested Council approval.

Mr. Wade made a motion to approve the agreement with CMG Contractors, Inc. for the repainting of the interior of Hobgood Elementary School. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

22. Mitchell-Neilson Elementary Flooring Renovations (Facilities). Brad Hennessee, Facilities Manager, presented a Council Communication and documents regarding an agreement with Romach, Inc. for the flooring renovations at Mitchell-Neilson Elementary School and requested Council approval.

Mr. Maxwell made a motion to approve the agreement with Romach, Inc. for the flooring renovations at Mitchell-Neilson Elementary School (Contractor's Project No. ITB-41-2025). Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

23. LJA to 2025 Sewer Rehabilitation Project Design (Water Resources). Valerie Smith, Water Resources Director, presented a Council Communication and documents regarding LJA Task Order No. 2963-0011 regarding the engineering design contract for MWRD's 2025 Sewer Rehabilitation Project and requested Council approval.

Ms. Scales Harris made a motion to approve the LJA Task Order No. 2963-0011 for engineering services related to the 2025 Sanitary Sewer Rehabilitation Project. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

24. LJA Asset Management Plan to Amendment No. 1 (Water Resources). Valerie Smith, Water Resources Director, presented a Council Communication and documents regarding Amendment No. 1 to the Asset Management Plan (AMP) Task Order (TO) for assistance with implementing a Standard Operating Procedure to keep the AMP current and requested Council approval.

Mr. Wade made a motion to approve Amendment No. 1 to LJA Task Order No. 20241014. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

25. ADS Professional Services Contract 2025 (Water Resources). Valerie Smith, Water Resources Director, presented a Council Communication and documents regarding a professional services contract with ADS, LLC for the engineering analysis and reporting of the findings of the permanent and temporary sanitary sewer flow monitoring in MWRD's sewer collection system and requested Council approval.

Ms. Scales Harris made a motion to approve the Professional Services Contract with ADS, LLC for flow monitoring and field inspection services. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

Board and Commission Appointments

26. Board of Electrical Examiners (Mayor). Mayor McFarland presented a Council Communication proposal regarding reappointment of the following to the Board of Electrical Examiners.

- Norman Brown, Term expiration June 30, 2029
- Ricky Greenberg, Term expiration June 30, 2029

Mr. Wright made a motion to approve the Board of Electrical Examiners reappointments. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

27. Parks and Recreation Commission (Mayor). Mayor McFarland presented a Council Communication proposal regarding reappointment of the following to the Parks and Recreation Commission.

- Eddie Miller, Term expiration June 30, 2028
- Dr. Trey Duke, Term expiration June 30, 2028

Mr. Wright made a motion to approve the Parks and Recreation Commission reappointments. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

28. Planning Commission (Mayor). Mayor McFarland presented a Council Communication proposal regarding appointment of the following to fill the expiring term of Kathy Jones on the Planning Commission.

- Kelly Rollins, Term expiration June 30, 2028

Mr. Wade made a motion to approve the Planning Commission appointment. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

29. Rutherford County Regional Library Board of Directors (Mayor). Mayor McFarland presented a Council Communication proposal regarding appointment of the following to fill the vacancy left by Rollie Holden Jr. on the Rutherford County Regional Library Board of Directors.

- Darrell Thomas, Term expiration June 30, 2028

Ms. Averwater made a motion to approve the Library Board appointment. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

Licensing

30. Beer Permits (Finance). Erin Tucker, City Recorder/ Chief Financial Officer, presented a Council Communication regarding Beer Permits. The following were offered for approval:

Regular Beer Permits

Name of Applicant	Name of Business	Address	Type of Permit	Type of Business	Reason
La Siesta, Inc.	Fiesta Grill Mexican Restaurant	1111 Greenland Drive	On-Premises	Restaurant	Name/ Ownership Change
Citpeks LLC	Jefferson’s	109 N. Maple Street	On-Premises	Restaurant	Ownership/ Location Change

Special Event Beer Permits

Name of Applicant	Date of Event	Type of Event	Location of Event
-------------------	---------------	---------------	-------------------

Rutherford County Pride	6/21/2025	Community Event	901 N. Maney Avenue
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Applicants met requirements for the Beer Permits and were recommended for approval pending final building and codes inspections for the Regular Beer Permits and Special Event Permit issuance for the Special Event Beer Permits.

Mr. Wade made a motion to approve the Beer Permits. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

Payment of Statements

No payment of statements was presented.

Other Business

Final Change Order No. 3 for Old Fort Park Tennis Court Renovations (Facilities). Brad Hennessee, Facilities Manager, presented a Council Communication and documents regarding Change Order No. 3 (Final) to credit payable to the owner for unused allowance funds for the Old Fort Park Tennis Court Renovations and requested Council approval of the contract with Steelhead Building Group, LLC.

Mr. Wright made a motion to approve Change Order No. 3 (Final) with Steelhead Building Group, LLC. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

Aye: Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Shane McFarland

Nay: None

Library Executive Director Selection. Sam Huddleston, Assistant City Manager, announced a reception at Linebaugh Library at 5:30 pm tomorrow to meet candidates for the Rutherford County Library System Executive Director position. Candidate interviews are planned Saturday, with a decision expected afterward.

Future City Council Meeting. Darren Gore, City Manager, stated a workshop meeting is scheduled next Thursday at 11:30 am with a 12:30 pm meeting to follow, allowing about an hour to cover agenda items with school systems representative.

Adjourn

There being no further business, Mayor McFarland adjourned this meeting at 6:33 p.m.

SHANE MCFARLAND
MAYOR

ATTEST:

ERIN TUCKER
CITY RECORDER/ CHIEF FINANCIAL OFFICER

APPROVED BY COUNCIL: _____

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Rezoning property along Old Lascassas Road
[Public Hearing Required]

Department: Planning

Presented By: Holly Smyth, AICP, Principal Planner

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Rezoning of approximately 14.81 acres located along the east side of Old Lascassas Road, east of its intersection with Hazelwood Street.

Staff Recommendation

Conduct a public hearing and enact the ordinance establishing the requested zoning. The Planning Commission recommended approval of the zoning request on May 7, 2025.

Background Information

Patterson Company, LLC presented to the City a zoning application [2025-406] for approximately 14.81 acres located along Old Lascassas Road to be rezoned from RS-12 (Single-Family Residential District 12; 12 acres) and RS-10 (Single-Family Residential District 10; 2.81 acres) to PCD (Planned Commercial District). During its regular meeting on May 7, 2025, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

Council Priorities Served

Improve Economic Development

The PCD zoning will enable the development of a self-service storage facility, potentially creating employment opportunities for the community and tax revenue for the City.

Establish Strong City Brand

The proposed development includes physical improvements to the Geographic Center of Murfreesboro monument, an iconic local landmark.

Attachments:

1. Ordinance 25-OZ-21

2. Maps of the area
3. Planning Commission staff comments from the 05/07/2025 meeting
4. Planning Commission minutes for the 05/07/2025 meeting
5. Lascassas Storage PCD pattern book
6. Other miscellaneous exhibits

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
MAY 7, 2025
PROJECT PLANNER: HOLLY SMYTH**

- 6.a. Zoning application [2025-406] for approximately 14.81 acres located along Old Lascassas Road to be rezoned from RS-15 (12 acres) and RS-10 (2.81 acres) to PCD (Lascassas Storage PCD), Patterson Company, LLC applicant.**

The subject property is a 14.81-acre portion of an existing 19.02-acre parcel known as Tax Map 090, Parcel 014.00 (aka 1402 Old Lascassas Road). The 14.81-acre area is anticipated to be subdivided into a 0.13-acre site for the existing Geographic Center of Tennessee monument and a 14.68-acre self-storage facility site. The proposed zone change involves 12 acres of the subject property that is zoned RS-15 and 2.81 acres zoned RS-10. The remaining 4.21 acres of the subject parcel, where the existing house with a stone-wall perimeter is located, will remain zoned RS-15 and located on a separate lot of record. Page 3 of the program book provides a visual of these described areas.

Neighborhood Meeting

The initial neighborhood meeting took place on December 3, 2024 at the East Main Church of Christ Annex Building at 300 East Main Street. Notification was provided to a 500' radius from the project boundaries by the applicant. Approximately 15 persons attended. The largest concerns were regarding adequate buffering distances and landscape and light pollution. The original plan presented by the applicant at this meeting is different from the plan currently before the Planning Commission. Because the plan presented at the neighborhood meeting included more structures and less open area for boat and RV parking, Staff and the applicant will be holding a second neighborhood meeting before the public hearing. **This second neighborhood meeting has been scheduled for Monday, May 5th at 5:30 PM at Fire Station #8 located at 1730 East Northfield Boulevard.** Staff will provide an update regarding this neighborhood meeting at the Planning Commission meeting.

Adjacent Zoning and Land Uses

The surrounding area consists of a mixture of zoning types and land uses. The land to the north and east is zoned PRD (Planned Residential District). The land to the south and west is zoned RM-12, RM-16 (Multi-Family Residential District), and RS-15 (Single-Family Residential District), as shown on page 03 of the program book.

The surrounding land uses include single-family detached homes to the north, east, and one-third of the southern boundary. Condominiums and duplexes are located along half of the western boundary across Old Lascassas Road and one-third of the southern boundary. Apartments are located along one-third of the southern boundary near Old Lascassas Road and the Hazelwood Street intersection.

Proposed PCD

The program book and conceptual site plan on page 08 of the program book have been updated since the Planning Commission's last meeting of April 16, 2025, per the direction given at that meeting by the Planning Commission. The program book modifications include:

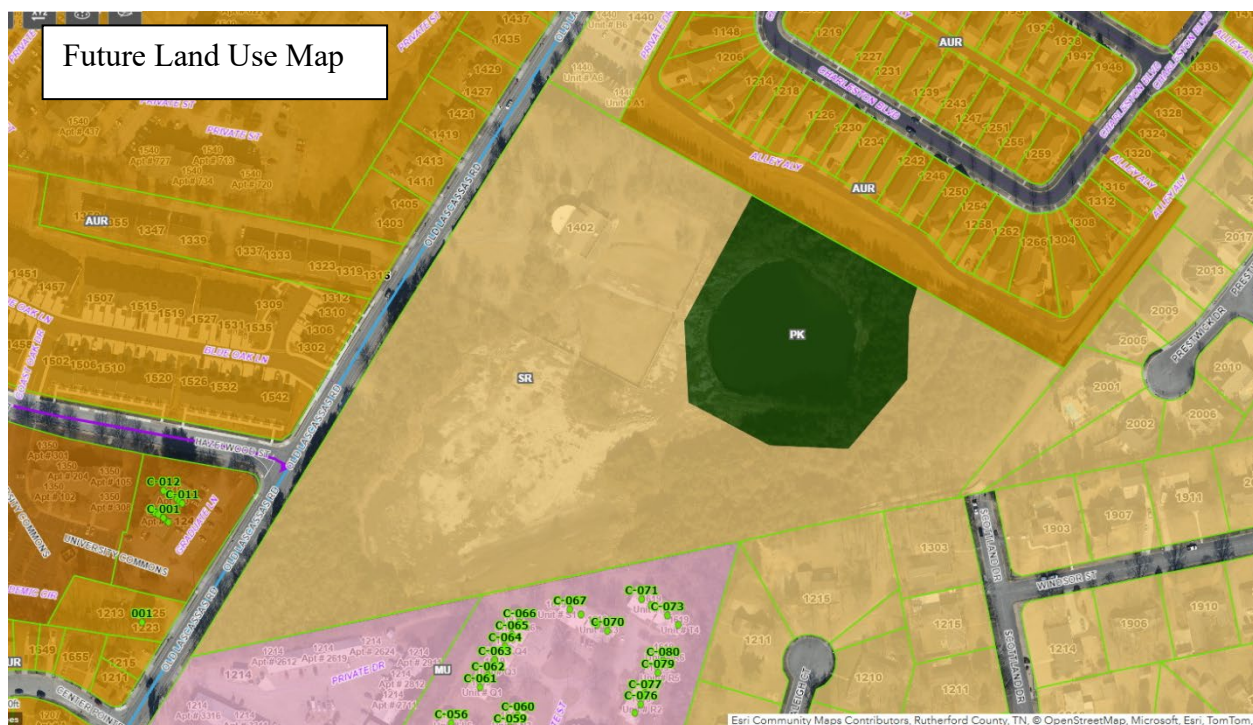
- Increasing the southerly boundary setback from 25' to 30' across entire property line.
- Additional landscape island near entrance viewshed to help block view of vehicle parking.
- A new tree preservation diagram on page 27 to clarify the areas that are not intended to be disturbed.
- Added enclosure over parking structure over the easternmost parking area to provide better screening.
- Phasing Plan lines modified on page 10 to extend Phase 1 landscape buffer further to the east, move the Phase 1 wooded area that is located to the south of the 3-story building to be a part of phase 3, clarify the area south of the 3-story building will be preserved and updated the statistics table.
- Updated 1-story building architecture for the enclosed and covered vehicles to a) change the metal sections above 6' brick water table to hardi panels, b) add brick columns at corners of building, c) lightened the color of the structure, d) updated southerly building to be almost identical to the one facing the right-of-way, e) modified the roof slope to be 5%, brick material ranges from 23% low along the enclosed storage unit interior to 56% high facing Old Lascassas Road.
- Updated 3-story building architecture a) to include more glazing that ranges from 7% to 59% per façade, b) add sizeable cornice on tower portion of building, c) brought brick columns into the 1st floor section in the tower, and d) changed the color of the hardie panels to all be light grey where used.
- Updated the caretaker / office building to remove the roll up doors facing Old Lascassas.
- Added language on page 31 that "final design shall be further developed during site plan review so that additional design improvements can be more fully evaluated and make the area more functional.
- Removed an exception that would have allowed corrugated metal to be used.
- Added an exception to clearly "allow outdoor storage of Rv's, trailers, cars, and boats in Phases 1 and 2 that exceeds 50% of all units in each phase", with the 550 enclosed storage unit building construction tied to Phase 3.

The updated architectural drawings are attached behind the program book due to timing limitations.

Modified Exceptions are shown in the updated Program Book page 33 based on the existing RS-15 Zoning and the comparative zone of CF in regards to development standards of setbacks, building height, land use intensity ratios, allowed uses, and the proposed PCD zone. The exceptions for the PCD being requested are as follows:

1. Requesting an exception to Chart 1 End Note 16(e) to allow for self-service storage within 0 feet of an intersection of two collector streets.
2. Requesting an exception to the required setbacks along the shared property lines of the monument parcel to be 17' rear setback to monument parcel line and 20' front setback to storage building behind monument parcel.
3. Requesting an exception to the requirement for formal open space be recognized at the preserved monument space (5,663 SF) in lieu of the required 19,166 SF on site with site improvements determined at site plan review.
4. Requesting an exception to the tree island requirements in the parking storage areas. Trees typically required for these islands will be planted in alternate locations on site.
5. Requesting an exception to the Architectural Design Guidelines to allow the buildings to have less than 35% window or void area on building's facade surface area.
6. Allow outdoor storage of RV's, trailers, cars, and boats in Phases 1 and 2 that exceeds 50% of all units in each phase.

Future Land Use Map



The future land use map (FLUM) contained in the Murfreesboro 2035 Comprehensive Plan, designates the subject site as Suburban Residential (SR) and Park/Open Space (PK) as shown on the map below. The SR character generally anticipates detached residential dwellings with larger front yards with increased front setbacks with densities ranging from 1 to 4 dwelling units per acre. Suggested compatible zoning districts include RS-15, RS-12, RS-10, PRD and potentially public institutional land uses. The PK category anticipates public parks and open space, trails, recreation areas, floodway and public cemeteries. Compatible zoning districts are Park or other zoning districts as evaluated on a case-by-case basis.

The proposed pond portion of the PCD is generally consistent with the pit/pond area remaining in place with the project. PCD zoning is not consistent with the Future Land Use Map (FLUM) SR designation as described above. However, the transition policies may address this type of situation, and this may be an instance where it would be consistent using our transition policies given the adjacent Mixed Use (MU) designation to the south. This is an area where the Planning Commission needs to further discuss if deviation from the FLUM is appropriate or if it believes that the proposed zoning request would be in conformance with the transition policies.

Department Recommendation

In concept, staff is supportive of this rezoning request for the following reasons:

- 1) The 2035 Murfreesboro Comprehensive Plan indicates that where there are unique geographical or environmental conditions the transition policy may apply. The borrow pit and the large expanse of rock on this property lend itself to the development of the type of use that is proposed.
- 2) Renovation to and long-term upkeep of the Monument site is a benefit to the community.
- 3) The preservation of much of the thick landscape areas and wetlands is beneficial to the site and adjacent community.
- 4) Architectural design will be made compatible with surrounding land uses consistent with the Design Guidelines.

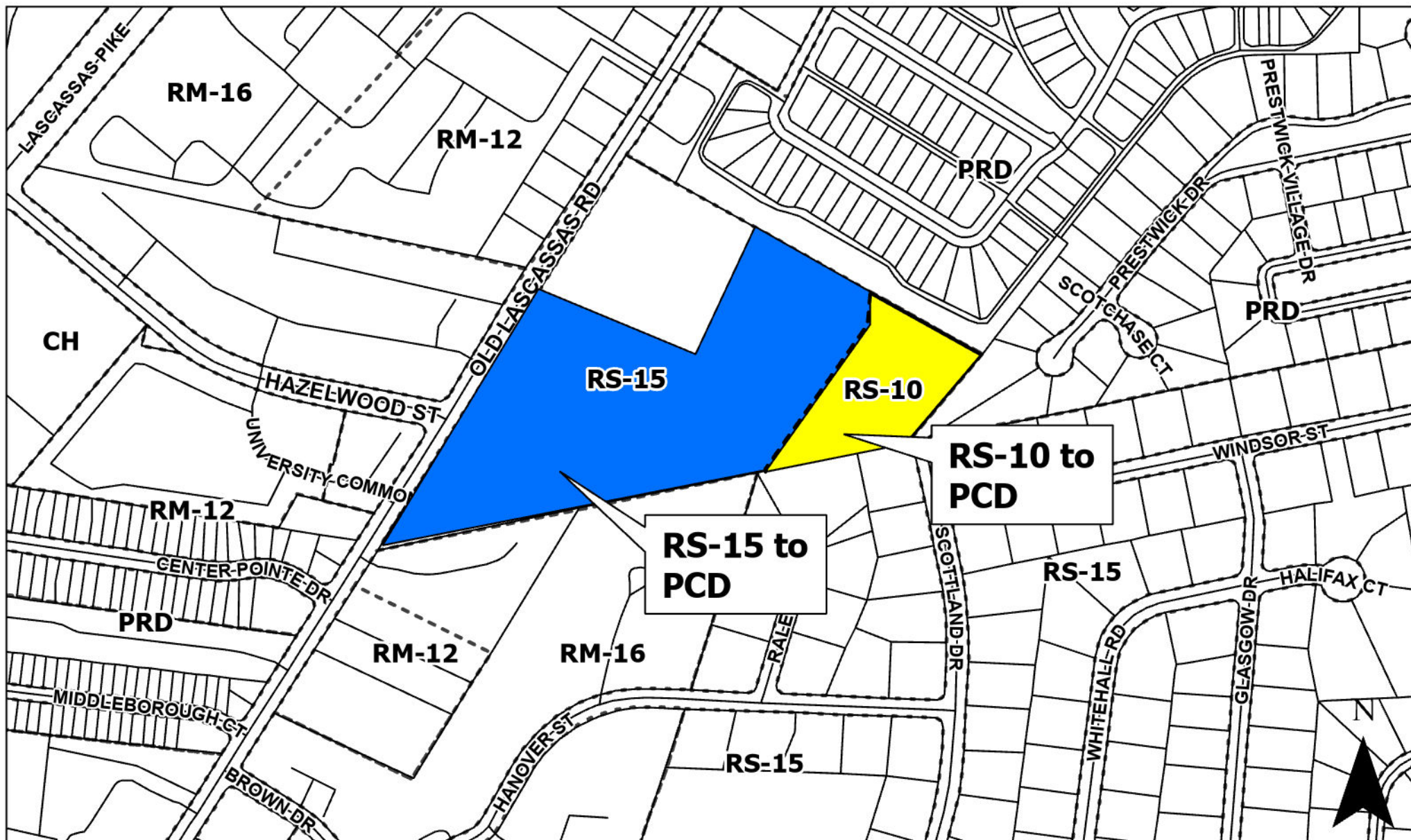
However, staff requests that the Planning Commission discuss any outstanding issues and provide direction to both Staff and the applicant regarding those items.

Action Needed

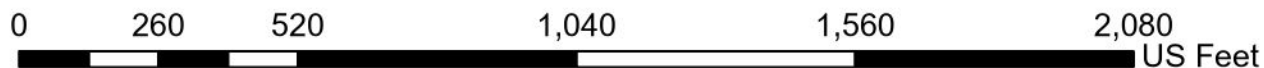
The applicant will make a presentation to the Planning Commission on the proposed zoning request. The Planning Commission should conduct a public hearing and then formulate a recommendation to City Council.

Attachments:

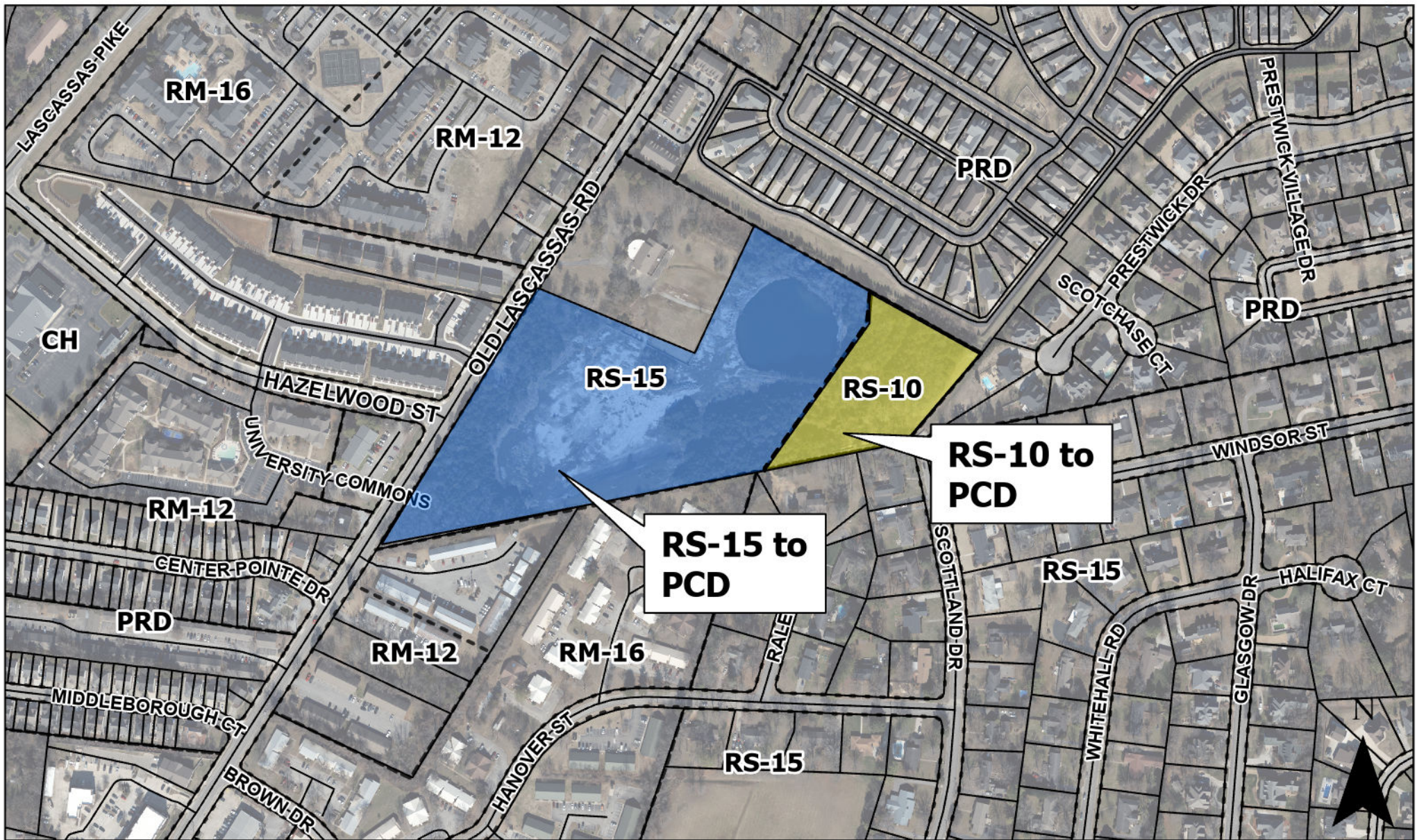
- NoOrtho Map
- Ortho Map
- Updated Program Book
- Updated Architectural Drawings



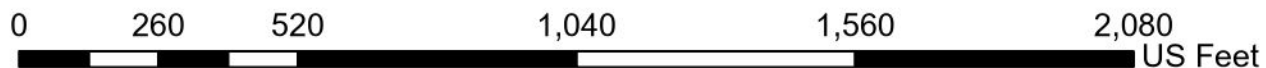
Rezoning Request for property along Old Lascassas Road
from RS-10 & RS-15 to PCD (Lascassas Storage PCD)



Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov



Rezoning Request for property along Old Lascassas Road
from RS-10 & RS-15 to PCD (Lascassas Storage PCD)



Planning Department
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Creating a better quality of life

City of Murfreesboro
Planning and Engineering Department
111 W. Vine Street, P.O. Box 1139
Murfreesboro, TN 37133-1139
(615) 893-6441 Fax (615) 849-2606
www.murfreesborotn.gov

Zoning & Rezoning Applications – other than rezoning to planned unit development	\$700.00
Zoning & Rezoning Applications – Planned Unit Development, initial or amended	\$950.00

Procedure for applicant:

The applicant must submit the following information to initiate a rezoning:

1. A completed rezoning application (below).
2. A plot plan, property tax map, survey, and/or a legal description of the property proposed for rezoning. (Please attach to application.)
3. A non-refundable application fee (prices listed above).

For assistance or questions, please contact a planner at 615-893-6441.

To be completed by applicant:

APPLICANT: Patterson Company, LLC

Address: 1645 Westgate Circle City/State/Zip: Brentwood, TN 37027

Phone: (615) 812-9844

E-mail address: [REDACTED]

PROPERTY OWNER: John Wallace Cunningham

Street Address or
property description: 1402 Old Lascassas Road

and/or Tax map #: 90 Group: _____ Parcel (s): 14.00

Existing zoning classification: RS-10 & RS-15

Proposed zoning classification: PCD Acreage: 14.81 Acres

Contact name & phone number for publication and notifications to the public (if different from the applicant): Brian Grover / Matt Taylor

E-mail: [REDACTED]

APPLICANT'S SIGNATURE (required): [Signature]

DATE: 3/12/25

*****For Office Use Only*****

Date received: _____ MPC YR.: _____ MPC #: _____

Amount paid: _____ Receipt #: _____

Revised 7/20/2018

June 18, 2025

Holly Smyth
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

RE: Lascassas Storage PCD.
PCD Pattern Book Summary Of Changes
SEC Project No. 24428

Dear Holly,

Revisions per Staff and Planning Commission comments have been outlined below.

Summary of Revisions

Development Services – Planning

Holly Smyth - 615.893.6441

Cover Page –

- Updated Submittal Date information

Page 8 –

- Updated Column Organization per staff comments

Page 9 –

- Added text for monument parcel stating, “The proposed parcel containing the monument shall only be allowed that primary use.”

Page 12 –

- Revised side setback label from “3-Story” to “South Side”

Page 13 - 25 –

- Consolidated the additional architecture submitted to the PC into the Plan Book.

Page 31 –

- Revised per staff report to include additional text describing the recording of a City approved legal instrument to ensure long-term maintenance of the monument.

Should you need any clarification concerning the plans or our revisions, please feel free to contact me at 615-890-7901.

Sincerely,

A handwritten signature in red ink that reads "Matt Taylor". The signature is written in a cursive, flowing style.

Matt Taylor, P.E.

SEC, Inc.

LASCASSAS STORAGE

A REQUEST FOR REZONING FROM SINGLE-FAMILY RESIDENTIAL (RS-10 & RS-15) TO PLANNED COMMERCIAL DISTRICT (PCD)

Murfreesboro, Tennessee



SEC, Inc.

SEC Project #24428

Initial Submittal

March 13th, 2025

Resubmitted

April 4th, 2025 for the
April 16th, 2025 Planning Commission Workshop Meeting

Resubmitted

May 2nd, 2025 for the May 7th, 2025
Planning Commission Public Hearing

Resubmitted

June 13th, 2025 for the June 26th, 2025
City Council Public Hearing



Company Name: SEC, Inc.
Profession: Planning.Engineering.Landscape Architecture
Attn: Rob Molchan / Matt Taylor
Phone: (615) 890-7901
Email: rmolchan@sec-civil.com/ mtaylor@sec-civil.com
Web: www.sec-civil.com

850 Middle Tennessee Blvd.
Murfreesboro, Tennessee 37129



Company Name: Patterson Company, LLC
Profession: Builder/Developer
Attn: Jackson Nichols
Phone: (615) 812-9844
Email: jnichols@buypatterson.com
Web: www.buypatterson.com

1645 Westgate Circle,
Brentwood, Tennessee 37027

TABLE OF CONTENTS02

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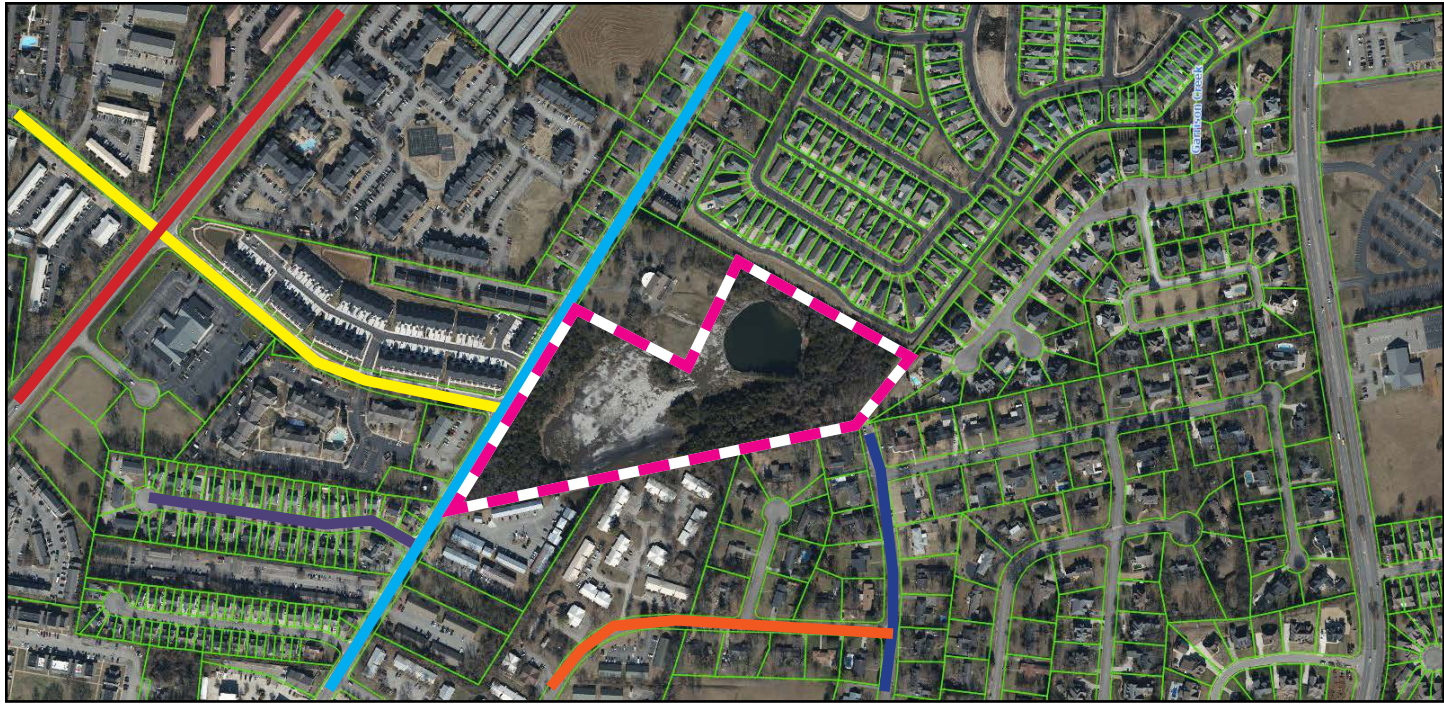
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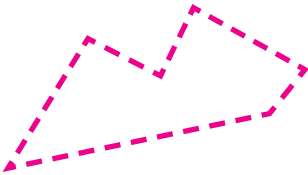
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AERIAL PHOTOGRAPH

Not To Scale

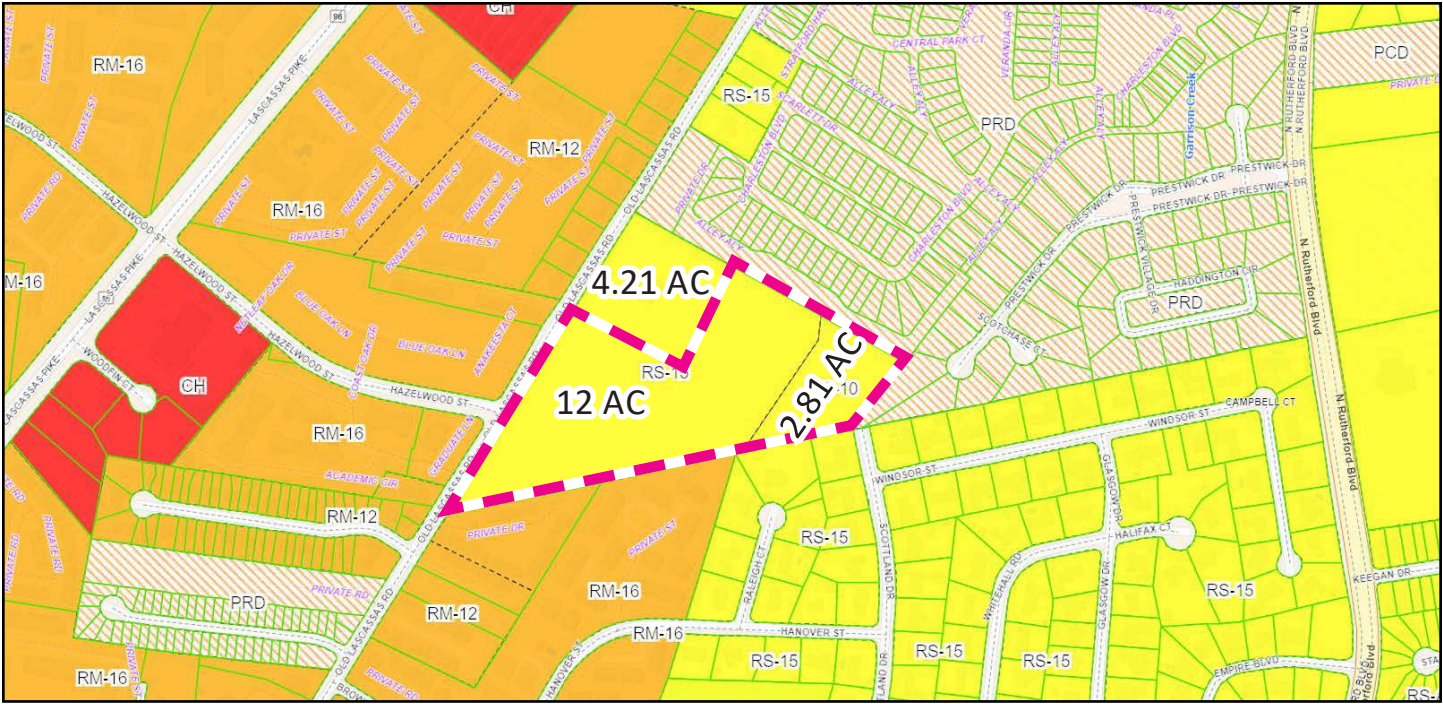
- Old Lascassas Road
- Hazelwood Street
- Lascassas Pike
- Scotland Drive
- Hanover Street
- Center Pointe Drive



Site Boundary

Patterson Company, LLC respectfully requests rezoning of the Cunningham Property at 1402 Old Lascassas Road from Single-Family Residential (RS-10 & RS-15) to Planned Commercial District (PCD) to create Lascassas Storage. The property is located along the eastern side of Old Lascassas Road (designated as a community collector) near the intersection of Hazelwood Street (designated as a commercial collector). The site is identified as Parcel 14.00 of Tax Map 90, and is approximately 19.02 acres. Of this 19.02 acres, approximately 4.21 acres at the northwestern corner of the property along Old Lascassas Road is not included with this rezoning request and shall remain zoned RS-15 for the single family residence. The remaining 14.81 acres of land shall be rezoned to PCD for this development. Of this 14.81 acres, 0.13 acres of land along Old Lascassas Road shall be parceled off to preserve the existing monument marking the geographic center of Tennessee, and shall be maintained by the development. The remaining 14.68 acres of the PCD land shall be utilized as a self-service storage facility.

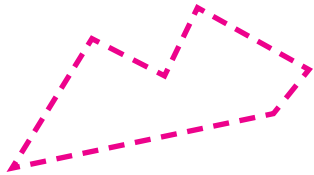
Lascassas Storage will provide self-service storage, RV and boat storage, and climate controlled storage, which caters to a variety of storage needs. Decorative fencing will enhance the entrance at the Old Lascassas Road frontage, while security fencing will secure the remainder of the site. Buildings facing Old Lascassas Road will feature stone or brick facades to ensure a visually appealing streetscape. Efforts will be made to preserve existing perimeter trees, with additional landscape buffers proposed where coverage is sparse and where a lack of proposed buildings will mitigate views into the site. The facility will also preserve the existing monument for Tennessee’s geographical center. This will be accomplished by incorporating bus parking on the storage site and providing a sidewalk for convenient public access to the monument. Security will be a key feature, with a dedicated office/living unit providing additional oversight and access control. Designed with both functionality and aesthetics in mind, this storage facility will integrate seamlessly into the surrounding area, while offering a secure and well-maintained storage solution.



ZONING MAP

Not To Scale

- RS-10 Residential Single-Family (RS-10)
- RS-15 Residential Single-Family (RS-12)
- RM-12 Residential Multi-Family (RM-12)
- RM-16 Residential Multi-Family (RM-16)
- PRD Planned Residential District (PRD)



Site Boundary

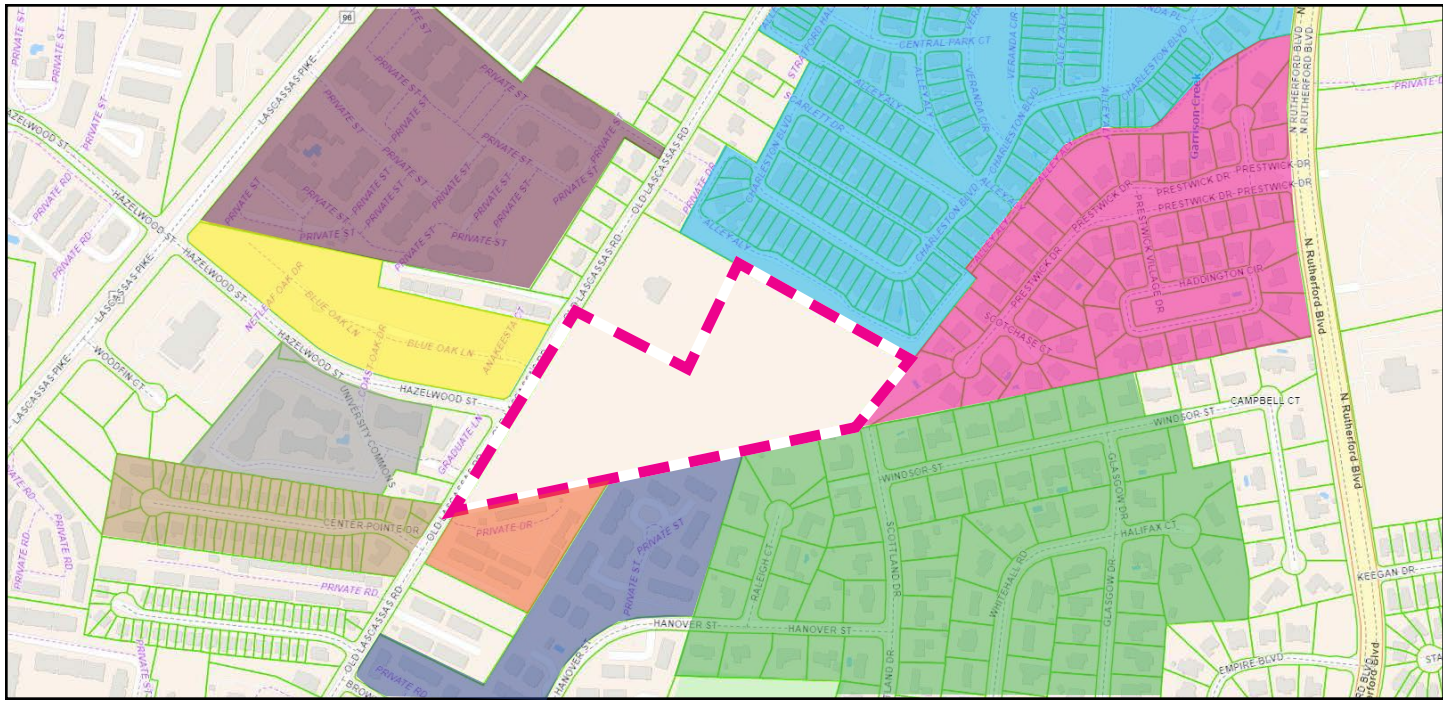
The surrounding area consists of a mixture of zoning types and land uses. The land to the north and east is zoned PRD. The land to the south and west is zoned RM-12, RM-16 and RS-12.



2035 FUTURE LAND USE PLAN

The Murfreesboro Future Land Use Map (FLUM) designates this area as Suburban Residential (SR) and Park/Open Space (PK). The character of the Suburban Residential land-use is a lower density residential. Density for this character type has a maximum of four units per acre. Generally compatible zoning districts include RS-15, RS-12, RS-10, and PRD.

Although the site does not align with the FLUM, the proposed storage facility offers several key benefits that support its consideration. Unlike residential development, which would potentially require extensive blasting due to site conditions, this project eliminates the need for such disruption, preserving the natural landscape. Additionally, the secured facility will help deter ongoing unlawful activity in the area by introducing controlled access, security measures, and regular oversight. This development also generates minimal traffic compared to residential or commercial alternatives, reducing the impact on surrounding roadways. Overall, this project provides a practical and low-impact use of the site while enhancing safety and security for the community.



SUBDIVISION MAP

Not To Scale

- Stratford Hall PRD
- The Cove at Center Pointe
- 1540 PLACE
- Prestwick
- Scotland Terrace Condominiums
- Hazelwood Apartments
- Scotland Acres
- Center Pointe West
- Oakwood Village Townhomes

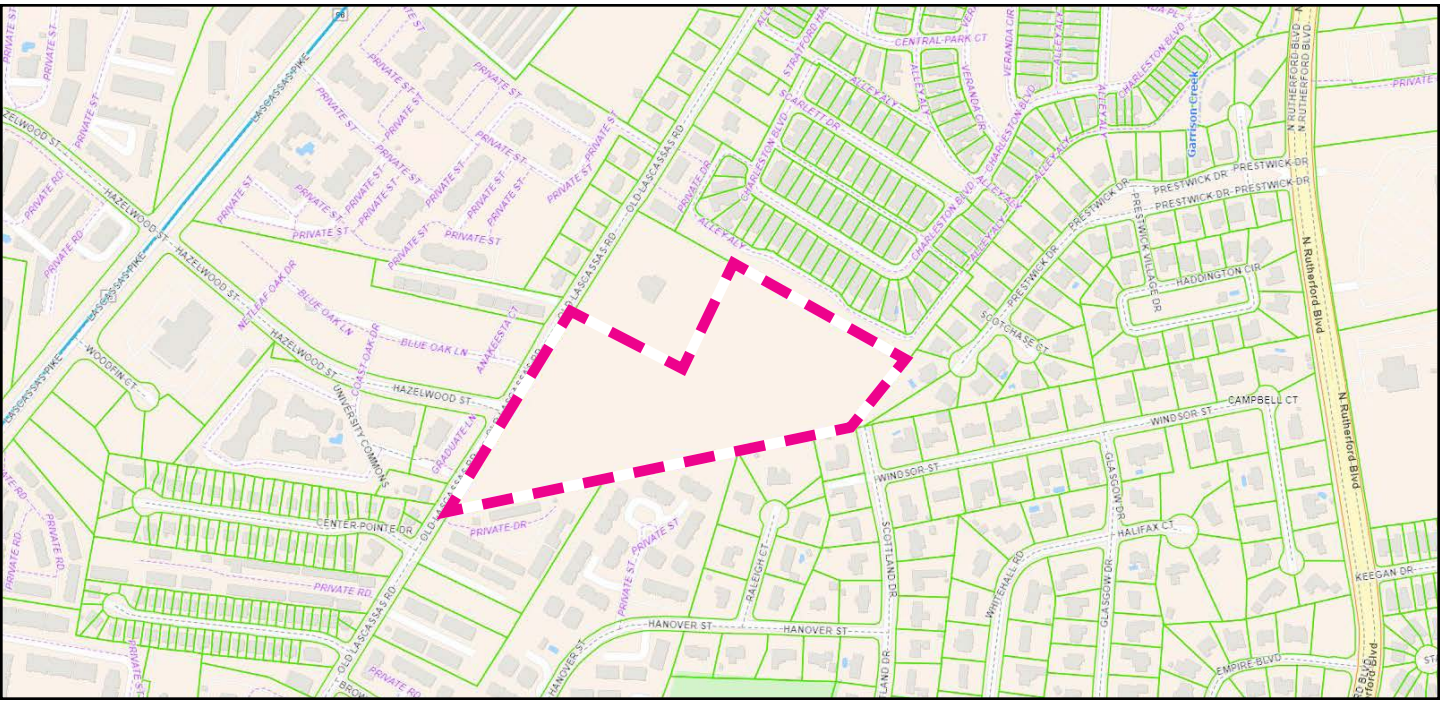
Site Boundary

Lascassas Storage is surrounded by a mixture of residential subdivisions providing both single-family and multi-family developments. Stratford Hall is a residential development to the north consisting of one to two-story single-family detached homes with front-entry garages. The exterior elevations consist of primarily of a mixture of masonry materials along the front elevations with brick and/or hardy board siding along side elevations. There is one primary point of ingress/egress to the development from Gold Valley Drive.

Scotland Acres is a residential development to the south consisting of one to two-story single-family detached homes with front-entry and side-entry garages on 15,000 sqft minimum lots. The exterior elevations consist of primarily of a mixture of masonry materials along the all elevations. There are two primary points of ingress/egress to the development; one from Greenland Drive along Scotland Drive, and one from Hanover Street via Brown street which then goes back to Lascassas Road.

Oakwood Village is a residential development to the west consisting of two-story single-family attached townhomes with front entry garages. The exterior elevations consist primarily of brick along the front and side elevations with hardy board along the rear elevations. There are three points of ingress/egress to the development; one from Old Lascassas Road, and two from Hazelwood Street.

South of the development are the multi-family developments of The Cove at Center Pointe Apartments and Scotland Terrace Condominiums. The Cove at Center Pointe contains one and two story buildings, with exteriors consisting of primarily plywood siding. The development has direct access onto Old Lascassas Road.



2040 MAJOR TRANSPORTATION PLAN

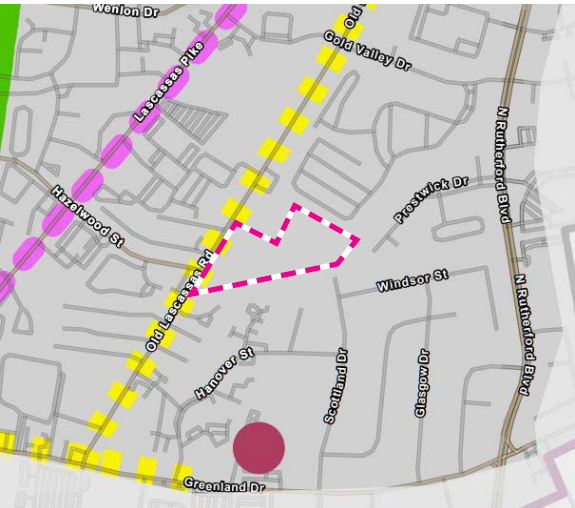
Not To Scale

- 5-Lane Roadway

Site Boundary

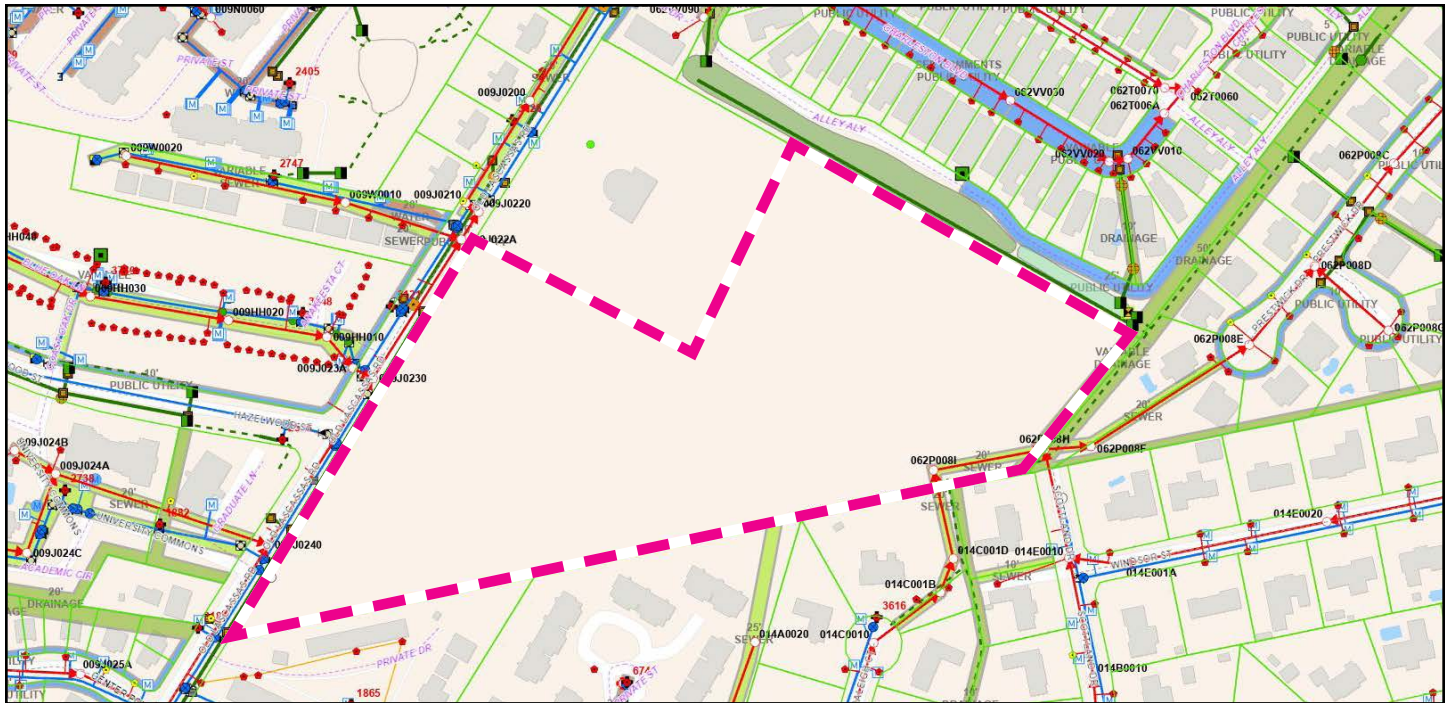
The property has/will have access to the existing public right-of-way of Old Lascassas Road through one entrance. The existing entrance to the Tennessee Geographic Center Monument shall remain generally as it is today. No roadways impacted by this development are on the Murfreesboro 2040 Major Transportation Plan. Both Old Lascassas Road and Hazelwood Drive are designated as collector roads. It is anticipated that this project at build out will generate roughly 40 trips per day with a possible 16 peak hours trips per day.

MURFREESBORO GREENWAY, BLUEWAY, AND BIKEWAY MASTER PLAN



The Murfreesboro Greenway, Blueway, and Bikeway Master Plan shows this development located within Network Area C. The plan identifies an existing bike lane along Old Lascassas Road which connects to the existing bike lanes along Greenland Drive to the south, and North Rutherford Boulevard/East Rutherford Boulevard to the north.

The proposed development will not be changing the design or conditions of the existing bike lane along Old Lascassas Road except where necessary for vehicular ingress/egress to the development.



UTILITY MAP

Not To Scale

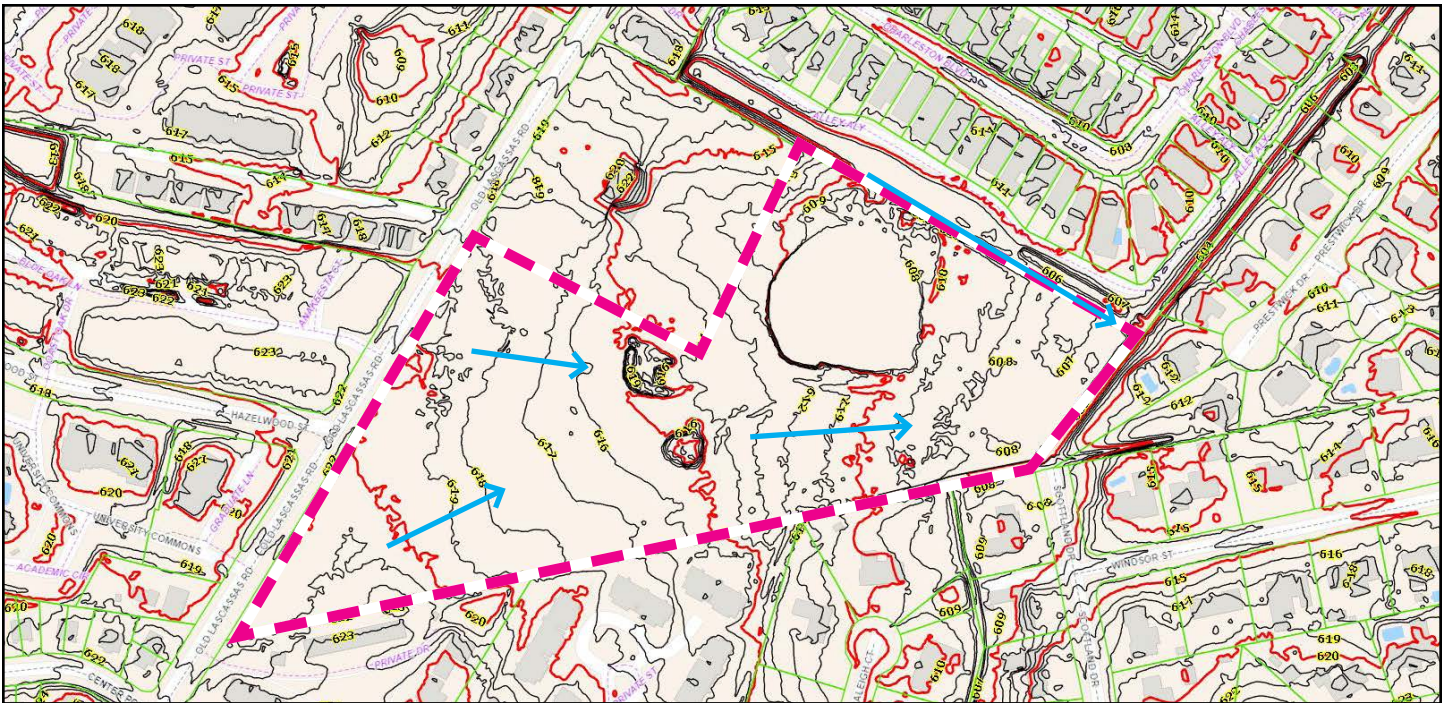


Water service will be provided by the Murfreesboro Water Resources Department. There is an existing 8 inch ductile iron water line along Old Lascassas Road for water service into the site. The developer will be responsible for extending the waterline into the site for domestic and fire water service.

Sanitary sewer service will be provided by the Murfreesboro Water Resources Department. Sanitary sewer service can connect to an existing 12" PVC gravity sewer line within the R.O.W. of Old Lascassas Road. Construction will extend the sewer service into the site and the developer will be responsible for extending the sewer into this property.



Electric service will be provided by Middle Tennessee Electric. Electric services will be extended from Old Lascassas Road. The developer will be responsible for extending the electric lines into the site, and all on-site electric will be underground.



HYDROLOGY AND TOPOGRAPHY

Not To Scale



The topographic map above shows the site's topographic high point generally at the southwestern corner of the property. From this high point, the property drains towards the north and east. Stormwater on-site flows northeast towards the existing pond before turning and heading east. Stormwater from the site drains into the existing drainage easement along the eastern property line, and then flows north before draining into Garrison Creek.

No portions of this property are within a registered FEMA Floodway or Flood plain per FEMA Flood Panel 47149C0280J eff. 05/09/2023.

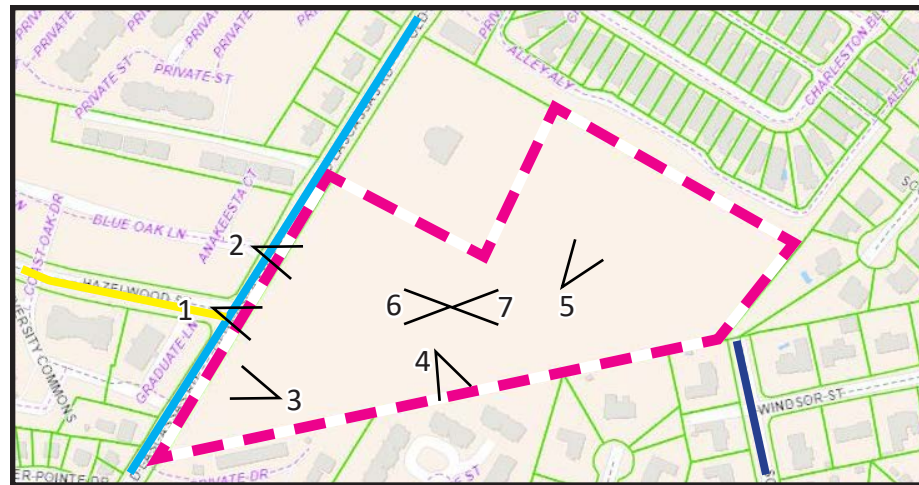
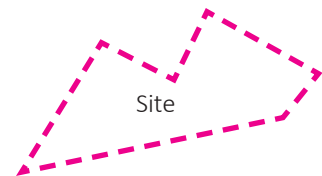


PHOTO DIRECTION MAP

Not To Scale

- Old Lascassas Road
- Hazelwood Street
- Scotland Drive



View of Intersection at Hazelwood Street and Old Lascassas Road
Looking East Towards Development Entrance



View of Existing Geographic Center Monument Looking East from Old
Lascassas Road



View of Existing Tree Canopy Along Old Lascassas Road Looking West



View of Existing Treeline Along Southern Property Line Looking South



View of Existing Gravel Quarry Looking Northeast



View from Middle of Site Looking West



View from Middle of Site Looking East

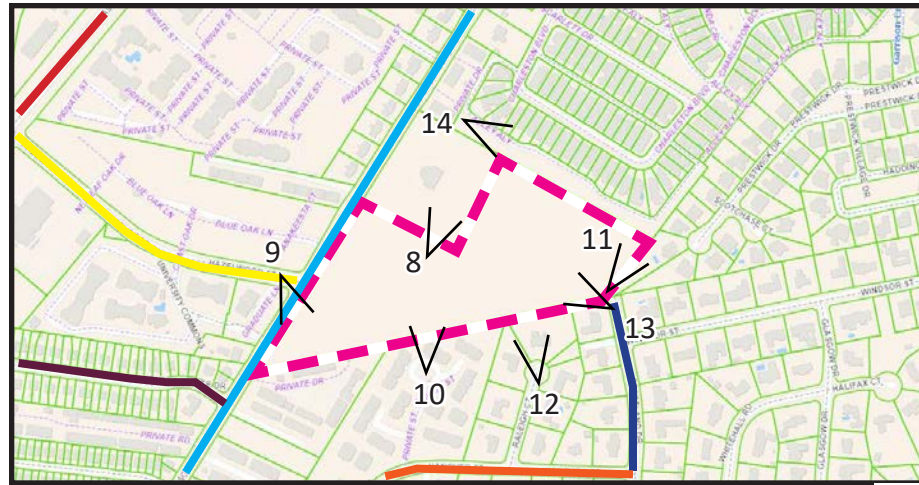
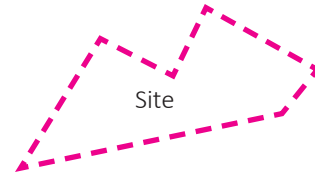


PHOTO DIRECTION MAP

Not To Scale

- Old Lascassas Road
- Hazelwood Street
- Lascassas Pike
- Scotland Drive
- Hanover Street
- Center Pointe Drive



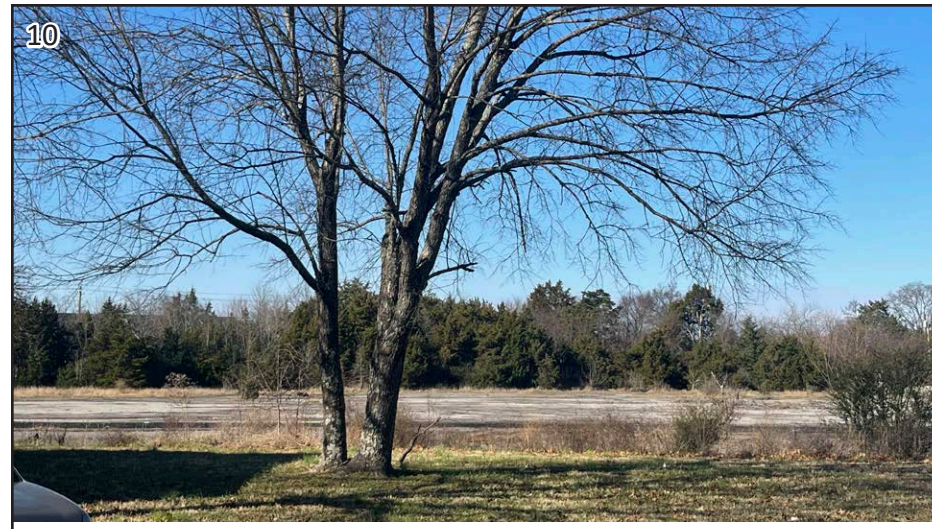
Site



View of Intersection at Hazelwood Street and Old Lascassas Road
Looking Southeast Towards Development Entrance



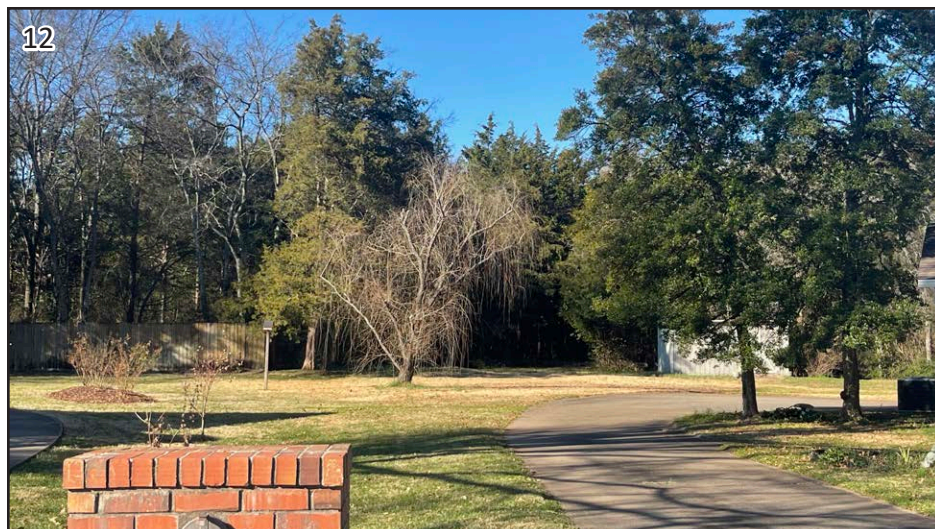
View of Existing Rock Wall Along Residential Outparcel Looking North



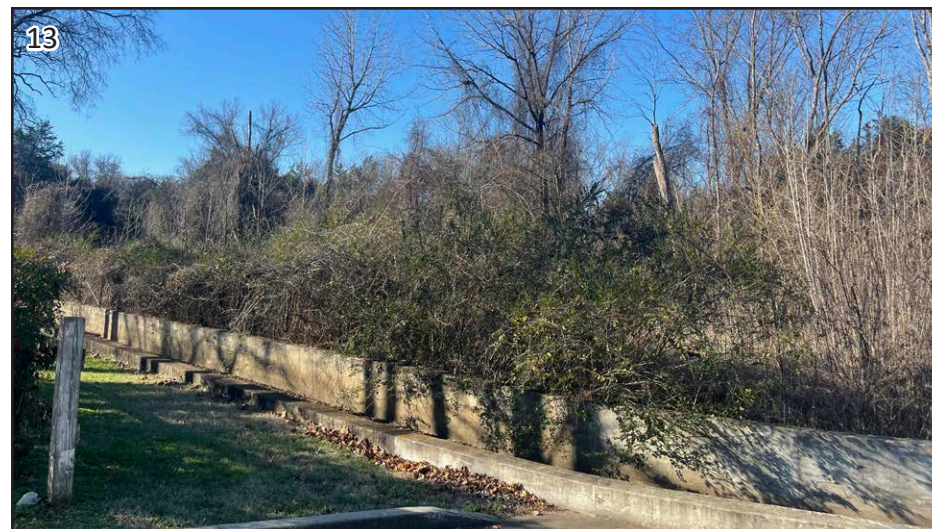
View From Scotland Terrace Condominiums Looking North Towards
Rear Elevation of Proposed Covered Parking Storage



View from Scotland Drive Dead-End Looking Northeast at Existing Grass
Drainage Swale along Eastern Perimeter



View From Raleigh Court Cul-De-Sac Looking North at Existing Tree Canopy to Remain



View from Scotland Drive Dead-End Looking Northwest at Existing
Concrete Drainage Swale along Southern Perimeter



View of Existing Landscape Buffer Along Northern Boundary with
Stratford Hall PRD Looking Southeast

DEVELOPMENT LAND USE DATA:

Total Land Area:	±14.81 Acres
Storage Facility	±14.68 Acres
Monument Parcel	±0.13 Acres
Climate Controlled Units:	550 units
15'x40' Storage Units Provided:	10 units
Total RV & Boat Parking Provided:	238 Spaces
Covered RV & Boat Spaces:	73 Spaces
Uncovered RV & Boat Spaces:	165 Spaces

REQUIRED PARKING:

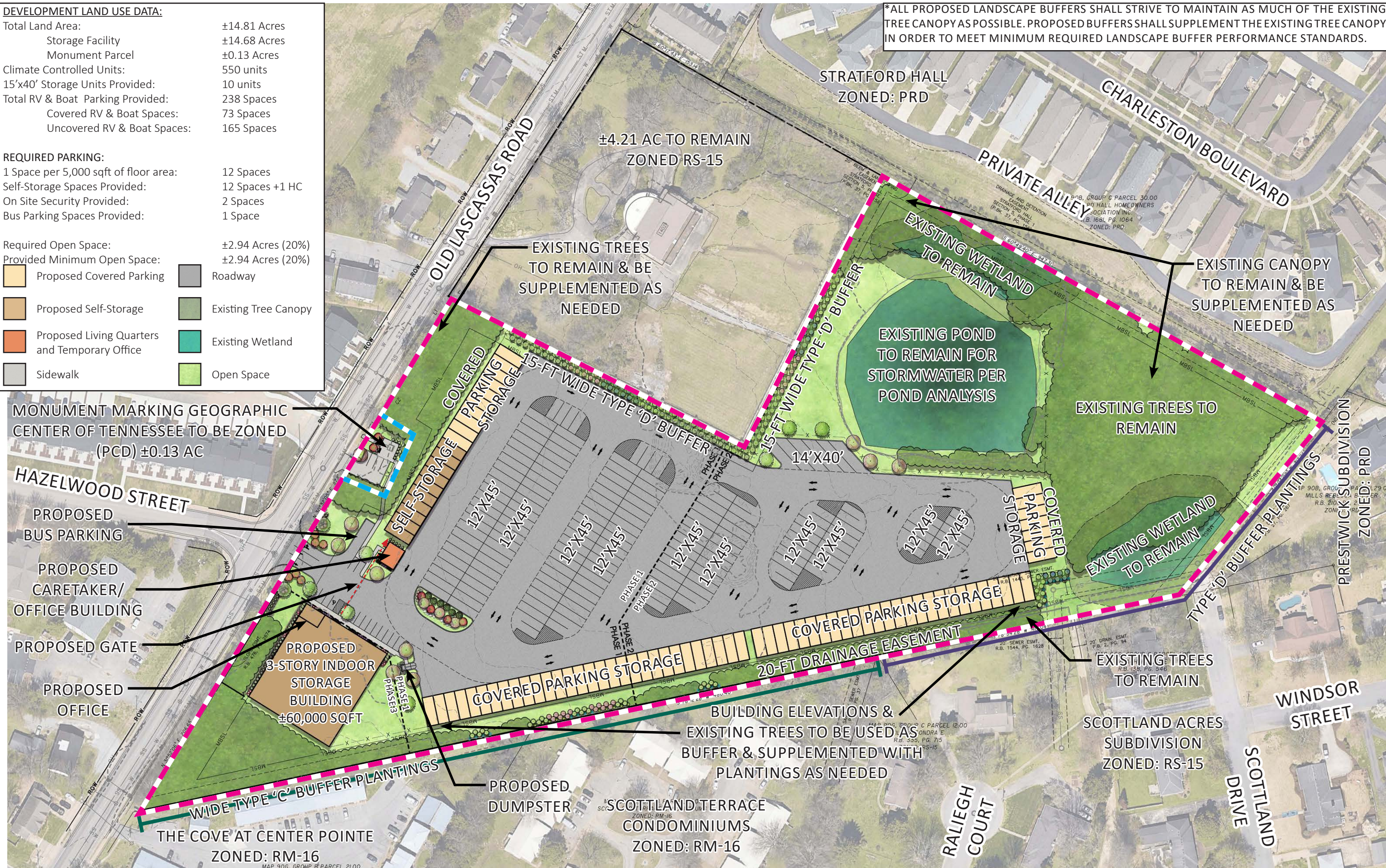
1 Space per 5,000 sqft of floor area:	12 Spaces
Self-Storage Spaces Provided:	12 Spaces +1 HC
On Site Security Provided:	2 Spaces
Bus Parking Spaces Provided:	1 Space

Required Open Space: ±2.94 Acres (20%)

Provided Minimum Open Space: ±2.94 Acres (20%)

Proposed Covered Parking	Roadway
Proposed Self-Storage	Existing Tree Canopy
Proposed Living Quarters and Temporary Office	Existing Wetland
Sidewalk	Open Space

*ALL PROPOSED LANDSCAPE BUFFERS SHALL STRIVE TO MAINTAIN AS MUCH OF THE EXISTING TREE CANOPY AS POSSIBLE. PROPOSED BUFFERS SHALL SUPPLEMENT THE EXISTING TREE CANOPY IN ORDER TO MEET MINIMUM REQUIRED LANDSCAPE BUFFER PERFORMANCE STANDARDS.

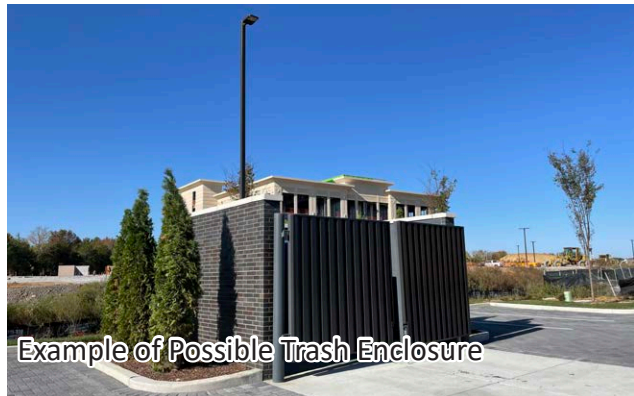


Development Standards

- The development will consist of 14.68 acres for the anticipated use of a self-storage facility and 0.13 acres for the preservation of the existing monument representing the Geographic Center of Tennessee.
- Maintenance and access easements shall be recorded on the 0.13 acres for the current owner of the proposed development to maintain the monument site.
- A maintenance agreement shall be recorded with the development requiring the upkeep of the monument site. Any improvements to the site shall be coordinated with the development.
- The 3-story climate controlled self-storage building shall have a maximum of 60,000 sqft of floor area.
- Building heights shall not exceed 40-feet in height.
- All signage shall have materials consistent with the building architecture, and be accented with landscaping.
- No banners, promotional materials, or additional signage shall be displayed in a manner that renders them visible through the glazing of the building’s exterior.
- Any solid waste enclosures shall be constructed of materials consistent with building architecture and in line with city standards. Enclosures shall be at least 8-feet tall, with opaque gates. Solid waste collection service shall be provided by a private hauler.
- All mechanical equipment located on the ground (i.e. hvac and transformers) or on the roof of buildings and shall be screened from public rights-of-way.
- All on-site utilities will be underground.
- On-site lighting will comply with Murfreesboro Zoning Ordinance performance standards to reduce light pollution while providing safety for employees and patrons.
- Parking for patrons will comply with the Murfreesboro Zoning Ordinance in surface material, number of spaces and size of spaces.
- Office areas of all buildings shall have a minimum 3’ wide planting bed along the foundation.
- All outdoor storage will be screened in accordance with the City of Murfreesboro Zoning Ordinance.
- A Type ‘D’ Landscape Buffer shall be provided between this development and all neighboring RS-15 and PRD properties.
- A Type ‘C’ Landscape Buffer shall be provided between this development and all RM-16 properties.
- Screening and buffering shall provided as seen on Page 21.
- All proposed landscape buffers shall strive to maintain as much of the existing tree canopy as possible. Proposed buffers shall supplement the existing tree canopy in order to meet buffer performance standards.
- Hours of operation shall be from 6am - 10pm, seven days a week. Access shall be via coded entry.



Example of Possible Entrance Sign



Example of Possible Trash Enclosure

Proposed Allowable Uses

The proposed developments primary use shall be that of a self-service storage facility. An accessory residential use shall be allowed to provide housing for the on-site caretaker. The proposed parcel containing the monument shall only be allowed that primary use. Any uses, other then the before mentioned, are prohibited within the storage facility portion of the proposed PCD.

Patrons of the self-storage facility shall adhere to the standards set forth in Chart 1 End Note #16(a) of the Murfreesboro Zoning Ordinance which currently prohibits the following activities within self-storage;

- Auctions; Commercial, wholesale, or retail sales; and miscellaneous or garage sales
- Servicing, repairing, and fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment
- Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment
- Establishment of a transfer or storage business
- Using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, live band, amplifiers, loudspeakers, or other machine or device for producing or reproducing sound in such a manner as to disturb the peace, quiet, and comfort of neighboring residents at any time with louder volume than is necessary for convenient hearing for the persons responsible for producing or reproducing such sound.
- Use of individual units for residential purposes, included by not limited to cooking or sleeping
- Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
- Notwithstanding the prohibited uses, the owner or manager of the self storage facility may conduct actions, repair, and maintain the premises when reasonably required in the usual and customary operation of a self-service storage business.

PHASES	STANDARD PARKING SPACES	15'X40' COVERED SPACES	12'X45' SPACES	14'X40' SPACES	12'X30' SPACES	15'X40' STORAGE	CLIMATE CONTROLLED UNITS	ACRES
PHASE 1	15	29	88	0	12	10	0	8.47 AC
PHASE 2	0	44	39	6	20	0	0	5.76 AC
PHASE 3	0	0	0	0	0	0	550	0.45 AC
TOTAL	15	73	127	6	32	10	550	14.68 AC

Phase 1

Phase 2

Phase 3

- The project is anticipated to be built in 3 phases.
- Construction of Phase 1 is anticipated to begin following their permitting. No building permits shall be issued until infrastructure is installed.
- Phase 1 will include all roadway improvements proposed for this site.
- The remaining phases will be market driven

Phase 1 Package:

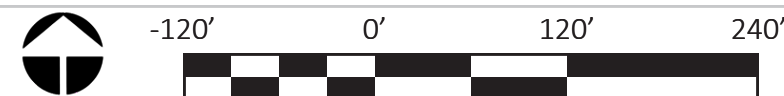
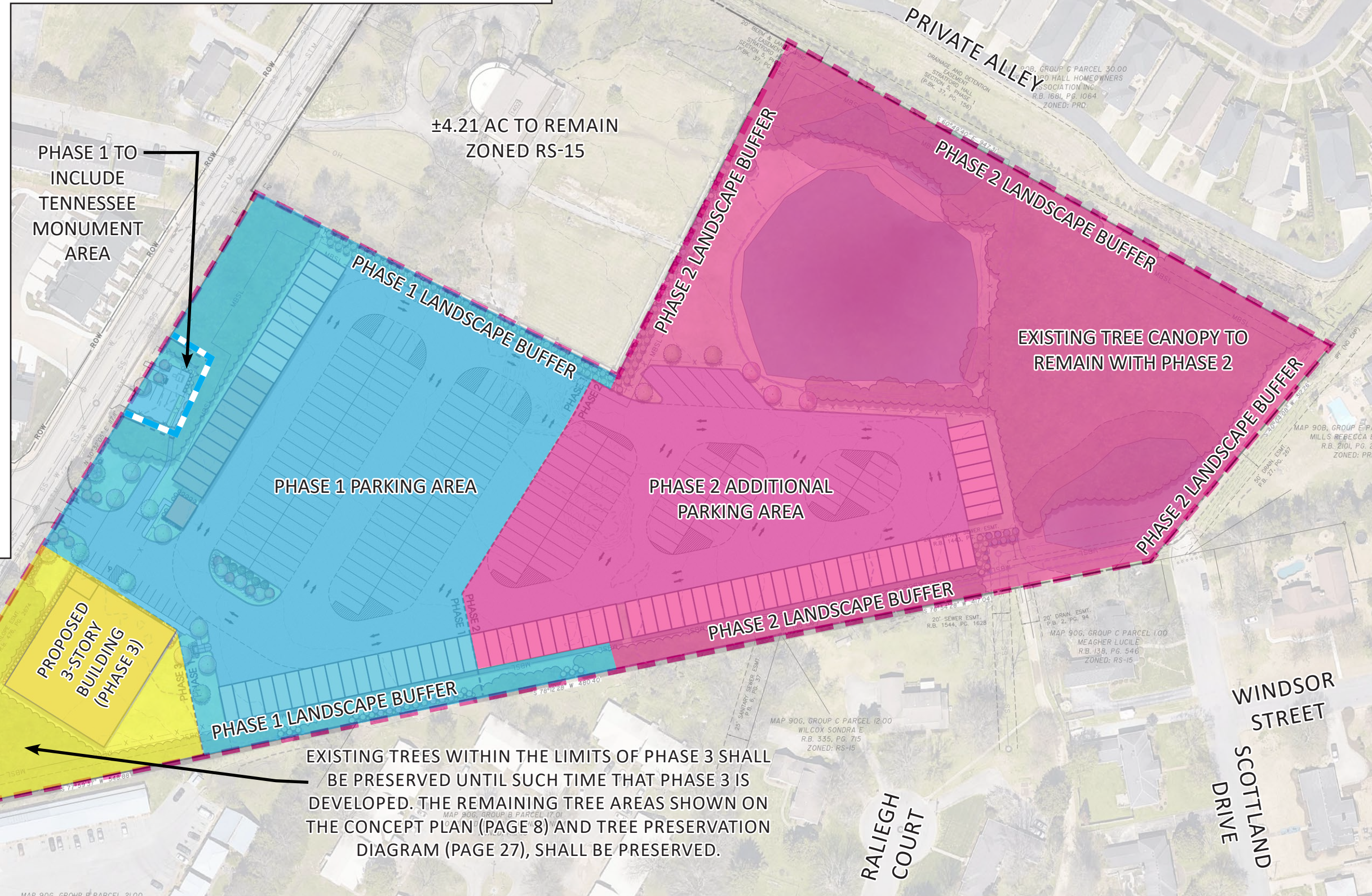
- Mixture of self-storage, covered spaces, and storage parking spaces.
- Living Quarters/Temp Office
- Bus parking space for Monument Site
- Sidewalk connection to Monument Site

Phase 2 Package:

- Mixture of Covered spaces and storage parking spaces.

Phase 3 Package:

- Climate controlled self-storage building

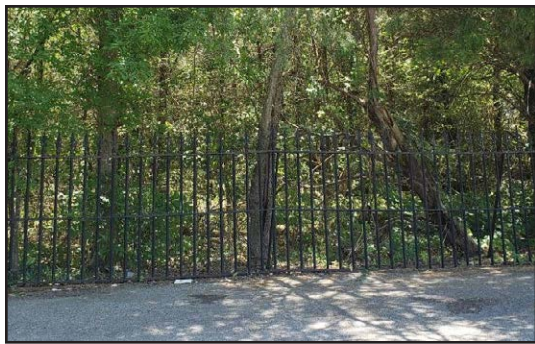




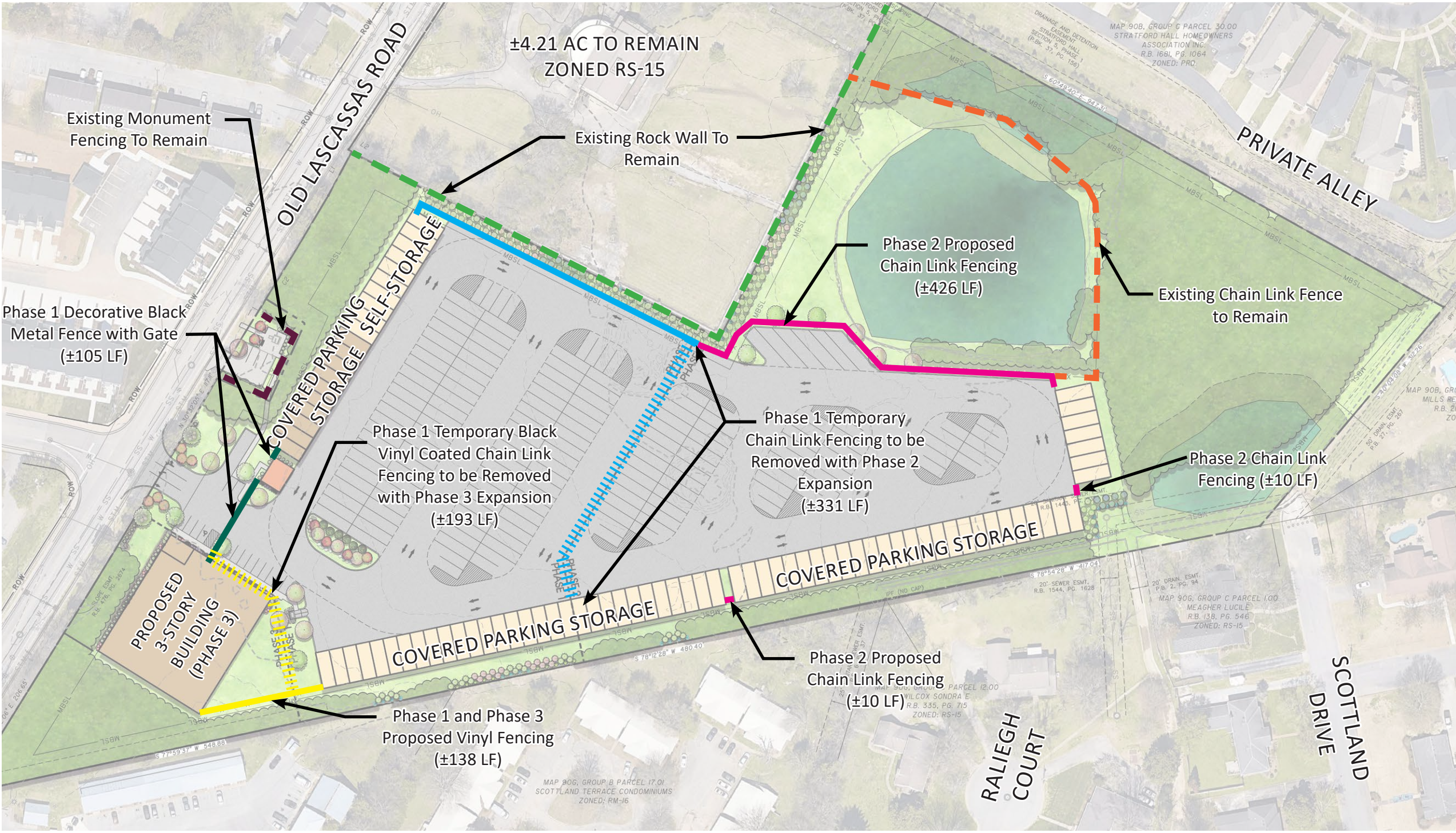
Existing Rock Wall to Remain (±890 LF)



Existing Chain Link Fence to Remain (±552 LF)



Existing Monument Fencing to Remain (±190 LF)



Example of Proposed Decorative Fencing With Gate (±105 LF)



Example of Phase 1 and Phase 3 Proposed Black Vinyl Fencing (±138 LF)



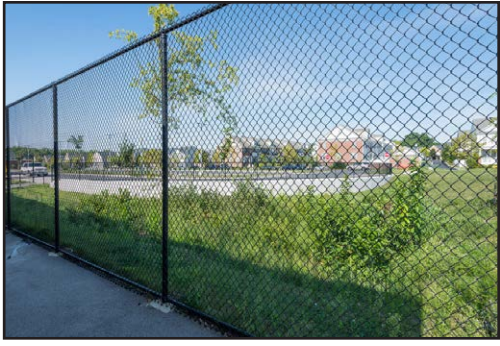
Example of Phase 1 Proposed Chain Link Security Fencing (±378 LF)



Example of Phase 1 Temporary Chain Link Security Fencing (±331 LF)



Example of Phase 2 Proposed Chain Link Security Fencing (±446 LF)



Example of Phase 1 Temporary Black Vinyl Coated Chainlink Fencing (±193 LF)





FIRST FLOOR PORTION OF COLUMN SHALL HAVE THE OPTION TO MATCH UPPER STORY BRICK COLOR. IF USED, THIS OPTION SHALL BE UTILIZED ACROSS ALL FOUR ELEVATIONS OF THE BUILDING.



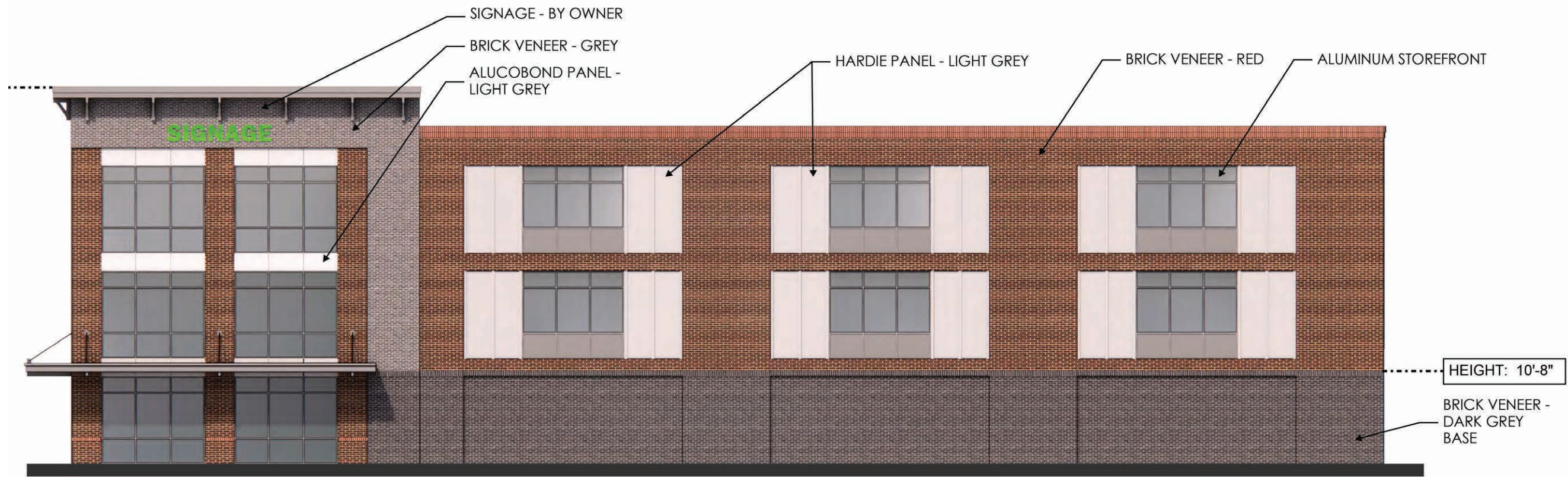
3-STORY STORAGE BUILDING ELEVATION - NORTH SIDE

3-Story Storage Materials:
Brick: 50%
Hardie Fiber Cement Siding: 17%
Alucobond Metal Panel: 3%
Storefront: 30%



3-STORY STORAGE BUILDING ELEVATION - EAST SIDE

3-Story Storage Materials:
Brick: 54%
Hardie Fiber Cement Siding: 37%
Storefront: 9%



3-STORY STORAGE BUILDING ELEVATION - OLD LASCASSAS ROAD

3-Story Storage Materials:
 Brick: 59%
 Hardie Fiber Cement Siding: 15%
 Alucobond Metal Panel: 2%
 Storefront: 24%



3-STORY STORAGE BUILDING ELEVATION - SOUTH SIDE

3-Story Storage Materials:
 Brick: 58%
 Hardie Fiber Cement Siding: 35%
 Storefront: 7%



3-STORY STORAGE BUILDING ELEVATION - OLD LASCASSAS ROAD

*Architecture shown is illustrative and only meant to convey the general appearance and character of the building. Final architecture shall be provided at the site plan level and will meet design guidelines.

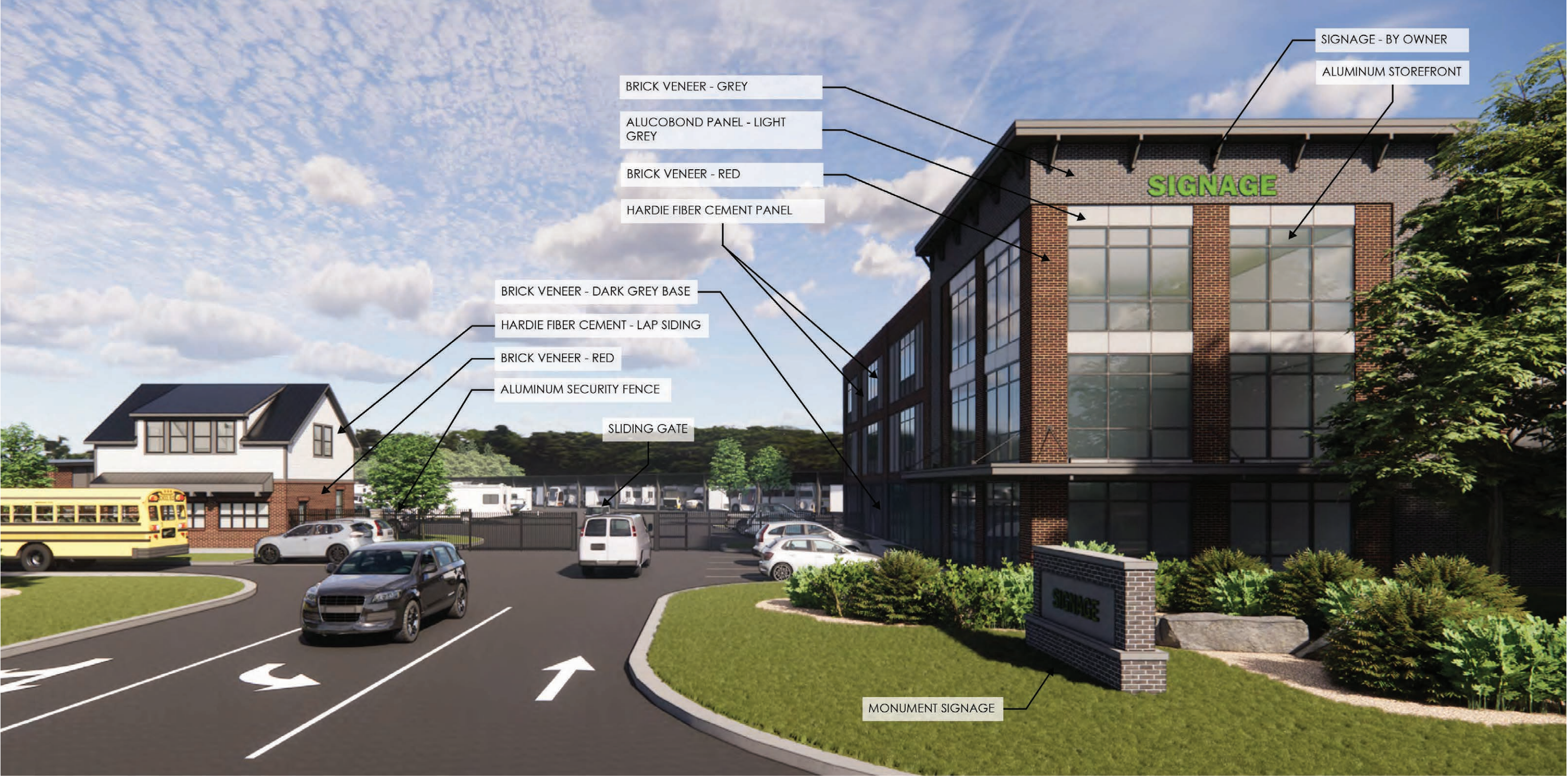


3-STORY STORAGE BUILDING ELEVATION - NORTH FACING

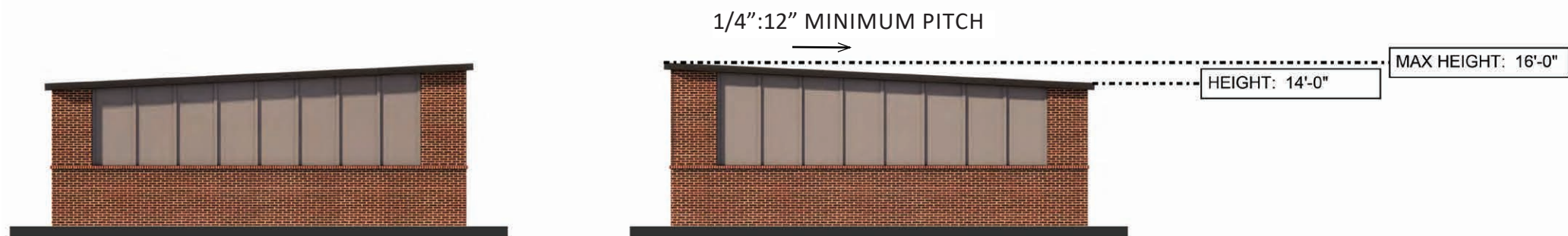
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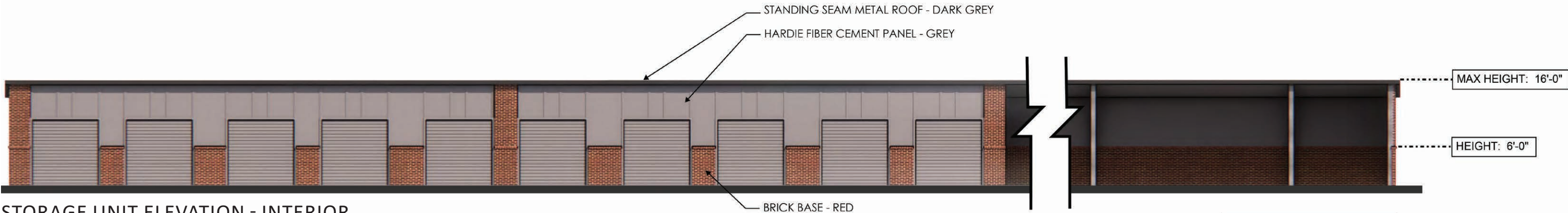


*Architecture shown is illustrative and only meant to convey the general appearance and character of the building. Final architecture shall be provided at the site plan level and will meet design guidelines.



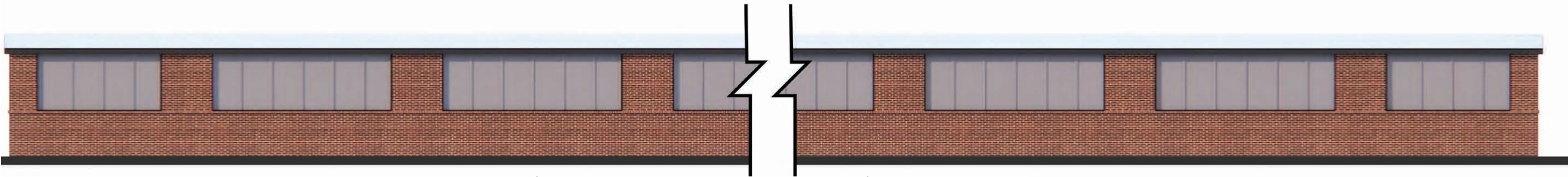
COVERED STORAGE BUILDING SIDE ELEVATIONS

Open Storage Materials:
Brick: 54%
Hardie Fiber Cement Panel: 46%



STORAGE UNIT ELEVATION - INTERIOR

Open Storage Materials:
Brick: 23%
Hardie Fiber Cement Panel: 43%
Garage Door: 20%



COVERED STORAGE BUILDINGS ELEVATION - REAR (FACING OLD LASCASSAS ROAD)

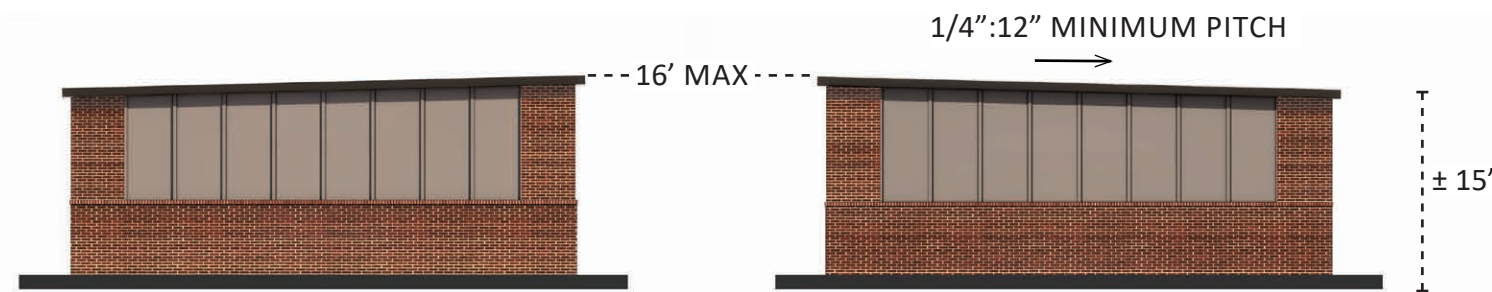
Open Storage Materials:
Brick: 56%
Hardie Fiber Cement Panel: 44%



EXAMPLE OF CARETAKER AND SINGLE-STORY STORAGE UNITS/COVERED PARKING ALONG LASCASSAS ROAD

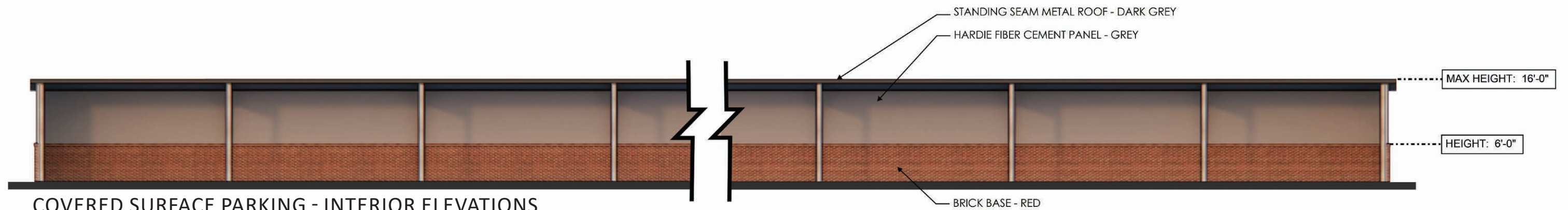


SINGLE-STORY STORAGE UNITS/COVERED PARKING ALONG LASCASSAS ROAD



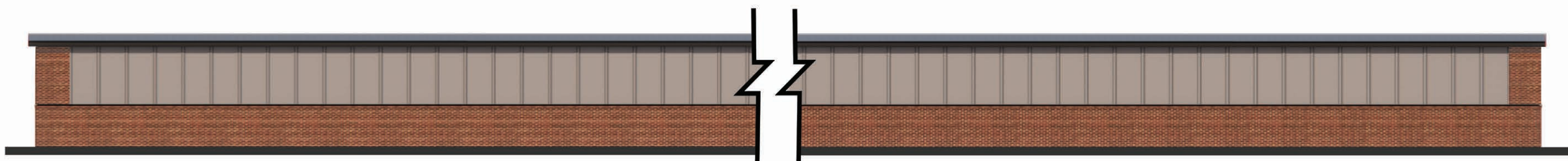
COVERED SURFACE PARKING - SIDE ELEVATIONS

One-Story Storage
Materials:
Brick: 40%
Hardie Fiber Cement
Panel: 60%



COVERED SURFACE PARKING - INTERIOR ELEVATIONS

One - Story Storage Materials:
Brick: 40%
Hardie Fiber Cement Panel: 60%



COVERED SURFACE PARKING - REAR (FACING RESIDENTIAL)

One-Story Storage Materials:
Brick: 42%
Hardie Fiber Cement Panel: 58%

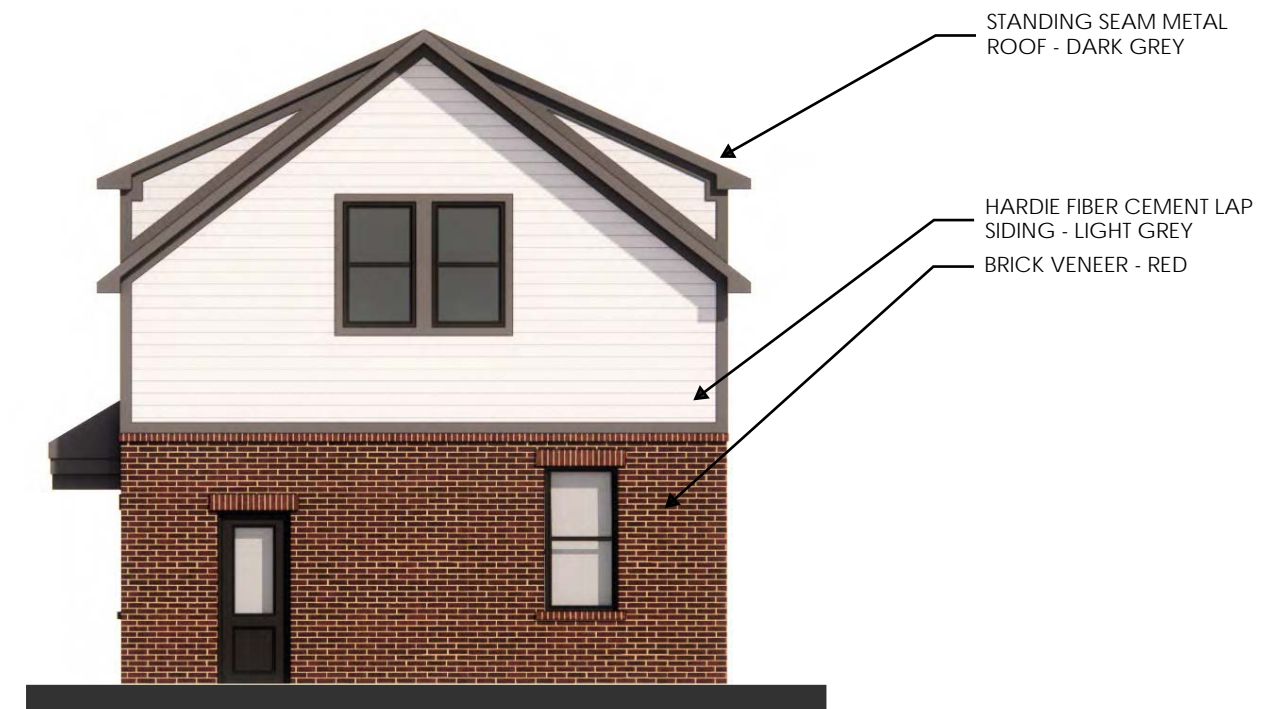


EXAMPLE OF COVERED PARKING ALONG RESIDENTIAL PROPERTY LINE



OFFICE BUILDING
WINDOWS ON
GROUND FLOOR
SHALL PROVIDE
A MINIMUM 8"
MULLION.

OFFICE BUILDING - WEST ELEVATION

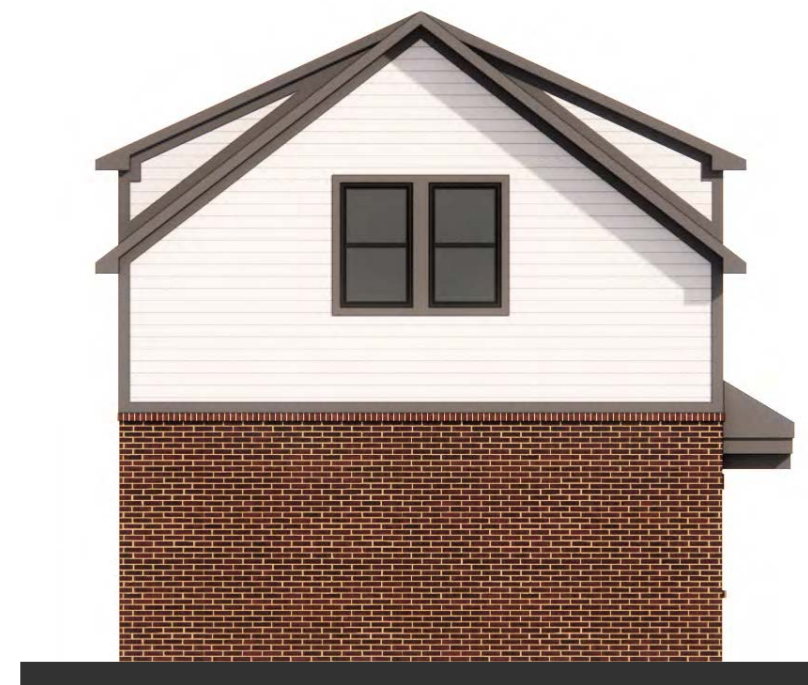


STANDING SEAM METAL
ROOF - DARK GREY

HARDIE FIBER CEMENT LAP
SIDING - LIGHT GREY

BRICK VENEER - RED

OFFICE BUILDING - SOUTH ELEVATION



OFFICE BUILDING - NORTH ELEVATION



HEIGHT: 27'-0"

OFFICE BUILDING - EAST ELEVATION



Pursuant to the City of Murfreesboro’s 2040 Major Transportation Plan (MTP), none of the roadways in this development are slated for improvements. Old Lascassas Road is a community collector road where the majority of vehicular trips generated by this development will impact. It is currently built as a 3 lane cross-section with curb and gutter along with sidewalks on both sides of the roadway.

As stated above, the primary means of ingress/egress from this site will be onto Old Lascassas Road. The entrance is proposed to incorporate three travel lanes for proper circulation into and out of the development. There will be a dedicated left and right out of the development, as well as single lane for traffic entering the development. The existing entrance to the Tennessee Geographic Center Monument shall be retained at its currently location on Old Lascassas Road. The illustration below shows the proposed pedestrian circulation through the site, and the illustration to the right shows the proposed vehicular circulation through the site.



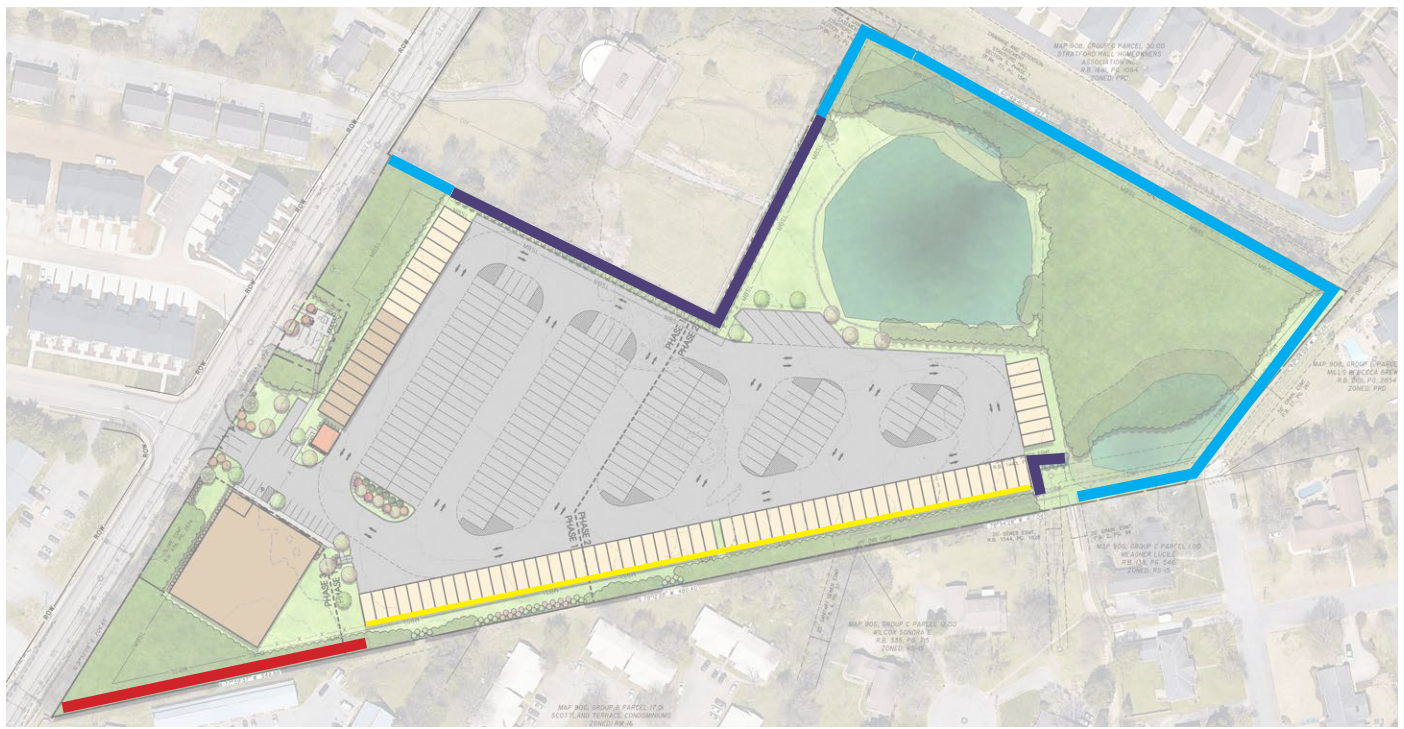
- ● ● ● PEDESTRIAN CIRCULATION
- ● ● ● SIDEWALK TO MONUMENT



- ● ● ● VEHICULAR CIRCULATION



FINAL DEVELOPMENT FENCING PLAN



- 12-FT WIDE TYPE 'C' LANDSCAPE BUFFER UTILIZING EXISTING VEGETATION
- 15-FT WIDE TYPE 'D' LANDSCAPE BUFFER TO BE INSTALLED
- 15-FT WIDE TYPE 'D' LANDSCAPE BUFFER UTILIZING EXISTING VEGETATION
- BUILDING ELEVATION TO BE USED AS PART OF BUFFER IN CONJUNCTION WITH PRESERVED TREES AND SUPPLEMENTAL BUFFER PLANTINGS TO FILL IN GAPS IN PRESERVED TREES.



TREE PRESERVATION DIAGRAM



The site has been designed with ample landscaping to provide not only an aesthetically pleasing experience for the potential users, but to aid in mitigating impacts to the surrounding areas. To ensure these characteristics, some standards are outlined below.

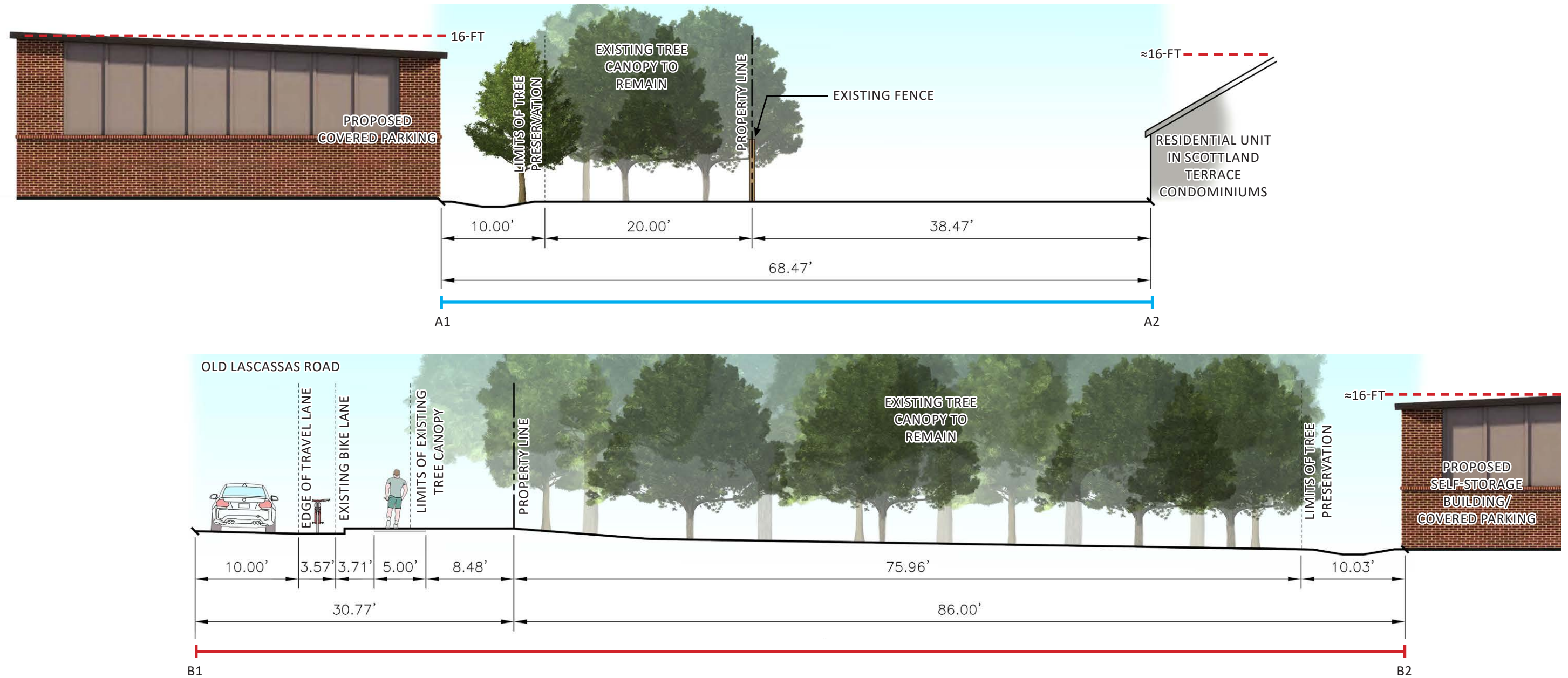
Landscaping Characteristics:

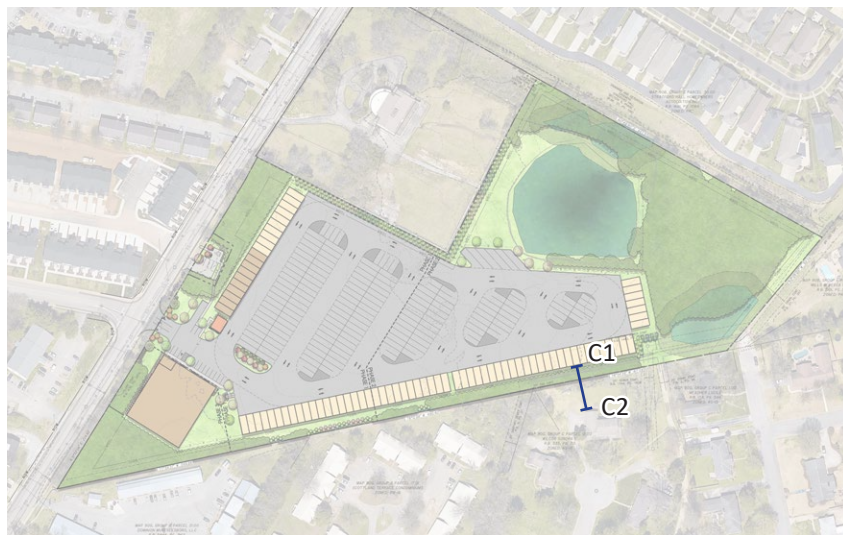
- A minimum 10 feet of landscape area between parking and all property lines.
- Public rights-of-way screened from parking by use of landscaping and/or berming.
- A Type 'D' Landscape Buffer Planting shall be provided between this development and all RS-15 and PRD residential properties.
- A Type 'C' Landscape Buffer Planting shall be provided between this development and all RM-16 properties.
- All proposed landscape buffers shall strive to maintain as much of the existing tree canopy as possible. Proposed buffers shall supplement the existing tree canopy in order to meet minimum required landscape buffer standards.
- The proposed covered parking building elevations will be utilized, in conjunction with preserved existing trees and supplemental plantings to fill in gaps in existing trees preserved, as the buffer for portions of the site.
- All above ground utilities and mechanical equipment screened with landscaping and/or walls.
- Solid waste enclosures shall be screened with a masonry wall and enhanced with landscaping.



SITE KEY

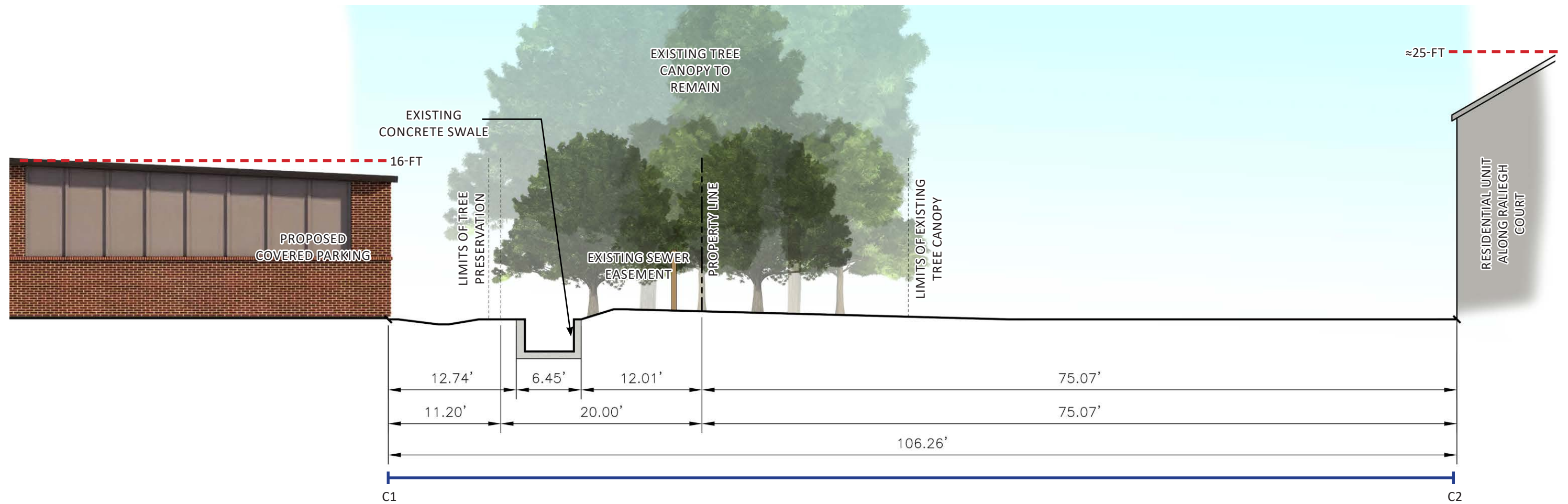
N.T.S. 





KEY MAP

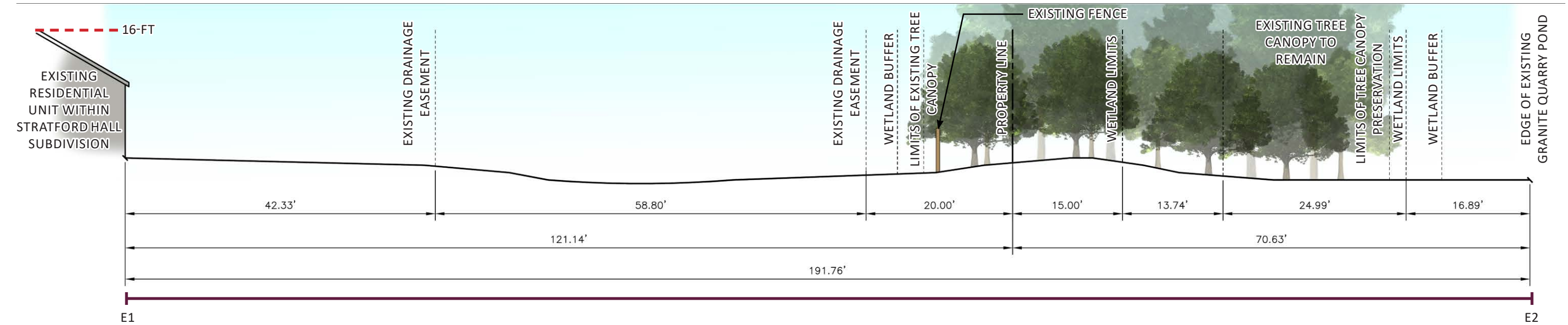
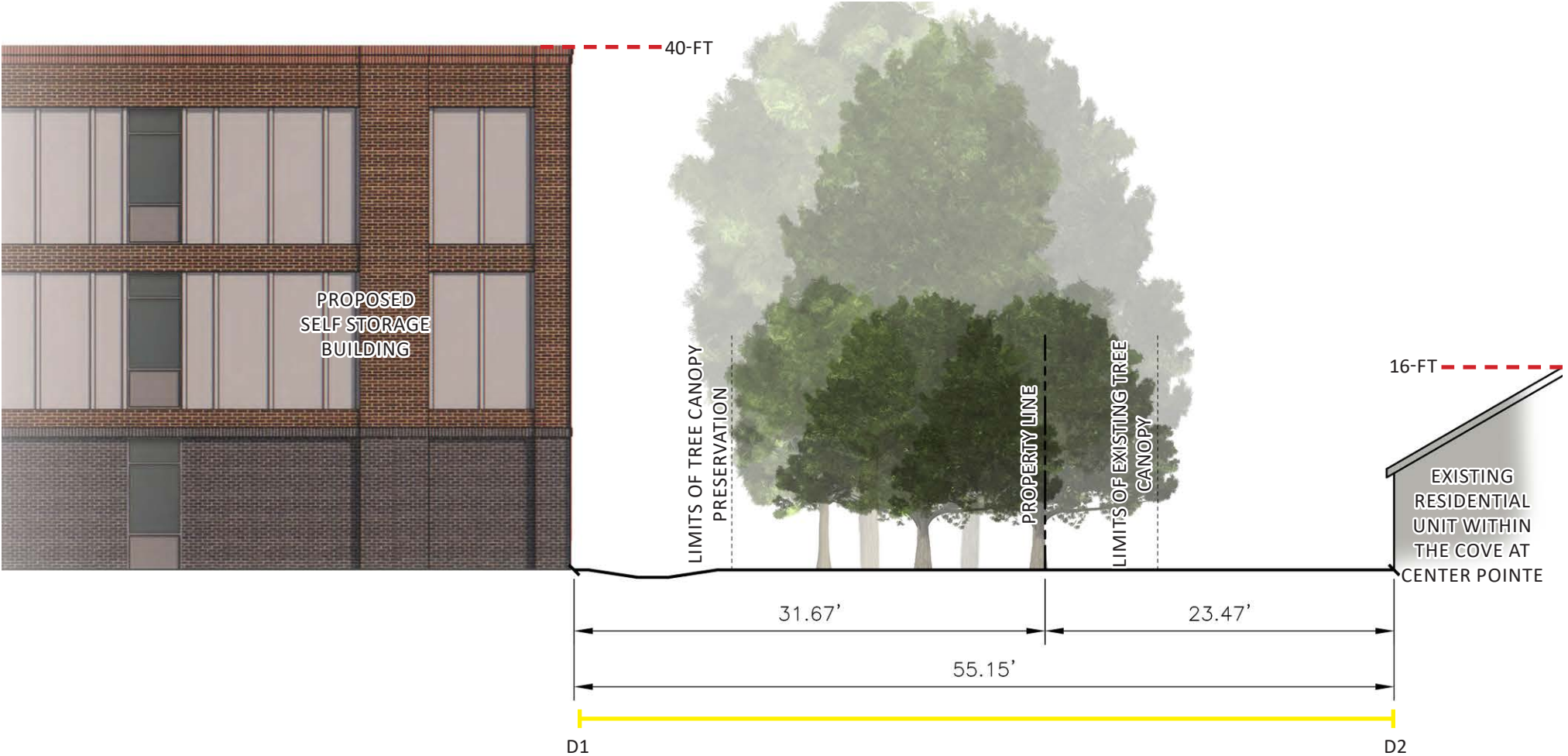
N.T.S. 





SITE KEY

N.T.S. 





MONUMENT MARKING
GEOGRAPHIC CENTER OF
TENNESSEE TO BE ZONED
(PCD)
±0.13 AC
AND PARCELED SEPARATELY

CLEANING EXISTING
VEGETATION
AROUND EXISTING
MONUMENT FENCE

PROPOSED
BENCH

RESTRIPING AND
ADDING CURBING
TO EXISTING
PARKING LOT

PROPOSED
BUS PARKING

Existing Monument Formal Open Space:

A monument marking the geographic center of the state of Tennessee resides on the property along Old Lascassas Road. The monument has an existing parking lot and is currently fenced off from the rest of the property and is approximately 0.13 acres in size. With this rezoning, a bus parking space is being provided to help remediate the current on-street bus parking. A sidewalk will be provided from the proposed bus parking space to the monument site. A Maintenance and Access Easement shall be recorded on this lot with the development owner becoming responsible for the maintenance and upkeep of the monument area. Additional signage shall be installed to direct bus traffic to the storage facility. The existing wrought iron fence shall remain, receiving proper maintenance. The development will be providing new curbs, parking striping, and parking island trees to the existing parking lot configuration at a minimum, with the final design improvements further developed during Site Plan Review. An adequate legal instrument shall be approved by City legal and recorded to ensure the long-term maintenance of the monument site concurrent with the recordation of a Final Plat Map when creating the various parcels.



EXISTING MONUMENT



VIEW OF MONUMENT SITE FROM OLD LASCASSAS ROAD



EXAMPLE OF SEATING

1.) A map showing available utilities, easements, roadways, rail lines and public right-of-way crossing and adjacent to the subject property.

Response: The exhibits given on Pages 3-7 meet this requirement.

2.) A graphic rendering of the existing conditions and/or aerial photograph(s) showing the existing conditions and depicting all significant natural topographical and physical features of the subject property; location and extent of water courses, wet-lands, floodways, and floodplains on or within one hundred (100) feet of the subject property; existing drainage patterns; location and extent of tree cover; and community greenways and bicycle paths and routes in proximity to the subject property.

Response: The exhibits given on Pages 3-7 meet this requirement.

3.) A plot plan, aerial photograph, or combination thereof depicting the subject and adjoining properties including the location of structures on-site and within two hundred (200) feet of the subject property and the identification of the use thereof.

Response: The exhibits given on Pages 3-7 meet this requirement.

4.) A drawing defining the location and area proposed to be developed for buildings and parking; standards for pedestrian and vehicular circulation; the proposed points of ingress and egress to the development; the provision of spaces for loading; proposed screening to be made in relation to abutting land uses and zoning districts; and the extent of proposed landscaping, planting and other treatment adjacent to surrounding property.

Response: Pages 8-9 provide exhibits and standards that provides the required materials.

5.) A circulation diagram indicating the proposed principal movement of vehicles, goods and pedestrian within the development to and from existing thoroughfare.

Response: Pages 4 & 20 provide exhibits and standards that provides the required materials.

6.) If the planned development is proposed to be constructed in stages or units during a period extending beyond a single construction season, a development schedule indicating:

- (AA): The approximate date when construction of the project can be expected to begin.
- (BB): The order in which the phases of the project will be built.
- (CC): The minimum area and the approximate location of common spaces and public improvements that will be required at each stage
- (DD): A breakdown by phase for subsections (5) and (6) above.

Response: The project is anticipated to be developed in one phase. Development is anticipated to begin within 180 days of rezoning approval, and will include all public infrastructure.

7.) A written statement generally describing the relationship of the proposed planned development to the current policies and plans of the city and how the proposed planned development is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of this article.

Response: The property is currently zoned RS-10 and RS-15. The surrounding area has a mixture of single-family and multi-family residential subdivisions. The concept plan and development standards combined with the architectural requirements of the buildings shown within this booklet align and closely mimic the type of developments in the surrounding neighborhoods and are envisioned to complement existing and future development in this area.

8.) A statement setting forth in detail the manner in which the proposed planned development deviates from the zoning and Subdivision Regulations which would otherwise be applicable to the subject property

Response: See Page 27 for requested exceptions and setbacks.

9.) A tabulation of the maximum floor area proposed to be constructed, the F.A.R. (Floor Area Ratio), the L.S.R. (Livability Space Ratio) and the O.S.R. (Open Space Ratio). These tabulations are for the PCD.

Response: This requirement has been addressed in the chart below.

TOTAL SITE AREA	639,823 s.f.	14.69 AC	100.00%
TOTAL MAXIMUM FLOOR AREA	66,000 s.f.	1.52 AC	10.32%
TOTAL LOT AREA	639,823 s.f.	14.69 AC	100.00%
TOTAL BUILDING COVERAGE	65,852 s.f.	1.51 AC	10.29%
TOTAL DRIVE/ PARKING AREA	280,578 s.f.	6.44 AC	43.85%
TOTAL RIGHT-OF-WAY	0 s.f.	0.00 AC	0.00%
TOTAL LIVABLE SPACE	359,245 s.f.	8.25 AC	26.15%
TOTAL OPEN SPACE	127,964 s.f.	2.94 AC	20.00%
TOTAL FORMAL OPEN SPACE	5,663 s.f.	0.13 AC	0.89%
FLOOR AREA RATIO (F.A.R.)	N/A	N/A	N/A
LIVABILITY SPACE RATIO (L.S.R.)	N/A	N/A	N/A
OPEN SPACE RATIO (O.S.R.)	N/A	N/A	N/A

10.) The nature and extent of any overlay zone as described in Section 24 of this article and any special flood hazard area as described in Section 34 of this article

Response: This property is not in the Gateway Design Overlay District , Airport Overlay District (AOD), Historic District (H-1), or Planned Signage Overlay District (PS). No portions of this property lies in Zone AE, within the 100-year floodplain, according to the current FEMA Map Panel 47149C0280J eff. 5/9/2023.

11.) The location and proposed improvements of any street depicted on the Murfreesboro 2040 Major Transportation Plan as adopted and as it may be amended from time to time.

Response: Pages 4 & 20 discusses the 2040 Major Transportation Plan.

12.) The name, address, telephone number, and facsimile number of the applicant and any professional engineer, architect, or land planner retained by the applicant to assist in the preparation of the planned development plans. A primary representative shall be designated.

Response: The primary representative is Matt Taylor of SEC, Inc. developer/ applicant is The Parks Group Commercial Real Estate. contact info for both is provided on cover.

13.) Architectural renderings, architectural plans or photographs of proposed structures with sufficient clarity to convey the appearance of proposed structures. The plan shall include a written description of proposed exterior building materials including the siding and roof materials, porches, and decks. The location and orientation of exterior light fixtures and of garages shall be shown if such are to be included in the structures.

Response: Pages 12-18 show the architectural character of the proposed building and building materials listed.

14.) If a development entrance sign is proposed the application shall include a description of proposed signage for the development including calculations of square footage and height. If a development entrance sign is proposed the application shall include a description of the proposed entrance sign improvements including a description of lighting, landscaping, and construction materials.

Response: Examples of entrance signage are located on Page 9.

Land Use Parameters and Building Setbacks				
Zoning (Existing vs Proposed)	RS-15 (Existing)	CF (Most Relevant)	Proposed PCD	Difference
Residential Density				
Maximum Dwelling Units Multi-Family	2.9 D.U./Acre	None	None	N/A
Minimum Lot Area	15,000 SF	None	None	N/A
Minimum Lot Width	75'	None	None	N/A
Storage Facility Minimum Setback Requirements				
Minimum Front Setback (From Old Lascassas Road)	40'	42'	42'	0'
Minimum Front Setback (From Monument Property)	40'	42'	20'	-22'
Minimum Side Setback (3 - Story Building)	12.5'	*(10') 25'	30'	+5'
Minimum Side Setback (From Monument Property Line)	12.5'	*(10') 25'	20'	+10'
Minimum Side Setback (Covered Storage -Single Story)	12.5'	*(10') 25'	30'	+5'
Minimum Rear Setback	30'	*(20') 25'	30'	+5'
Land Use Intensity Ratios				
MAX F.A.R.	None	None	None	None
Minimum Livable Space Ratio	None	None	None	None
Minimum Open Space Requirement	20%	20%	20%	0%
Minimum Formal Open Space Requirement	None	19,166 SF (3%)	Limits of Monument Parcel: 5,663 SF (.13AC)	-13,503 SF
Max Height	35'	45'	40'	-5

*Murfreesboro Zoning Ordinance Chart 2 Footnote #15: In the CF district, the minimum side yard or rear yard setback shall be as specified in Chart 2 unless the property abuts property in the RS, RD, RS-A, or PRD classification or the residential portion of land zoned in the PUD classification, in which case, the minimum setback shall be twenty-five feet from the common property line of the property in the RS, RD, RS-A, or PRD classification or the residential portion of land zoned in the PUD classification.

REQUESTED EXCEPTIONS:

1. Requesting an exception to Chart 1 End Note 16(e) to allow for self-service storage within 0-ft of a major intersection, a 300-ft reduction.
2. Requesting an exception to the shared property lines of the monument parcel to be a 20’ front setback to storage building behind monument parcel.
3. Requesting an exception to the requirement for formal open space be recognized at the preserved monument space (5,663 SF) in lieu of the required 19,166 SF on site, with site improvements determined at site plan review.
4. Requesting an exception to the tree island requirements in the parking storage areas. Trees typically required for these islands will be planted in an alternate locations on site.
5. Requesting an exception to the Architectural Design Guidelines to allow the buildings to have less than 35% window or void area on building’s facade surface area.
6. Requesting an exception to allow outdoor storage of Rv’s, trailers, cars, and boats in Phases 1 and 2 that exceeds 50% of all units in each phase.

MINUTES
OF THE CITY OF MURFREESBORO
PLANNING COMMISSION
City Hall, 111 W. Vine Street, Council Chambers
May 7, 2025, 6:00 PM

Members Present:

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Tristan Carroll
Reggie Harris
Shawn Wright

Staff Present:

Darren Gore, City Manager
Sam Huddleston, Asst. City Manager
Greg McKnight, Exec. Dir. Dev. Services
Ben Newman, Dir. Of Land Mgmt.& Plan.
Matthew Blomeley, Asst. Planning Dir.
Holly Smyth, Principal Planner
Brad Barbee, Principal Planner
Richard Donovan, Principal Planner
Marc Shackelford-Rowell, Planner
Adam Tucker, City Attorney
John Tully, Assistant City Attorney

1. Call to Order.

Chair Kathy Jones called the meeting to order at 6:00pm.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Public Comments.

None.

4. Approve Minutes of the April 16, 2025 Planning Commission meeting.

Ms. Jami Averwater moved to approve the minutes of the April 16, 2025 Planning Commission meeting; the motion was seconded by Mr. Tristan Carroll and carried by the following vote:

Aye: Jami Averwater
Tristan Carroll

MURFREESBORO PLANNING COMMISSION MINUTES

MAY 7, 2025

Ken Halliburton

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

5. Old Business:

a. Proposed amendment to the Zoning Ordinance [2025-802] related to regulations for institutional group assembly uses, including school uses, and pertaining to the following sections:

-Section 7: Site Plan Review

-Section 9: Standards for Special Permit Uses

-Section 19: Residential Districts

-Section 27: Landscaping and Screening

-Chart 1: Uses Permitted by Zoning District (and its endnotes); and

-Endnotes for Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios

City of Murfreesboro Planning Department applicant.

Mr. Matthew Blomeley and Mr. Darren Gore presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these minutes by reference.

Vice-Chairman Ken Halliburton moved to approve the amendment subject to all staff comments; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Jami Averwater

Tristan Carroll

Ken Halliburton

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

6. Public Hearings and Recommendations to Council:

Zoning application [2025-406] for approximately 14.81 acres located along Old Lascassas Road to be rezoned from RS-15 (12 acres) and RS-10 (2.81 acres) to PCD (Lascassas Storage PCD), Patterson Company, LLC applicant.

Ms. Holly Smyth presented the Staff Comments regarding this item, a copy of

MURFREESBORO PLANNING COMMISSION MINUTES

MAY 7, 2025

which is maintained in the permanent files of the Planning Department and is incorporated into these minutes by reference.

Mr. Brian Grover (landscape architect), Mr. Matt Taylor (design engineer), and Mr. Jackson Nichols (developer) were in attendance representing the application. Mr. Grover gave a presentation regarding the project.

Chair Kathy Jones opened the public hearing.

1. **Mr. Richard Richard of 1316 Charleston Boulevard** spoke about concerns over drainage and the development of the wetlands area.
2. **Mr. Mike Johnston of 2010 Windsor Street** spoke in opposition to the request. He brought up concerns over lighting and landscaping.
3. **Mr. Larry Gilliland of 1911 and 2007 Windsor Street** spoke about restrictions on open space and fencing.
4. **Ms. Donna Tackaberry of 1250 Charleston Boulevard** spoke about concerns over drainage.
5. **Ms. Claudia Sherer of 1907 Windsor Street** spoke about concerns over potential damage from blasting and hours of operation.
6. **Mr. Mike Hughes of 2003 Windsor Street** spoke in opposition to the request. He does not believe that the proposal is consistent with the future land use map. He asked several questions regarding blasting for underground utilities, the elevation of the site, the request for exemptions, drainage and a separate parcel being created for the monument.

There being no one else to speak for or against the request, Chair Kathy Jones closed the public hearing.

Mr. Taylor addressed questions regarding the stormwater plan, undeveloped land, lighting, hours of operation, the addition of buildings in the future, blasting, underground utilities, park use, widening the buffer, landscaping, and the second lot of record for the monument.

Chair Jones asked Mr. Taylor to elaborate on elevating the site. Mr. Taylor explained that by raising the buildings they could prevent blasting.

Mr. Carroll inquired about the existing pond. Mr. Taylor explained where the water would go if the pond overflowed.

MURFREESBORO PLANNING COMMISSION MINUTES

MAY 7, 2025

Mr. Carroll inquired about blasting. Mr. Taylor explained the State regulations.

Ms. Jami Averwater moved to approve the rezoning subject to all staff comments; the motion was seconded by Mr. Reggie Harris and carried by the following vote:

Aye: Jami Averwater

Tristan Carroll

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

Abstain: Ken Halliburton

Annexation petition and plan of services [2025-501] for approximately 13.74 acres located along Yeargan Road, Shane and Dewayne Beard applicants.

Mr. Richard Donovan presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these minutes by reference.

Mr. Brian Grover (landscape architect) was in attendance representing the application.

Chair Kathy Jones opened the public hearing.

There being no one to speak for or against the request, Chair Jones closed the public hearing.

Mr. Shawn Wright moved to approve the annexation and plan of services subject to all staff comments; the motion was seconded by Mr. Tristan Carroll and carried by the following vote:

Aye: Jami Averwater

Tristan Carroll

Ken Halliburton

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

Zoning application [2025-405] for approximately 13.26 acres located along Yeargan Road to be zoned RS-10 simultaneous with annexation, Shane and Dewayne Beard applicants.

Mr. Richard Donovan presented the Staff Comments regarding this item, a copy of which is maintained in the permanent

ORDINANCE 25-OZ-21 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 14.81 acres located along Old Lascassas Road from Single-Family Residential Fifteen (RS-15) District and Single-Family Residential Ten (RS-10) District to Planned Commercial Development (PCD) District (Lascassas Storage PCD); Patterson Company, LLC, applicant, [2025-406].

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to rezone the territory indicated on the attached map.

SECTION 2. That, from and after the effective date hereof, the area depicted on the attached map shall be zoned and approved as Planned Commercial Development (PCD) District, as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

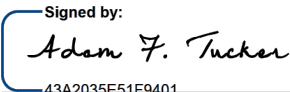
1st reading _____
2nd reading _____

Shane McFarland, Mayor

ATTEST:

Erin Tucker
City Recorder

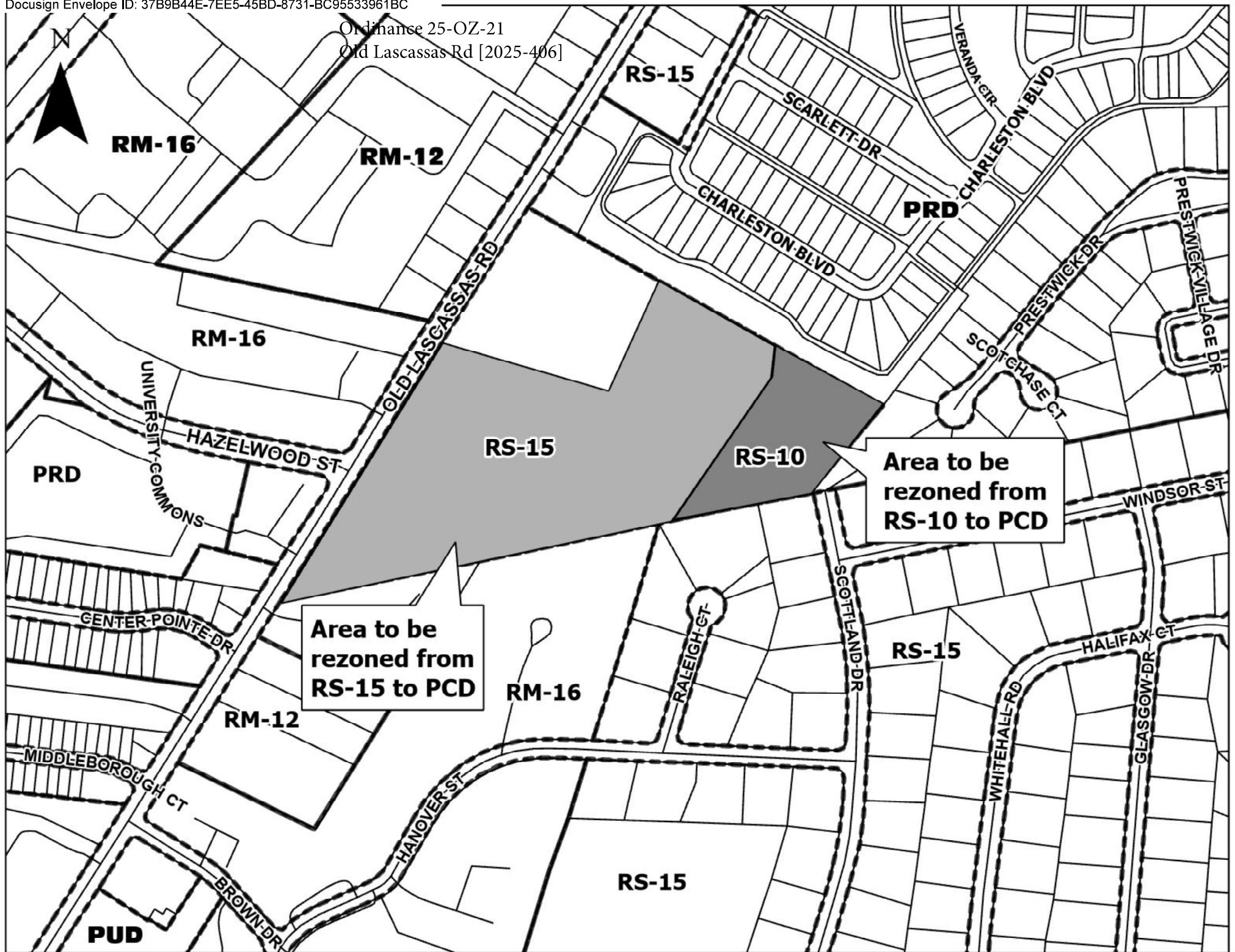
APPROVED AS TO FORM:

Signed by:


43A2035E51F9401...
Adam F. Tucker
City Attorney

SEAL

Ordinance 25-OZ-21
Old Lascassas Rd [2025-406]



COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Plan of Services, Annexation, and Zoning for property along
Yeargan Road
[Public Hearings Required]

Department: Planning

Presented By: Richard Donovan, AICP, Principal Planner

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input checked="" type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Annexation and zoning of approximately 13.74 acres located along the north side of Yeargan Road east of its intersection with Ashley Drive.

Staff Recommendation

Conduct a public hearing and approve the Plan of Services and annexation.

Conduct a public hearing and enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the plan of services, annexation, and the zoning request on May 7, 2025.

Background Information

Shane and Dewayne Beard initiated a petition of annexation [2025-501] for approximately 13.74 acres located along the north side of Yeargan Road. The City developed its plan of services for this area. Additionally, Shane and Dewayne Beard presented to the City a zoning application [2025-405] for the same 13.74 acres to be zoned RS-10 (Single-Family Residential District 10) simultaneous with annexation. During its regular meeting on May 7, 2025, the Planning Commission conducted public hearings on these matters and then voted to recommend their approval.

Council Priorities Served

Improve Economic Development

This rezoning will enable the development of a single-family residential detached subdivision.

Attachments:

1. Resolution 25-R-PSA-22
2. Ordinance 25-OZ-22

3. Maps of the area
4. Planning Commission staff comments from the 05/07/2025 meeting
5. Planning Commission minutes from 05/07/2025 meeting
6. Plan of Services
7. Other miscellaneous exhibits

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
MAY 7, 2025
PROJECT PLANNER: RICHARD DONOVAN**

6.b. Annexation petition and plan of services [2025-501] for approximately 13.74 acres located along Yeargan Road, Shane and Dewayne Beard applicants.

Shane and Dewayne Beard have submitted a petition requesting annexation of their property into the City of Murfreesboro. The annexation area includes one parcel located on the north side of Yeargan Road. The annexation area also includes approximately 610 linear feet of Yeargan Road right-of-way. The Rutherford County Highway Commission reviewed and consented to the annexation of the right-of-way segment of Yeargan Road at its March 3, 2025 meeting. The parcel is currently vacant. The total annexation study area is approximately 13.74 acres.

The annexation study area includes the following areas:

- Tax Map 124, Parcel 035.08 (13.26 acres)
- Yeargan Road right-of-way (0.48 acres)

The applicant has submitted a companion zoning application to rezone the subject property to an RS-10 designation. This rezoning would permit the 13.26 acres to be subdivided further potentially into twenty-one lots as shown on the provided concept plan. It should be noted that the concept plan submitted is for illustrative purposes only and approval of the annexation and zoning does not convey any type of approval of the concept plan.

The annexation study area is located within the City of Murfreesboro's Urban Growth Boundary. The annexation area is contiguous with the City Limits along its northern and western boundaries. The Murfreesboro 2035 Comprehensive Plan, Chapter 4: Future Land Use Map identifies a "Service Infill Line"; this line is to help facilitate growth and development in the City in an orderly, planned, and sustainable manner and to help plan for future City services. This annexation study area is located within the Service Infill area.

Staff has drafted a plan of services, which is included in the agenda packet. It details how and when services can be extended to the property, if annexed. Due to its close proximity to the existing City limits, it will be relatively easy to extend services to the subject property, except for sanitary sewer service. The property seeking annexation will need to work with neighboring developments, Magnolia Grove or Prater Farms, to extend sanitary sewer to the subject property. The timeline for the gravity sewer

to reach the proposed development is currently unknown, and all main line extensions are the financial responsibility of the developer.

Staff recommendation:

Staff is supportive of this annexation request for the following reasons:

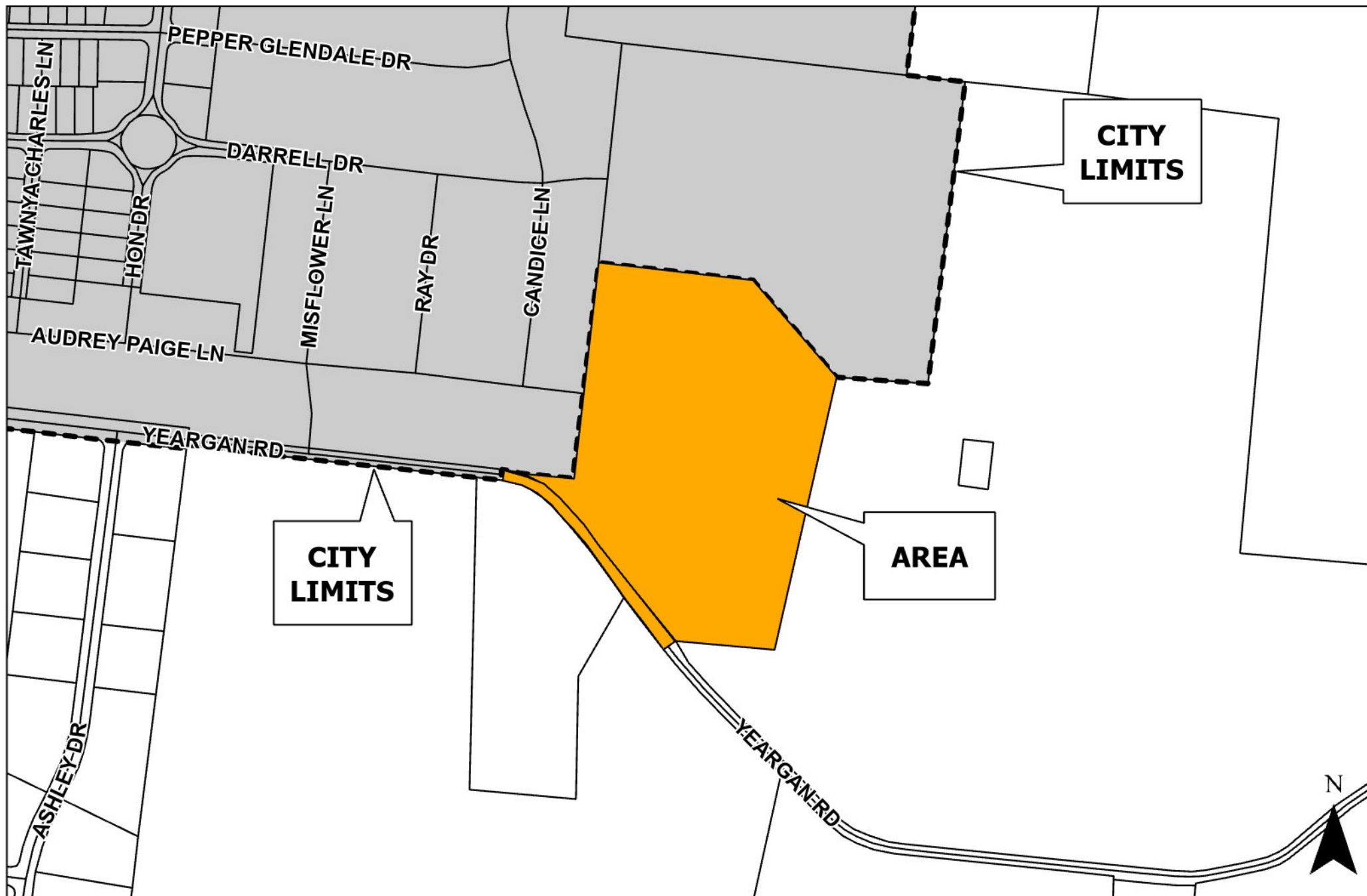
- 1) The subject property is contiguous with the existing City Limits.
- 2) It is located within the Urban Growth Boundary and within the Service Infill Area.
- 3) Services can be extended to the subject property upon annexation.

Action Needed:

The Planning Commission will need to conduct a public hearing on this matter, after which it will need to formulate a recommendation for City Council.

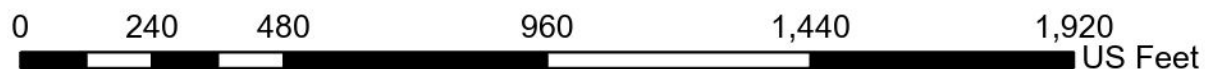
Attachments:

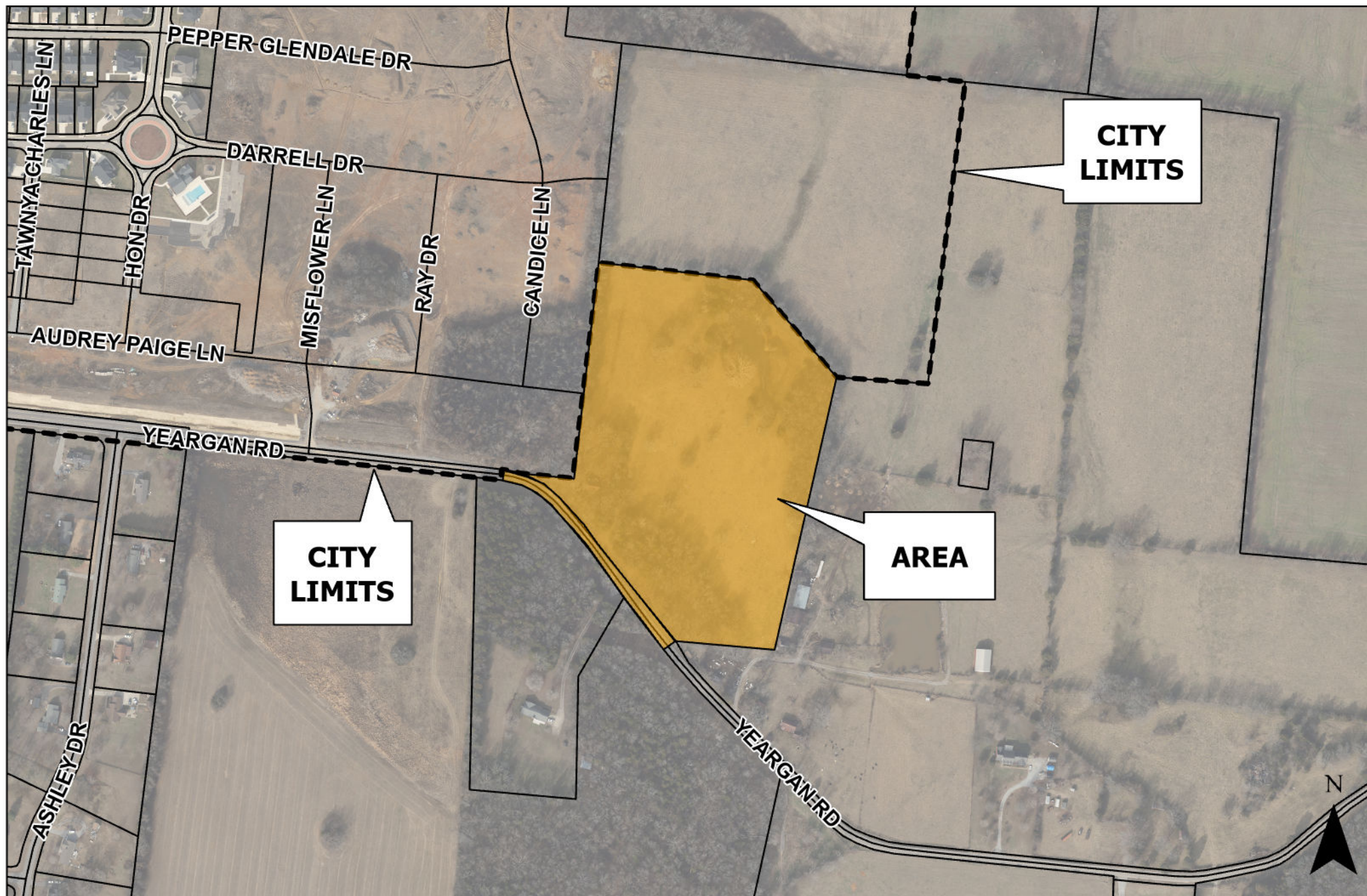
Ortho Map
Non-ortho maps
Annexation Petition
Plan of Services



Annexation Request for property along Yeargan Road

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov





Annexation Request for property along Yeargan Road

0 240 480 960 1,440 1,920 US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

PETITION FOR ANNEXATION BY THE CITY OF MURFREESBORO

The undersigned is the only owner / are all of the owners of the property identified in the attached legal description (including street address and tax map / parcel number), and hereby petitions the City of Murfreesboro to annex such property into the City.

Signatures must be by owners or those with an appropriate written Power of Attorney from an owner. If the owner is not an individual (eg. corporation, trust, etc.), list the entity's name, the name of the individual signing on behalf of the entity and the status of the individual (eg. president, trustee, partner). If you are signing this Petition based on a Power of Attorney, you must also attach a copy of the Power of Attorney.

1. DONALD DWAYNE BEARD OWNER

Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: [Signature] Status: _____ Date: 2-12-25

2434 MEADOWHILL DR, Murfreesboro, TN
Mailing Address (if not address of property to be annexed)

2. DONALD SHANE BEARD OWNER

Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: [Signature] Status: _____ Date: 2-12-25

308 PARAGON DR, Bull Buckle, TN
Mailing Address (if not address of property to be annexed)

3.

Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

4.

Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

(Attach additional signature pages if necessary)

Legal Description is attached: ✓ Yes

Power of Attorney applies and is attached: _____ Yes ✓ No

Consent for Annexation of Public Right-of-Way by the City of Murfreesboro

The City of Murfreesboro, Tennessee has initiated an annexation study of public right-of-way as shown on the attached Exhibit, which specifically includes that segment of Yeargan Road directly in front of Tax Map 124, Parcel 03508 (i.e., from the eastern boundary of the Magnolia Grove Subdivision tract to the western boundary of the property identified as 3650 Yeargan Road) totaling approximately 610 linear feet ("County Right-of-Way"), such section being a portion of the prescriptive/platted right-of-way for Yeargan Road shown in the current Rutherford County Highway Department Road Book. The undersigned, a duly authorized official of Rutherford County, Tennessee, hereby certifies that, at a public meeting held on March 3, 2025 and in furtherance of the requirements set forth in Tenn.Code Ann. § 6-51-1014, the Rutherford County Highway Commission consented to the annexation of the County Right-of-Way by the City of Murfreesboro, Tennessee.

WITNESS MY HAND this 3 day of March 2025.



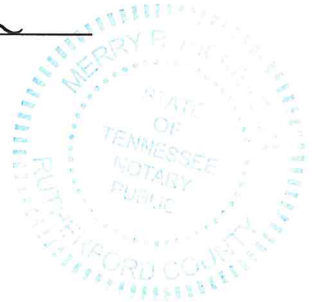
Greg Brooks

Rutherford County Road Superintendent

Sworn to and subscribed before me, a notary public in and for said county and state in Murfreesboro, Tennessee on the 3 day of March 2025.


NOTARY PUBLIC

My Commission Expires: 4-15-2028





ELKINS SURVEYING COMPANY

520 WEST LYTTLE ST. SUITE B
MURFREESBORO, TN 37130

Legal Description

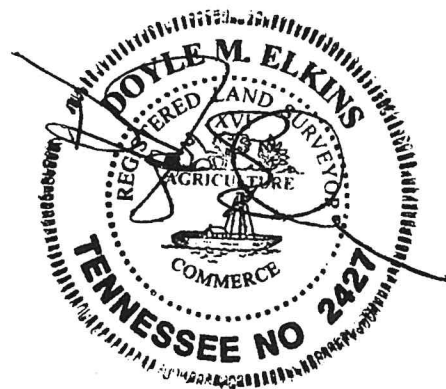
Part of RUTHERFORD COUNTY TAX MAP 124, PARCEL 035.02

Yeargan Road, Murfreesboro, TN 37128

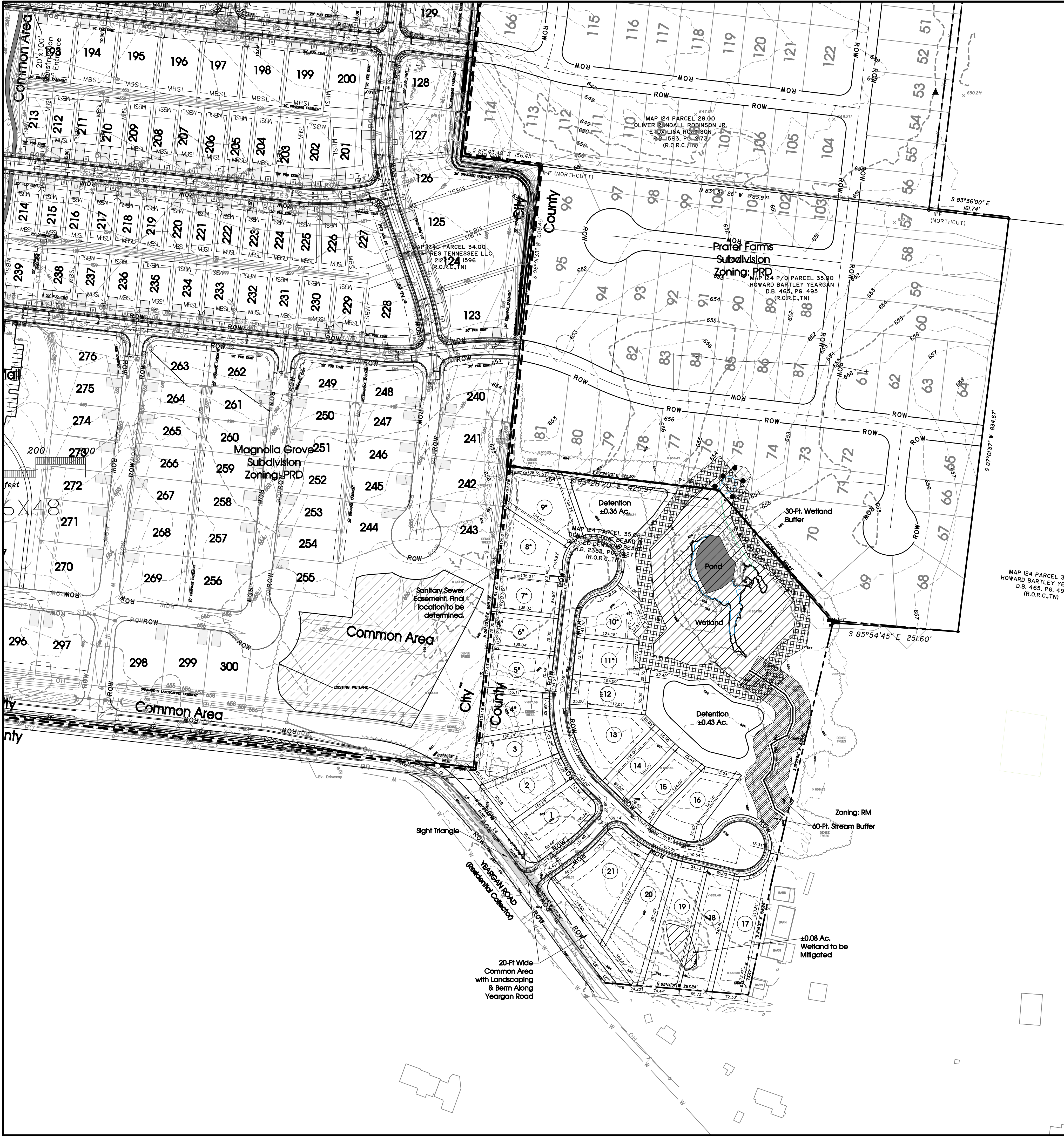
13.26 ACRES +/-

THIS CERTAIN PARCEL OF REAL ESTATE SITUATED AND LOCATED IN RUTHERFORD COUNTY, STATE OF TENNESSEE, AND BEING DESCRIBED AS FOLLOWS TO-WIT:

Beginning at a IPS Elkins RLS #2427, being the farthest Western point of this property, ~15' from the C/L of Yeargan Road and a point in line with Dalmar Homes, LLC M/P: 124 034.00, DB: 1660/3216. Then following Dalmar Homes, LLC for the next two (2) calls - S 84°30'02" E a distance of 144.06' to an IPS - Elkins RLS #2427; thence N 06°31'03" E a distance of 596.98' to an IPF - NO CAP, being the NWC of this property and a SWC of YEARGAN - M/P: 124 035.00, DB: 1072/2573. Then leaving DALMAR HOMES, LLC and following YEARGAN for the next four (4) call - S 83°27'29" E a distance of 425.78' to an IPF - NO CAP, being a NEC of this property; thence S 40°45'37" E a distance of 351.69' to an IPS - Elkins RLS #2427, being a NEC of this property; thence S 12°49'46" W a distance of 767.28' to an IPS - Elkins RLS #2427, being the SEC of this property; thence ON 84°56'57" W a distance of 271.96' to an IPS - Elkins RLS #2427, being a SWC of this property, a NWC of YEARGAN and ~25' from the C/L of YEARGAN ROAD. Then leaving YEARGAN and following YEARGAN ROAD for the next two (2) calls - N 39°01'20" W a distance of 503.81' to an IPS - Elkins RLS #2427; thence with a curve turning to the left with an arc length of 126.65', with a radius of 274.24', with a chord bearing of N 57°00'24" W, with a chord length of 125.53', to an IPS - Elkins RLS #2427 which is the point of beginning, having an area of 577488 square feet, 13.257 acres more or less according to a survey performed by Elkins Surveying Company, dated May 17, 2023.



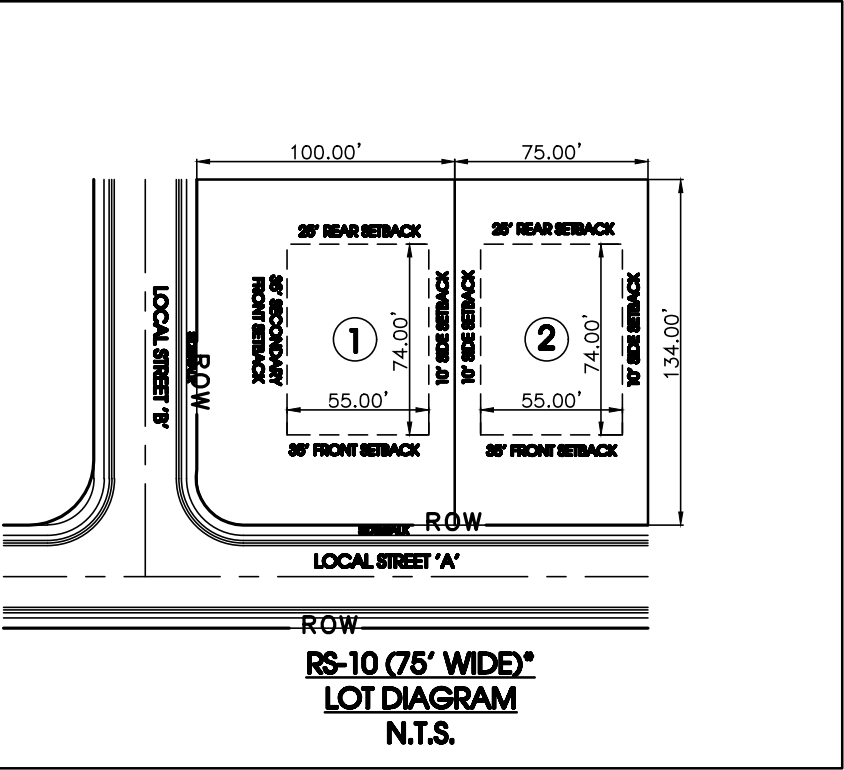
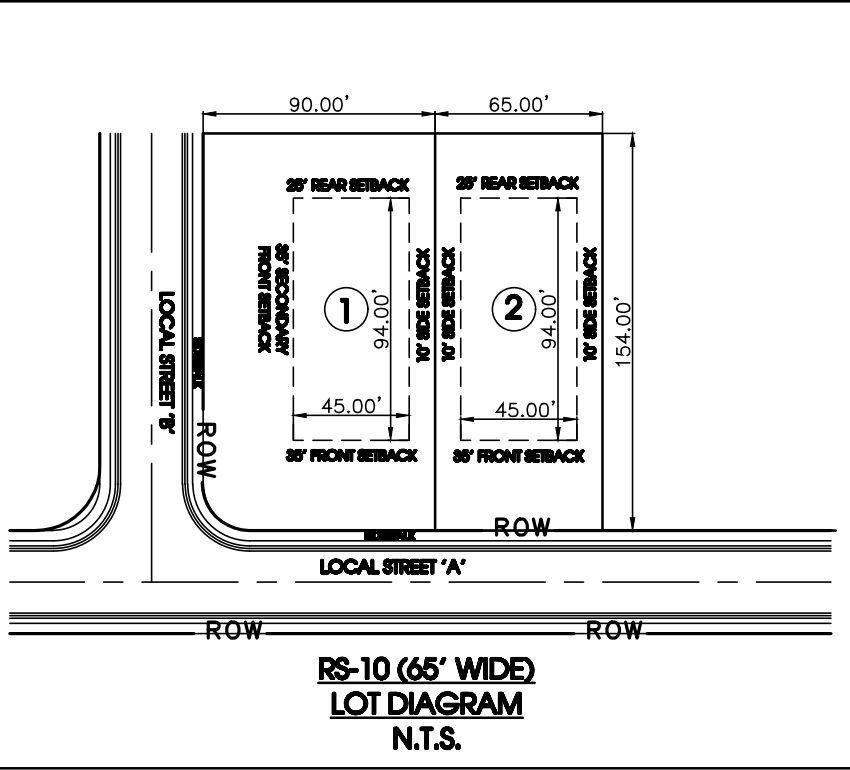
DOYLE ELKINS
6/12/2023



YEARGAN ROAD PROPERTY
CONCEPTUAL SITE PLAN

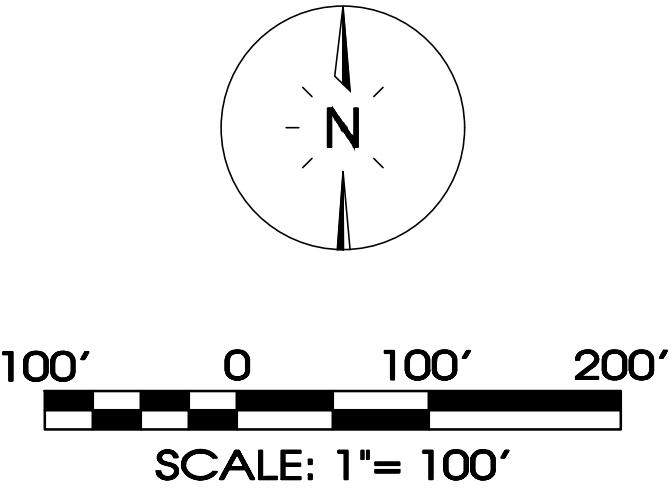
LAND USE DATA:
EXISTING ZONING: RM (COUNTY)
PROPOSED ZONING: RS-10
TOTAL LAND AREA: ±13.21 ACRES
TOTAL NUMBER OF LOTS: 21 LOTS
DENSITY: 21 LOTS/13.21 ACRES= 1.59 UNITS/ACRES

STORMWATER: ±0.79 AC (5.98%)
MINIMUM LOT SIZE: 10,000 SF
MINIMUM LOT WIDTH AT FRONT SETBACK: 65 FEET
LENGTH OF NEW ROADWAY: ±1,100 LF

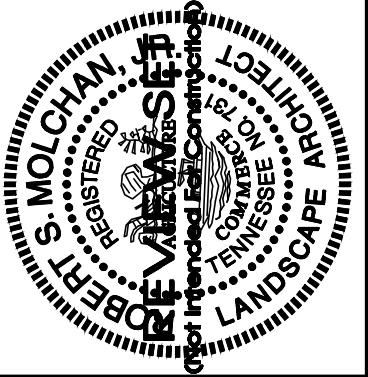


LOT TABLE DATA:

Lot #	Lot Sq. Ft.
1	14,797 SF
2	12,256 SF
3	12,772 SF
4	11,846 SF
5	10,292 SF
6	10,128 SF
7	11,463 SF
8	12,613 SF
9	16,073 SF
10	11,770 SF
11	10,091 SF
12	10,089 SF
13	14,563 SF
14	10,010 SF
15	10,345 SF
16	12,865 SF
17	17,860 SF
18	15,840 SF
19	17,531 SF
20	20,705 SF
21	22,619 SF



SEC, Inc.
SITE ENGINEERING CONSULTANTS
ENGINEERING • SURVEYING • LAND PLANNING
LANDSCAPE ARCHITECTURE
850 MIDDLE TENNESSEE BOULEVARD
MURFREESBORO, TENNESSEE 37129
PHONE: (615) 890-7901 WWW.SEC-CIVIL.COM FAX: (615) 895-2567
NO PORTION OF THIS DRAWING MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN CONSENT OF SEC, INC.
The site as shown on these construction drawings is intended to achieve specific engineering design criteria and objectives. It is the sole responsibility of the owner/developer to ensure that the construction of the site shown on these construction drawings is in total accordance with the design as noted, described and shown on these drawings. The site is constructed in accordance with the construction plans.



Beard Property
Yeargan Road
Murfreesboro, TN

Concept Plan
CP 'E'
REVISIONS:
DRAWN: KMG
DATE: 01-31-2025
CHECKED:
RSM
FILE NAME:
24066Yeargan Rd_CP E
SCALE:
1" = 100'
JOB NO.
24066
SHEET:
CP 'E'

MINUTES
OF THE CITY OF MURFREESBORO
PLANNING COMMISSION
City Hall, 111 W. Vine Street, Council Chambers
May 7, 2025, 6:00 PM

Members Present:

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Tristan Carroll
Reggie Harris
Shawn Wright

Staff Present:

Darren Gore, City Manager
Sam Huddleston, Asst. City Manager
Greg McKnight, Exec. Dir. Dev. Services
Ben Newman, Dir. Of Land Mgmt.& Plan.
Matthew Blomeley, Asst. Planning Dir.
Holly Smyth, Principal Planner
Brad Barbee, Principal Planner
Richard Donovan, Principal Planner
Marc Shackelford-Rowell, Planner
Adam Tucker, City Attorney
John Tully, Assistant City Attorney

1. Call to Order.

Chair Kathy Jones called the meeting to order at 6:00pm.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Public Comments.

None.

4. Approve Minutes of the April 16, 2025 Planning Commission meeting.

Ms. Jami Averwater moved to approve the minutes of the April 16, 2025 Planning Commission meeting; the motion was seconded by Mr. Tristan Carroll and carried by the following vote:

Aye: Jami Averwater
Tristan Carroll

MURFREESBORO PLANNING COMMISSION MINUTES

MAY 7, 2025

Mr. Carroll inquired about blasting. Mr. Taylor explained the State regulations.

Ms. Jami Averwater moved to approve the rezoning subject to all staff comments; the motion was seconded by Mr. Reggie Harris and carried by the following vote:

Aye: Jami Averwater

Tristan Carroll

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

Abstain: Ken Halliburton

Annexation petition and plan of services [2025-501] for approximately 13.74 acres located along Yeargan Road, Shane and Dewayne Beard applicants.

Mr. Richard Donovan presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these minutes by reference.

Mr. Brian Grover (landscape architect) was in attendance representing the application.

Chair Kathy Jones opened the public hearing.

There being no one to speak for or against the request, Chair Jones closed the public hearing.

Mr. Shawn Wright moved to approve the annexation and plan of services subject to all staff comments; the motion was seconded by Mr. Tristan Carroll and carried by the following vote:

Aye: Jami Averwater

Tristan Carroll

Ken Halliburton

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

Zoning application [2025-405] for approximately 13.26 acres located along Yeargan Road to be zoned RS-10 simultaneous with annexation, Shane and Dewayne Beard applicants.

Mr. Richard Donovan presented the Staff Comments regarding this item, a copy of which is maintained in the permanent

RESOLUTION 25-R-PSA-22 to adopt a Plan of Services for and to annex approximately 13.74 acres located along Yeargan Road (Tax Map 124, Parcel 03508), and to incorporate the same within the corporate boundaries of the City of Murfreesboro, Tennessee, Shane Dewayne Beard, applicant(s) [2025-501].

WHEREAS, the Owner(s) of all property within the territory identified on the attached map as the “Area to be zoned RS-10 simultaneous with annexation” have either petitioned for annexation or given written consent to the annexation of such territory; and

WHEREAS, a plan of services for the area proposed for annexation is attached hereto, which plan of services addresses the same services and timing of services as required in Tennessee Code Annotated (“TCA”) § 6-51-102; and

WHEREAS, the proposed annexation and plan of services were submitted to the Murfreesboro Planning Commission for study, and it has recommended the same following a public hearing on May 7, 2025, notice of which was published in a newspaper of general circulation in the City of Murfreesboro not less than twenty-one (21) days before the hearing, which notice included the locations of a minimum of three (3) copies of the plan of services for public inspection during all business hours from the date of notice until the public hearing, pursuant to TCA §6-51-102; and

WHEREAS, a copy of this resolution, describing the territory proposed for annexation, was promptly sent by the City of Murfreesboro to the last known address listed in the office of the property assessor for each property owner of record within the territory proposed for annexation, with such being sent by first class mail and mailed no later than twenty-one (21) calendar days prior to the scheduled date of the hearing on the proposed annexation by owner consent, and copies of this resolution were published in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Murfreesboro on or about the same time, pursuant to TCA § 6-51-104; and

WHEREAS, this resolution and notice of the time, place and purpose of a public hearing on the proposed annexation and the plan of services was published on June 3, 2025 in the *Murfreesboro Post*, a newspaper of general circulation in such territory and the City of Murfreesboro, pursuant to TCA § 6-51-104;

WHEREAS, a public hearing on the proposed annexation and plan of services was held by the City Council of the City of Murfreesboro on June 26, 2025.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That, pursuant to authority conferred by T.C.A. Sections 6-51-101, et seq., the following territory is hereby annexed and incorporated into boundaries of the City of Murfreesboro: ax Map 124, Parcel 03508, identified on the attached map as the “Area to be zoned RS-10 simultaneous with annexation.”

SECTION 2. That the plan of services for this territory, attached hereto, is approved and the same is hereby adopted.

SECTION 3. That the City Manager shall cause a copy of this resolution, as well as the adopted plan of services, to be forwarded to the Rutherford County Mayor.

SECTION 4. That a signed copy of this resolution shall be recorded with the Rutherford County Register of Deeds, and a copy shall also be sent to the Tennessee Comptroller of the Treasury and the Rutherford County Assessor of Property.

SECTION 5. That a signed copy of this resolution, as well as the portion of the plan of services related to emergency services and a detailed map of the annexed area, shall be sent to any affected emergency communication district.

SECTION 6. That the Rutherford County Election Commission shall be notified that the annexation took place, so that a revised map of the voting precincts may be sent to the Office of Local Government and to the Office of Management Information Services for the Tennessee General Assembly, following adoption of this resolution.

SECTION 7. That the Tennessee Department of Revenue shall be notified, for the purpose of tax administration, that the annexation took place.

SECTION 8. That this Resolution shall take effect upon the effective date of the Zoning Ordinance with respect to the annexed territory, **Ordinance 25-OZ-22**, which was _____, the public welfare and the welfare of the City requiring it.

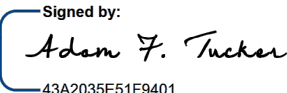
Passed: _____

Shane McFarland, Mayor

ATTEST:

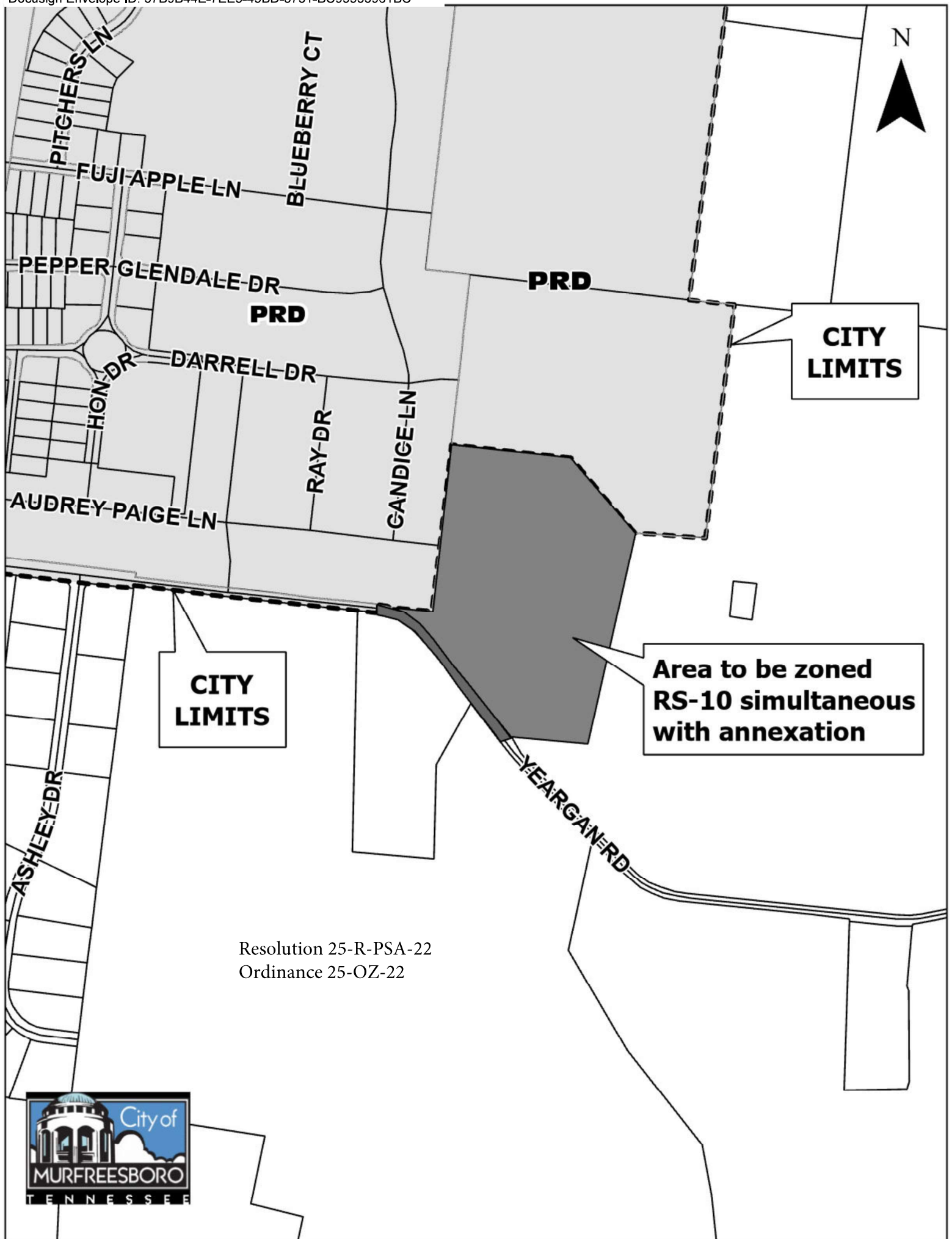
APPROVED AS TO FORM:

Erin Tucker
City Recorder

Signed by:


Adam F. Tucker
City Attorney

SEAL



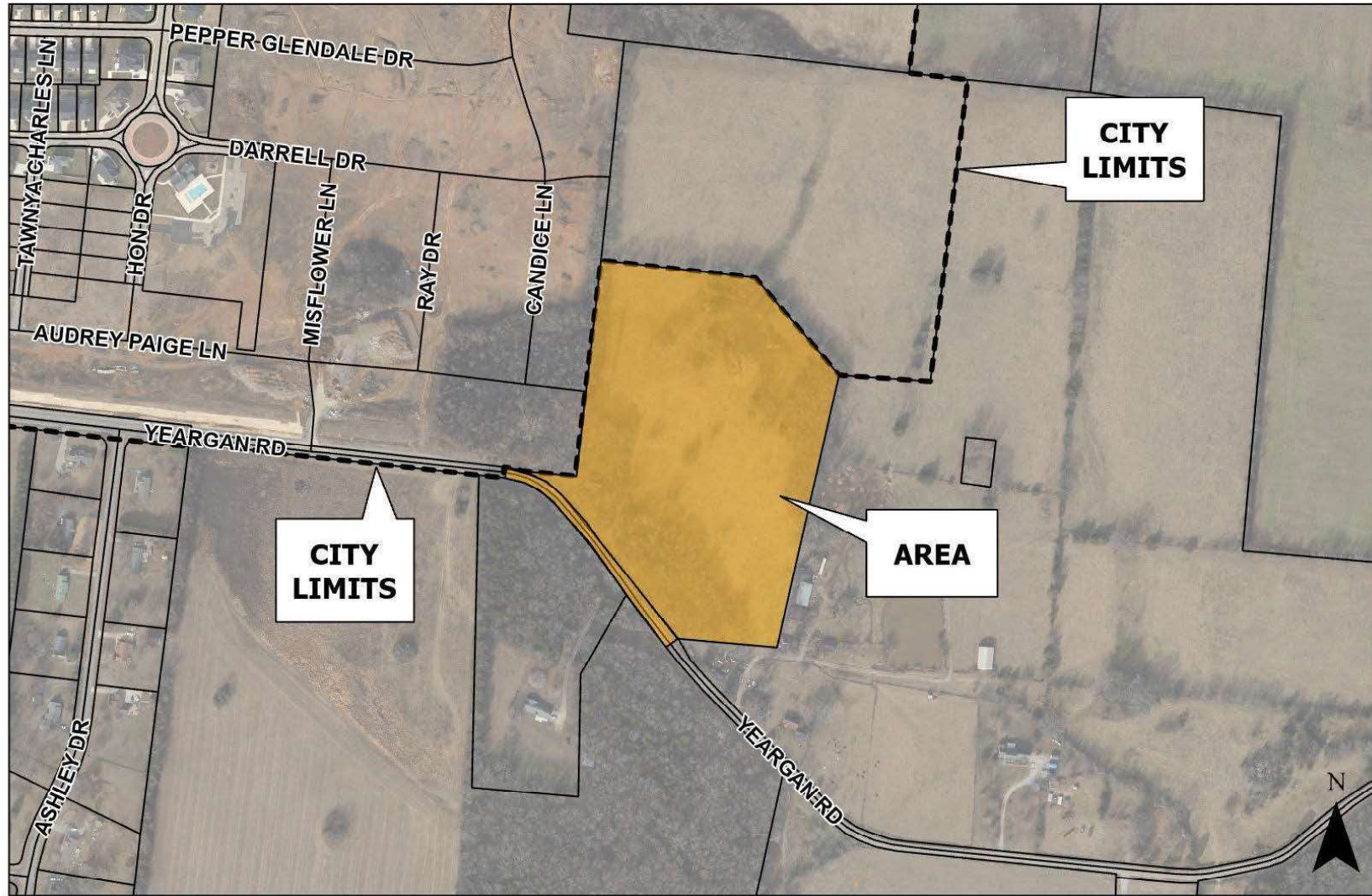
Resolution 25-R-PSA-22
Ordinance 25-OZ-22



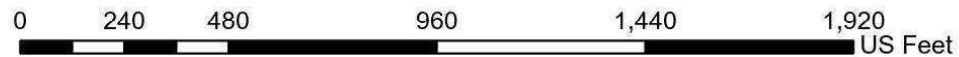
**ANNEXATION REPORT FOR PROPERTY
LOCATED ALONG YEARGAN ROAD
INCLUDING PLAN OF SERVICES
(FILE 2025-501)**



**PREPARED FOR THE
MURFREESBORO PLANNING COMMISSION
May 7, 2025**



Annexation Request for property along Yeargan Road



Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

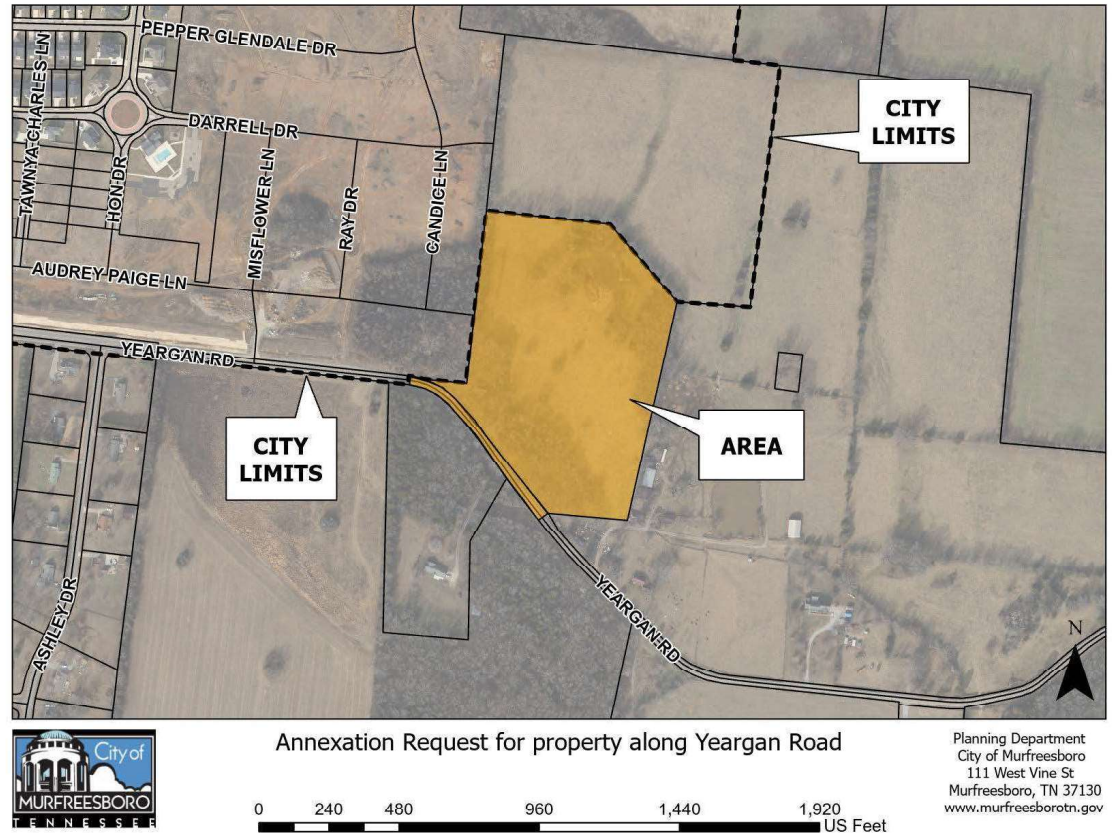
INTRODUCTION

OVERVIEW

The property owners, Shane and Dewayne Beard, submitted a petition requesting their property be annexed into the City of Murfreesboro. Their property totals approximately 13.26 acres and is located along the north side of Yeargan Road. In addition, included in the annexation study area is approximately 675 linear feet of Yeargan Road right-of-way (ROW) (or approximately 0.48 acres). At its March 3, 2025 regular meeting, the Rutherford County Road Board voted to grant consent to the City to annex this segment of ROW. The total annexation study area is approximately 13.74 acres. The annexation study area includes the following properties:

- Tax Map 124, Parcel 35.08 (13.26 acres)
- Yeargan Road right-of-way (0.48 acres)

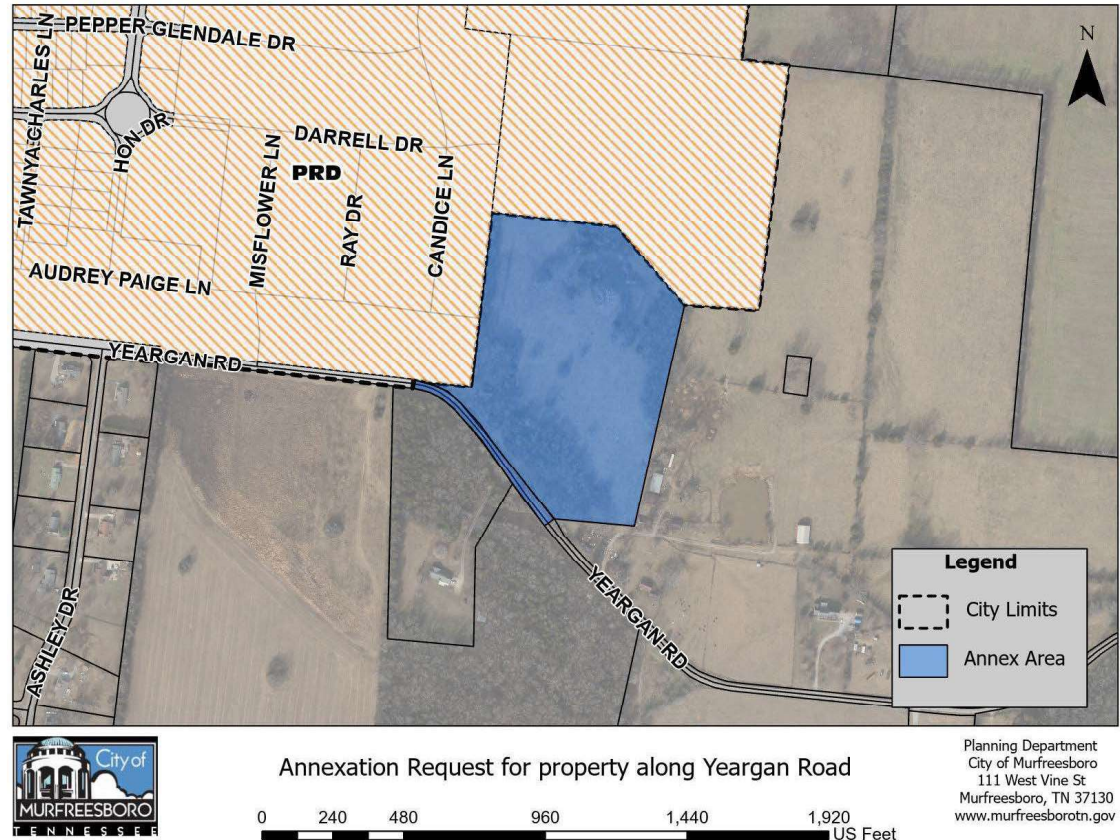
The annexation study area is located within the City's Urban Growth Boundary and is contiguous to the existing City limits along its northern and western boundaries, as depicted on the adjacent map.



SURROUNDING ZONING

The study area consists of one parcel located on the north side of Yeargan Road. The subject parcel is currently vacant. The annexation petition has a companion zoning application for Residential Single Family with a 10,000 ft² minimum lot size (RS-10).

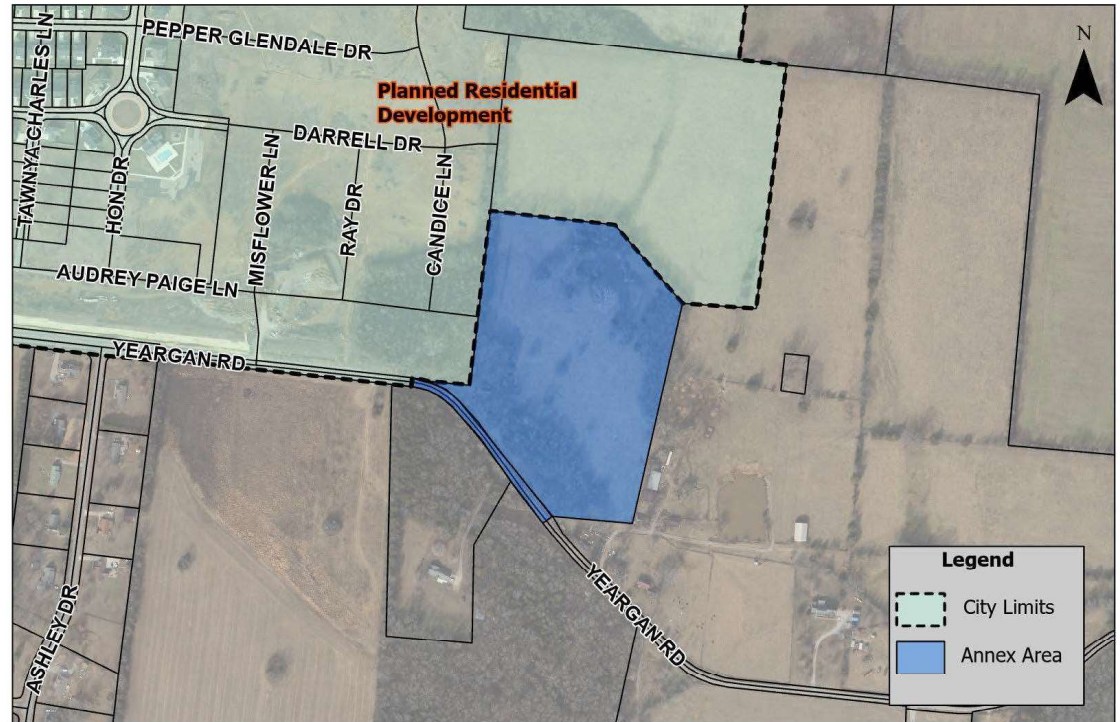
The properties surrounding the annexation study area consists exclusively of residential zoning types. The property to the north is in the City and part of the Prater Farms PRD (Planned Residential District), to the east and south is zoned RM (Residential Medium Density) in unincorporated Rutherford County, and to the west is the Magnolia Grove PRD. Prater Farms and Magnolia Grove both consist of single-family residential detached homes on individual lots with lot sizes ranging from 6,000ft² to 10,000ft².



SURROUNDING LAND USE

The area being considered for annexation consists of a single parcel totaling 13.26 acres and approximately 610 linear feet of Yeargan Road right-of-way. The subject parcel is currently vacant.

The surrounding area consists exclusively of residential uses. The property to the north is in the City and part of the Prater Farms PRD which is under construction, to the east and south is large lot single family residential, and to the west is the Magnolia Grove single-family residential subdivision, which is under construction.



Annexation Request for property along Yeargan Road

0 240 480 960 1,440 1,920 US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

TAXES AND REVENUE

The first City tax bill for all property annexed during the calendar year of 2025 will be due on December 31, 2026. City taxes are calculated upon the property appraisal and assessment of the Rutherford County Property Assessor's Office. The current tax rate for the City of Murfreesboro is \$0.9526/\$100.00 assessed value. Residential property is assessed at a rate of 25% of its appraised value, and commercial property is assessed at a rate of 40% of its appraised value. Table I below shows total assessment and estimated City taxes that would be collected if the property were to be annexed in its present state.

Table I
Estimated Taxes from Site

Owner of Record	Tax Map and Parcel	Acres	Land Value	Improvements Value	Total Assessment	Estimated City Taxes
Dewayne & Shane Beard	125-035.08	13.26	\$318,000	\$0	\$79,500	\$757.32

These figures are for the property in its current state and assessed at the residential rate of 25 percent.

PLAN OF SERVICES

POLICE PROTECTION

At present, the study area receives police services through the Rutherford County Sheriff's Department. If annexed, the Murfreesboro Police Department could begin providing services that include patrol-related functions, criminal investigations, and community engagement initiatives. These services would be provided immediately upon the effective date of annexation. The current police zone that borders the study area is Zone 7.

Police staffing numbers are assessed based upon residential population numbers cumulatively. This development should be assessed with future population projections for the City for staffing considerations in the future.

ELECTRIC SERVICE

The study area is currently served by Middle Tennessee Electric (MTE). MTE has existing overhead electric lines along Yeargan Road to serve the study area.

STREET LIGHTING

Streetlights do not currently exist along the Yeargan Road right-of-way. Streetlights will be installed within the development if new public streets are constructed. If the City of Murfreesboro wishes to add streetlights along the Yeargan Road public right-of-way, the Transportation Department would need to make the request to MTE.

SOLID WASTE COLLECTION

The Solid Waste Department can provide services to the study area. In its current state, no additional equipment or manpower will be needed to serve the study area. Upon development as a residential subdivision, a solid waste cart for each dwelling (\$69.66 each) will be needed to serve the study area.

RECREATION

Murfreesboro's Parks and Recreation facilities will be immediately available to any potential occupants of the study area. Currently Murfreesboro has two multi-purpose facilities, one community center, a wilderness facility, over 1,000 acres of parks, a network of greenways, and recreational sports. These facilities and programs are wholly funded by the Murfreesboro taxpayers. Children who are residents of the City of Murfreesboro, attend Murfreesboro Elementary Schools, and receive free or reduced lunches also receive free or reduced recreational fees.

CITY SCHOOLS

According to Murfreesboro City Schools (MCS), this parcel of land currently resides outside of the **Salem Elementary School** zone, and it would become part of this school's zoned area. Any elementary school-aged children residing on the property once developed will be eligible to attend Murfreesboro City Schools. In the property's present state, it would have no impact on the school system, since it is currently undeveloped. If the land were developed to include approximately 21 single-family residential homes, MCS would anticipate this would add between 5 and 7 students to the school population. The capacity for Salem Elementary is 960 and the current school enrollment is 955. MCS and the City will continue to monitor new growth in the district, including the Salem school zone, in order to evaluate the need for a new elementary school in the future.

BUILDING AND CODES

The property will come within the City's jurisdiction for code enforcement immediately upon the effective date of annexation. The City's Building and Codes Department will begin issuing building and construction permits and enforcing the codes and inspecting new construction for compliance with the City's construction codes immediately upon the effective date of annexation. The Building and Codes Department will also ensure that any new signs associated with the development of the property comply with the Sign Ordinance. No additional costs are expected.

PLANNING, ENGINEERING, AND ZONING SERVICES

The property will come within the City's jurisdiction for planning and engineering code enforcement immediately upon the effective date of annexation. As new development occurs, the Planning Commission will review all site plans, preliminary plats, and final plats. Among other duties, the Planning and Engineering Departments will inspect and monitor new construction of streets and drainage structures for compliance with the City's development regulations.

GEOGRAPHIC INFORMATION SYSTEMS

The property is within the area photographed and digitized as part of the City's Geographic Information Systems (G.I.S.) program.

STREETS AND ACCESS

The annexation study area includes approximately 610 linear feet of Yeargan Road ROW. Upon annexation, the roadway will become the responsibility of the City of Murfreesboro, including all routine maintenance. Based on an estimated 15-year repavement cycle the annualized roadway maintenance costs are estimated at \$1,000 for this roadway. Capital cost for the annexation of the portion of roadway are estimated to be \$200. As a substandard street, any development along Yeargan Road will need to dedicate appropriate ROW and participate in the upgrade of the roadway to current City standards. Any new connections must be approved by the City Engineer.

No additional public roadways are included in the study area. Any future public roadway facilities to serve the study area must be constructed to City standards.

REGIONAL TRAFFIC & TRANSPORTATION

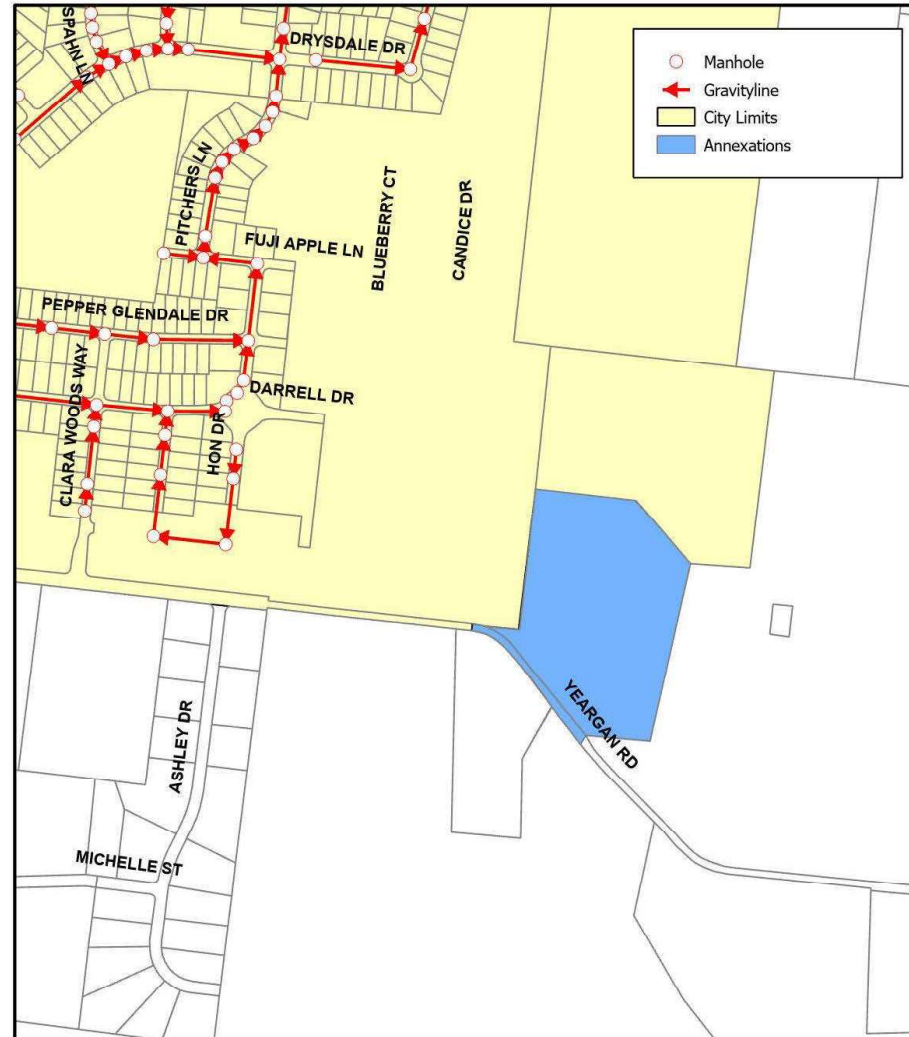
The study area is served by Yeargan Road as the major roadway facility. The 2014 Level of Service Model in the 2040 Major Transportation Plan shows Yeargan Road to be operating at a Level of Service A in the study area using average daily traffic (ADT) counts. Without the recommended improvements in the 2040 Major Transportation Plan, Level of Service on Yeargan Road becomes LOS D.

SANITARY SEWER SERVICE

Currently sewer is not available to the property. This development would connect to gravity sewer through either the Magnolia Grove or the Prater Farms Subdivisions currently under construction. The timeline that the gravity sewer will reach the proposed development is unknown.

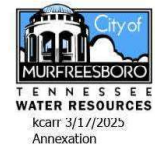
This property is within the Salem Barfield and Basin “D” Sanitary Sewer Assessment Districts and will be charged \$3,150 and \$925 per single-family unit (sfu) respectively in addition to the standard connection fee of \$2550 per sfu.

All main line extensions are the financial responsibility of the developer and must be extended in accordance with the Development Policies and Procedures of the Murfreesboro Water Resources Department.



MURFREESBORO WATER RESOURCES DEPARTMENT

Annexation Request for Yeargan Road

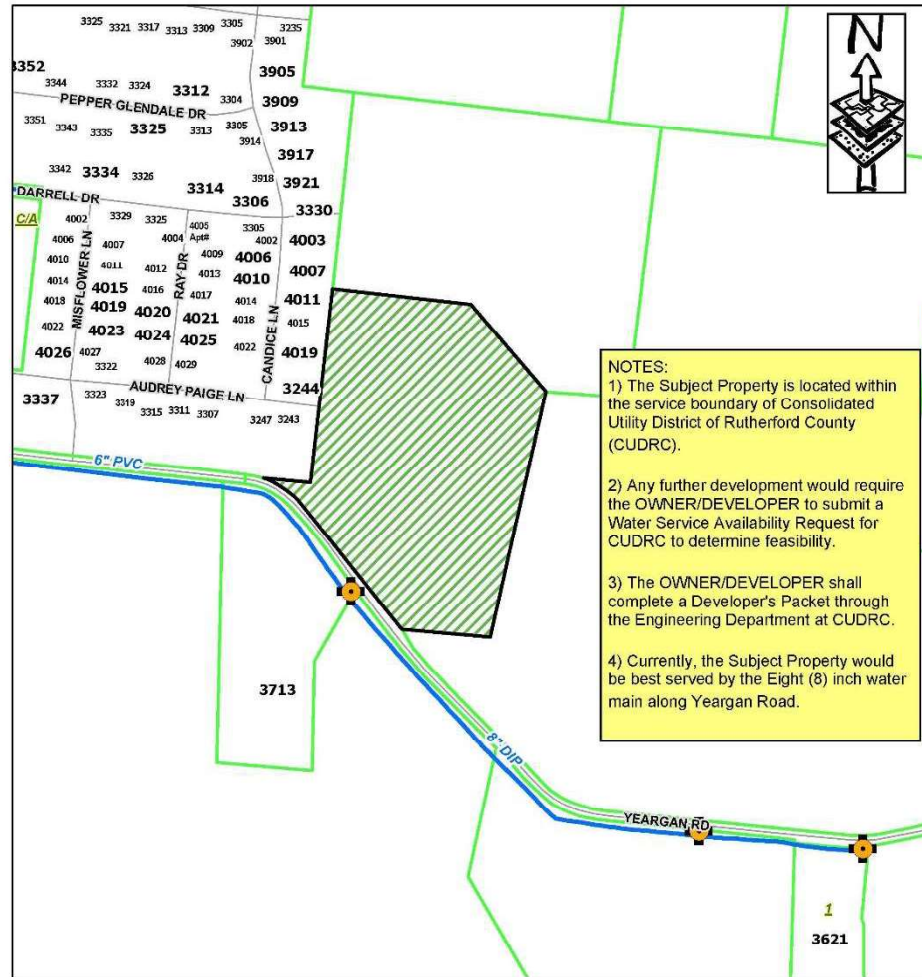


WATER SERVICE

The study area is located within Consolidated Utility District of Rutherford County's (CUDRC) service area. Currently, the subject property would be best served by the Eight (8)-inch water main along Yeargan Road.

Prior to any future development, the developer of the property will be required to submit a Water Availability Application to determine feasibility and to complete CUDRC's Developer Packet through CUDRC's Engineering Department prior to entering the construction phase. Any new water line development must be done in accordance with CUDRC's development policies and procedures.

Rezoning Request Yeargan Road Tax Map 124 Parcel 35.08



- NOTES:**
- 1) The Subject Property is located within the service boundary of Consolidated Utility District of Rutherford County (CUDRC).
 - 2) Any further development would require the OWNER/DEVELOPER to submit a Water Service Availability Request for CUDRC to determine feasibility.
 - 3) The OWNER/DEVELOPER shall complete a Developer's Packet through the Engineering Department at CUDRC.
 - 4) Currently, the Subject Property would be best served by the Eight (8) inch water main along Yeargan Road.

SUBJECT PROPERTY
CUD HYDRANT
CUD WATER MAIN

February 26, 2025

TAX MAP: 124
PARCEL: 35.08

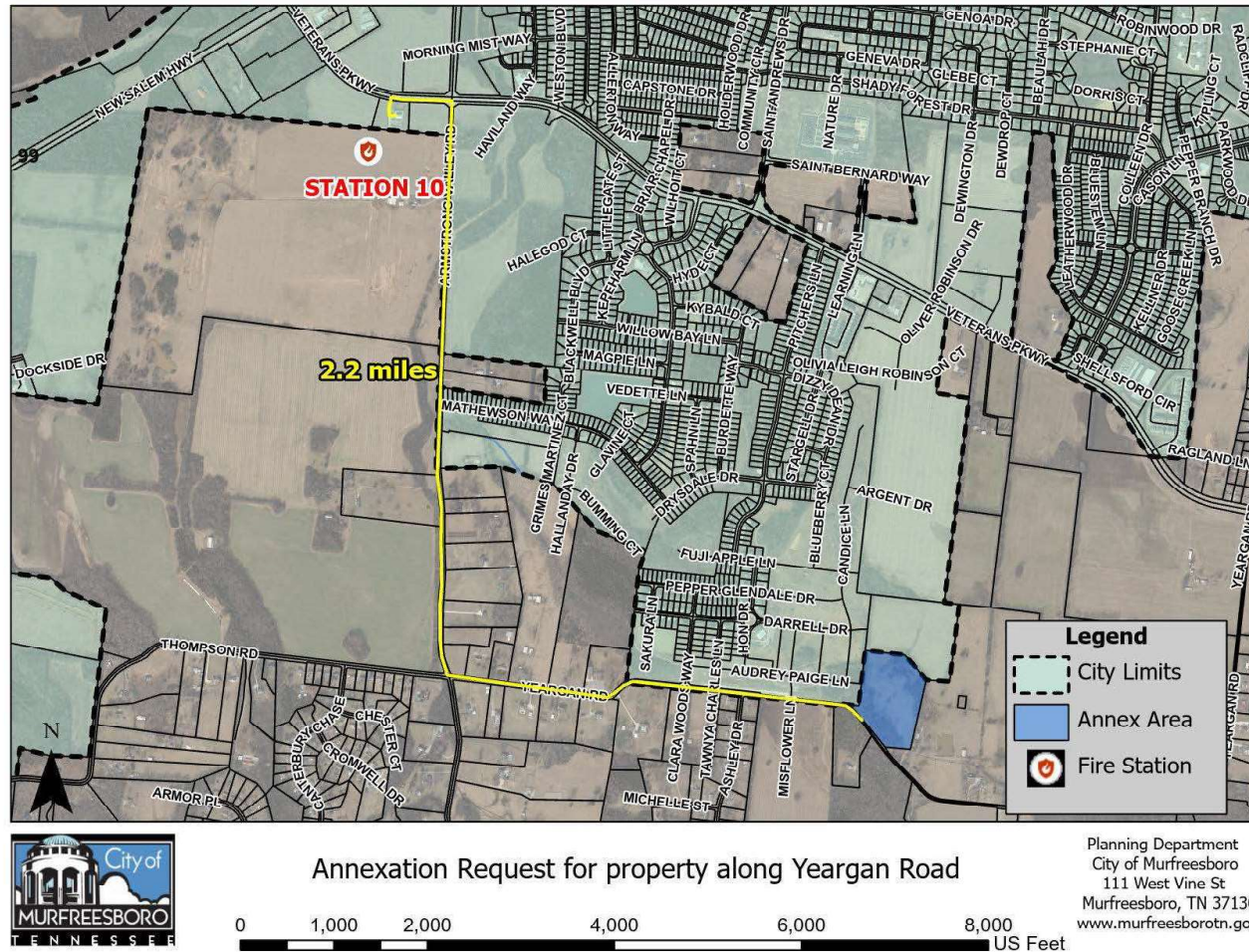


0 250 500 750 1,000
Feet

FIRE AND EMERGENCY SERVICE

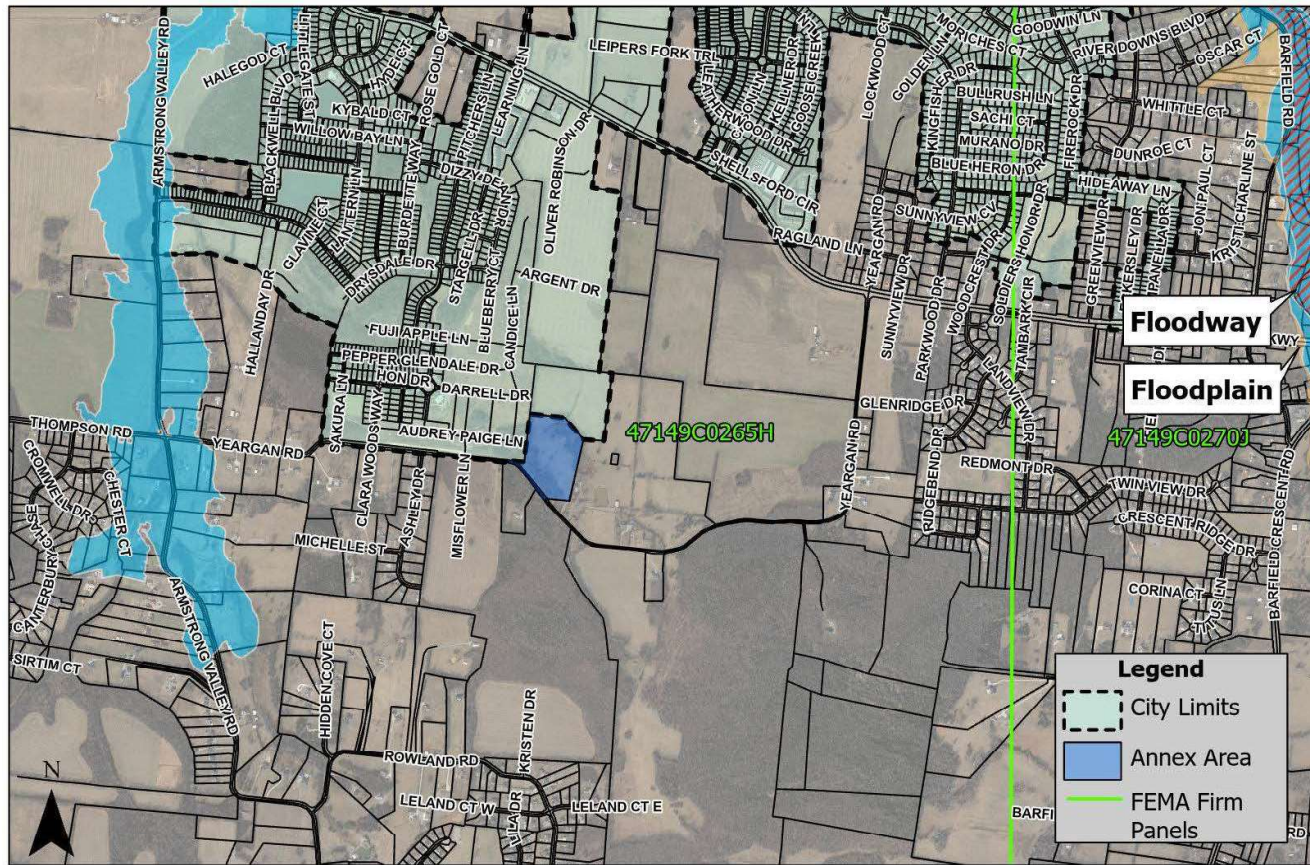
The study area contains vacant land. The Murfreesboro Fire and Rescue Department (MFRD) can provide emergency services and fire protection to the study area immediately upon the effective date of annexation at no additional expense.

Currently the study area is located 2.2 miles from Fire Station #10 (2563 Veterans Parkway). The yellow line on the adjacent map represents the linear distance range from the nearest fire station.



FLOODWAY

The study area is not located within the 100-year floodplain nor within the regulatory floodway as delineated on the Flood Insurance Rate Map (FIRM) developed by the Federal Emergency Management Agency (FEMA).



Annexation Request for property along Yeargan Road

0 1,000 2,000 4,000 6,000 8,000 US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

DRAINAGE

Public Drainage System

Public drainage facilities available to the study area are located within the ROW of Yeargan Road. The drainage facility within Yeargan Road will be the responsibility of the City, if the ROW is annexed.

No additional public drainage facilities are included in the study area. Any new public drainage facilities proposed to serve the study area in the future must meet City standards. New connections to the public drainage system must be approved by the City Engineer.

Regional Drainage Conditions

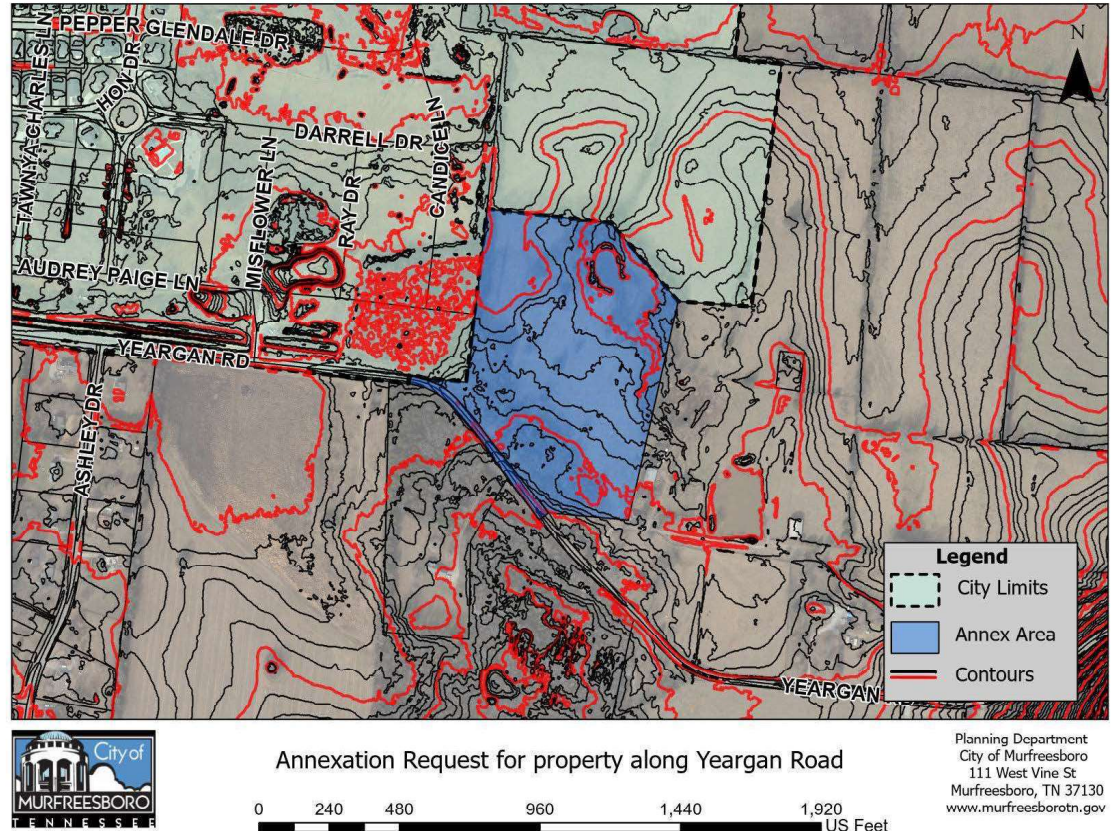
The study area drains to closed depressions at rear of property. It is possible there could be wetlands located within the study area.

Stormwater Management and Utility Fees

Upon annexation, stormwater management services provided by the City of Murfreesboro will be available to the study area. The study area currently is vacant and will not generate any revenue for the Stormwater Utility Fee.

The subject property is proposed to be developed with 21 dwelling units. Based on

this development scenario, it is anticipated that the site will generate approximately \$800 annually in revenue for the Stormwater Utility Fund upon full build-out.



PROPERTY AND DEVELOPMENT

New development should comply with the City's Stormwater Quality Regulations by providing stormwater quality, streambank protection, and detention.

Receiving closed depressions and sinkholes may be subject to flooding which could impact function of potential stormwater controls.

Yeargan Road is a substandard roadway. Developments along Yeargan Road will be required to dedicate appropriate ROW and participate in the upgrade of the roadway to current City standards.

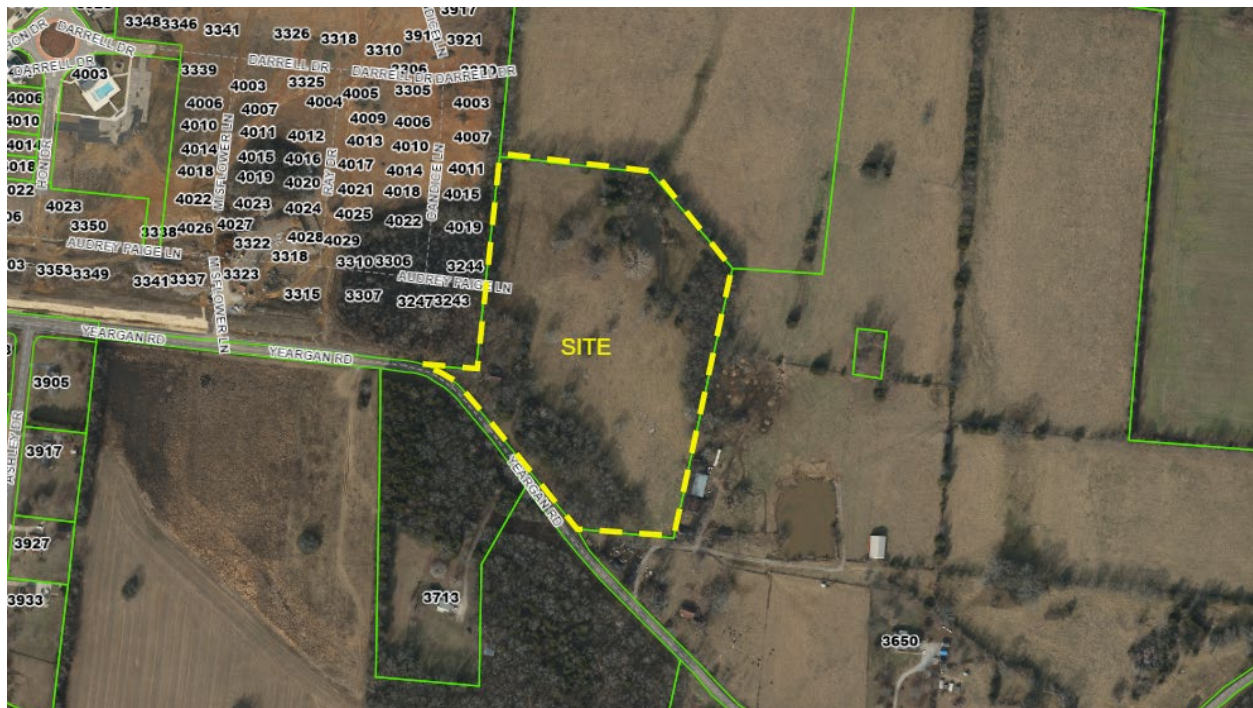
ANNEXATION FOLLOW-UP

The Murfreesboro City Council will be responsible for ensuring that this property will receive City services described in this plan. According to the Tennessee Growth Policy Act, six months following the effective date of annexation, and annually thereafter until all services have been extended, a progress report is to be prepared and published in a newspaper of general circulation. This report will describe progress made in providing City services according to the plan of services and any proposed changes to the plan. A public hearing will also be held on the progress report.

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
MAY 7, 2025
PROJECT PLANNER: RICHARD DONOVAN**

6.c. Zoning application [2025-405] for approximately 13.26 acres located along Yeargan Road to be zoned RS-10 simultaneous with annexation, Shane and Dewayne Beard applicants.

The applicants, Shane and Dewayne Beard, are requesting to rezone the subject property to Residential Single-Family with a minimum lot size of 10,000 ft² (RS-10) simultaneous with annexation. The subject property is located on the north side of Yeargan Road. The site is identified as Tax Map 124, Parcel 35.08 (13.26 acres) and is currently vacant. The applicant has provided a concept plan that contemplates the subdivision of the property into twenty-one single-family lots. It should be noted that the concept plan submitted is for illustrative purposes only and approval of the annexation and zoning does not convey any type of approval of the concept plan.

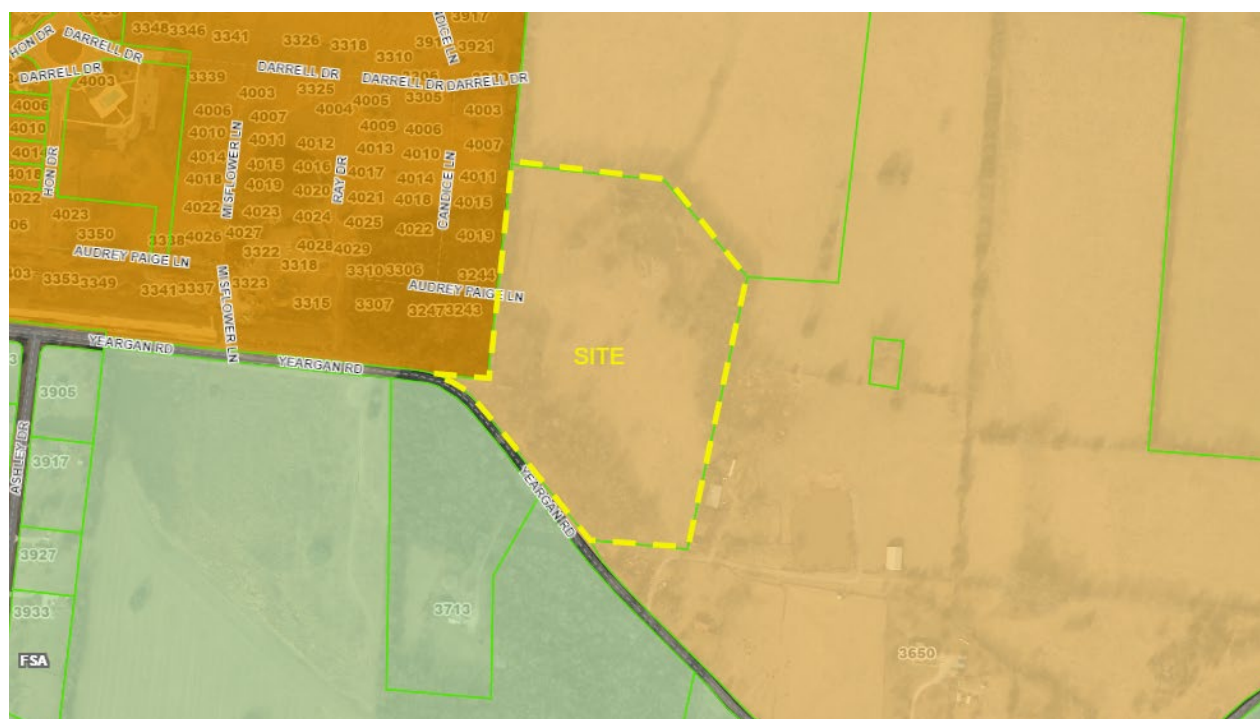


Farms PRD which is currently under construction; to the east and south is large lot single-family residential zoned RM in Rutherford County; and to the west is the Magnolia Grove single-family residential subdivision, which is under construction. Prater Farms and Magnolia Grove both consist of single-family residential detached homes on individual lots with lot sizes ranging from 6,000 ft² to 10,000 ft².

Future Land Use Map:

The Future Land Use Map (FLUM) of the Murfreesboro 2035 Comprehensive Plan designates the project area as 'Suburban Residential' (SR), which is considered the most appropriate land use character, as indicated on the map below. The SR designation supports a density range of 1.0 to 4.0 dwelling units per acre. The Comprehensive Plan recommends RS-15, RS-12, RS-10, and PRD zoning for the SR designation. The requested RS-10 zoning is consistent with the 'Suburban Residential' land use designation and allows minimum lots sizes of 10,000.

Murfreesboro 2035 Comprehensive Plan Future Land Use Map (excerpt)



Staff recommendation:

Staff is supportive of this rezoning request for the following reasons:

- 1) The proposed RS-10 zoning aligns with the Murfreesboro 2035 Comprehensive Plan's "Suburban Residential" designation, promoting

residential densities of 1.0 to 4.0 dwelling units per acre.

- 2) The proposed single-family detached dwellings allowed by the RS-10 zoning would be compatible with single-family residential land uses and lot sizes in the vicinity and would provide a transition from smaller lot sizes in Magnolia Grove and Prater Farms to large lot residential in the County.
- 3) The subject property is currently vacant and situated in an area of active residential growth, making it well-positioned to complement ongoing development trends and meet housing demand.

Action Needed:

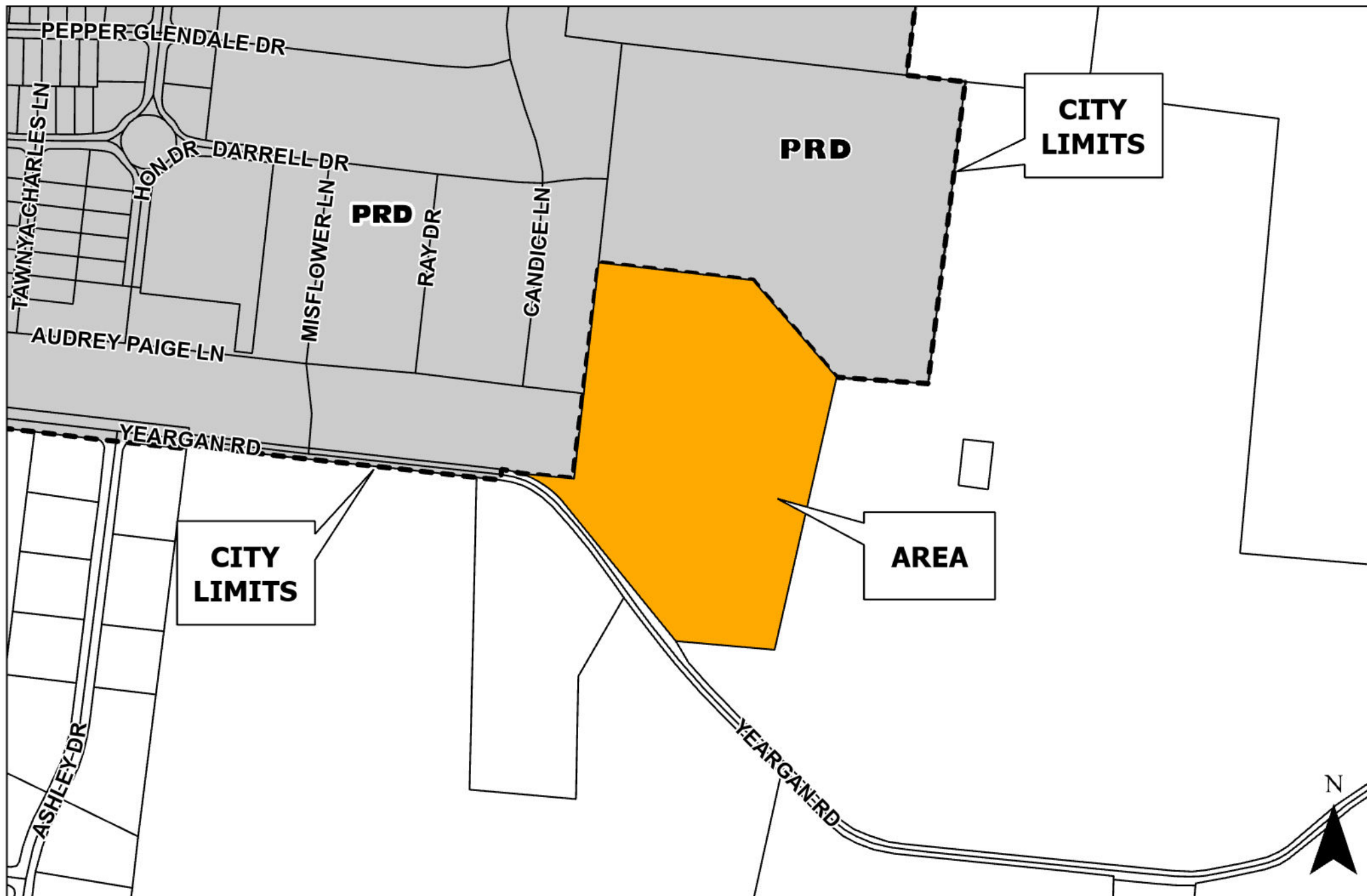
The Planning Commission will need to conduct a public hearing on this matter, after which it will need to formulate a recommendation for City Council.

Attachments:

Ortho Map

Non-ortho maps

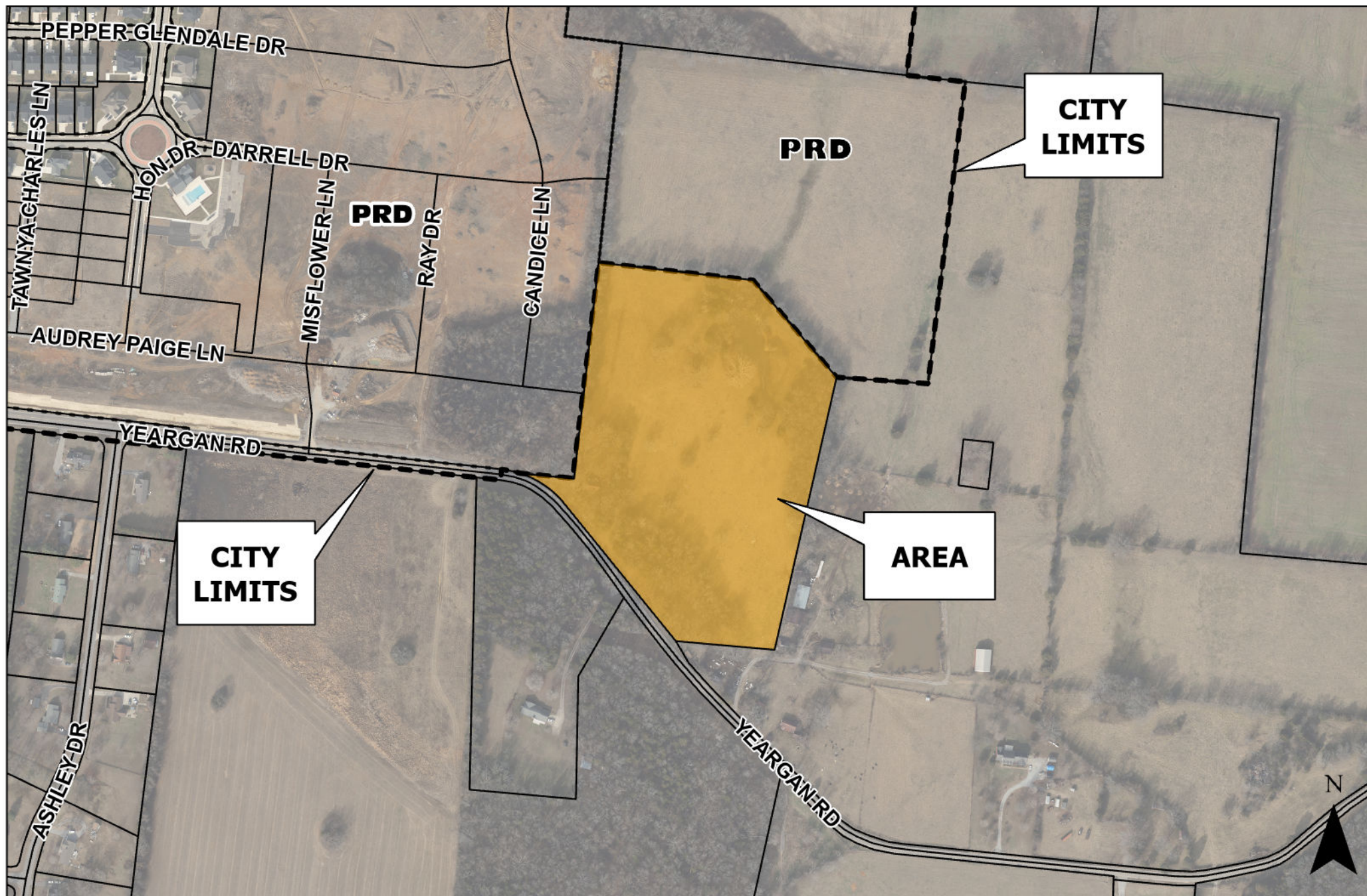
Rezoning Application



Zoning Request for property along Yeargan Road RS-10 Zone Simultaneous with Annexation

0 240 480 960 1,440 1,920 US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov



Zoning Request for property along Yeargan Road RS-10 Zone Simultaneous with Annexation

0 240 480 960 1,440 1,920 US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov



City of Murfreesboro
Planning and Engineering Department
111 W. Vine Street, P.O. Box 1139
Murfreesboro, TN 37133-1139
(615) 893-6441 Fax (615) 849-2606
www.murfreesborotn.gov

Creating a better quality of life

Zoning & Rezoning Applications – other than rezoning to planned unit development	\$700.00
Zoning & Rezoning Applications – Planned Unit Development, initial or amended	\$950.00

Procedure for applicant:

The applicant must submit the following information to initiate a rezoning:

1. A completed rezoning application (below).
2. A plot plan, property tax map, survey, and/or a legal description of the property proposed for rezoning. (Please attach to application.)
3. A non-refundable application fee (prices listed above).

For assistance or questions, please contact a planner at 615-893-6441.

To be completed by applicant:

APPLICANT: Shane & Dewayne Beard (Property Buyz LLC)

Address: 3434 Meadowhill DR City/State/Zip: Murfreesboro, TN 37130

Phone: 615.668.7448 E-mail address: [REDACTED]

PROPERTY OWNER: Shane & Dewayne Beard

Street Address or property description: 13.26 ACRES off YEAGAN RD

and/or Tax map #: 124 Group: _____ Parcel (s): 035.02

Existing zoning classification: Rutherford County RM

Proposed zoning classification: RS-10 Acreage: 13.26

Contact name & phone number for publication and notifications to the public (if different from the applicant): Property Buyz LLC

E-mail: [REDACTED]

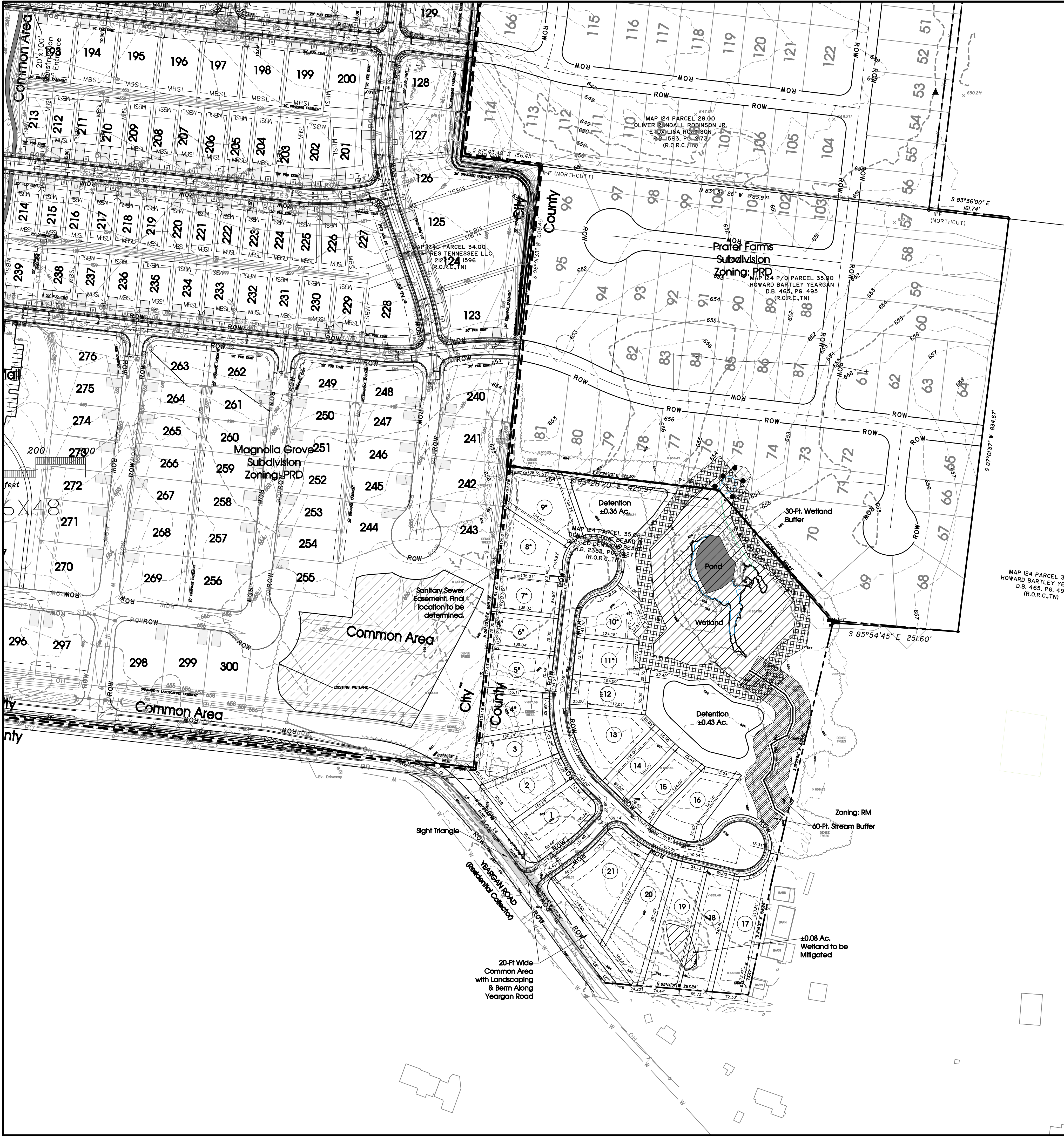
APPLICANT'S SIGNATURE (required): [Signature]

DATE: 2-12-15

*****For Office Use Only*****

Date received: _____ MPC YR.: _____ MPC #: 2025-408

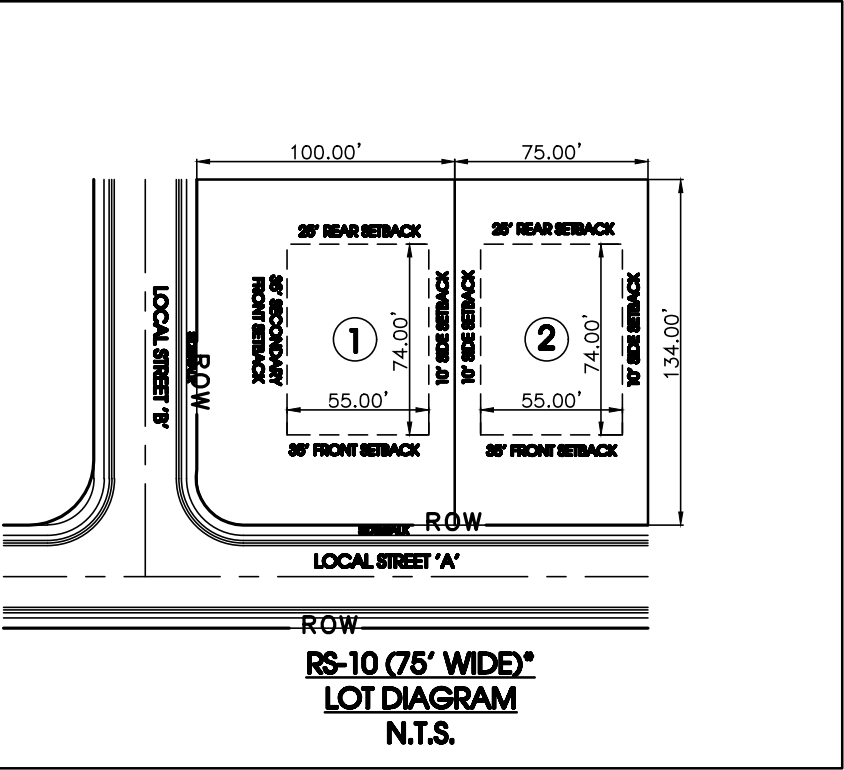
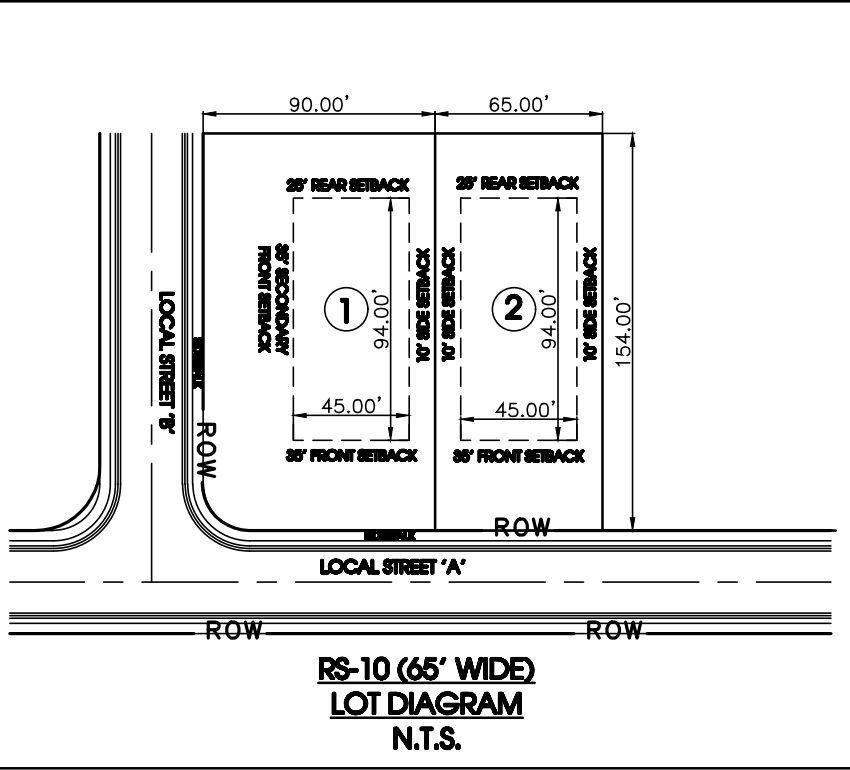
Amount paid: \$ 700.00 Receipt #: 310277



YEARGAN ROAD PROPERTY
CONCEPTUAL SITE PLAN

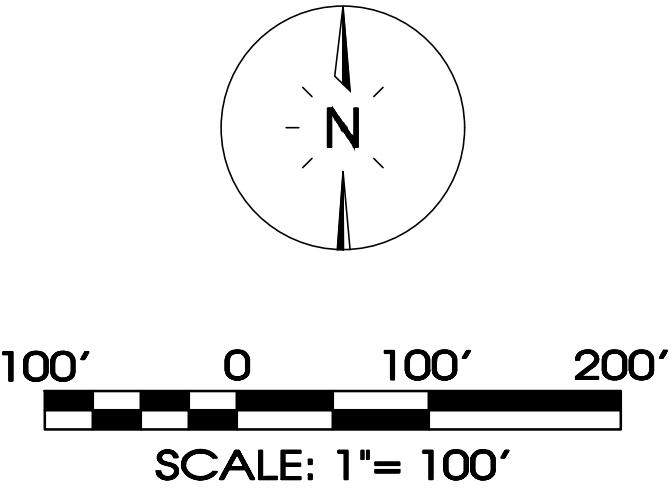
LAND USE DATA:
EXISTING ZONING: RM (COUNTY)
PROPOSED ZONING: RS-10
TOTAL LAND AREA: ±13.21 ACRES
TOTAL NUMBER OF LOTS: 21 LOTS
DENSITY: 21 LOTS/13.21 ACRES= 1.59 UNITS/ACRES

STORMWATER: ±0.79 AC (5.98%)
MINIMUM LOT SIZE: 10,000 SF
MINIMUM LOT WIDTH AT FRONT SETBACK: 65 FEET
LENGTH OF NEW ROADWAY: ±1,100 LF

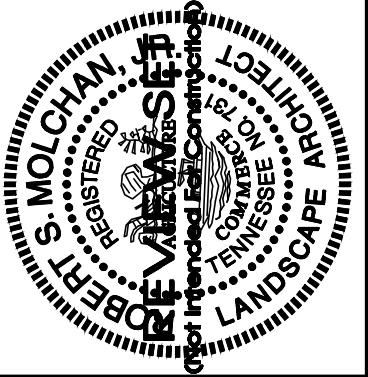


LOT TABLE DATA:

Lot #	Lot Sq. Ft.
1	14,797 SF
2	12,256 SF
3	12,772 SF
4	11,846 SF
5	10,292 SF
6	10,128 SF
7	11,463 SF
8	12,613 SF
9	16,073 SF
10	11,770 SF
11	10,091 SF
12	10,089 SF
13	14,563 SF
14	10,010 SF
15	10,345 SF
16	12,865 SF
17	17,860 SF
18	15,840 SF
19	17,531 SF
20	20,705 SF
21	22,619 SF



SITE ENGINEERING CONSULTANTS
ENGINEERING • SURVEYING • LAND PLANNING
SEC, Inc.
LANDSCAPE ARCHITECTURE
850 MIDDLE TENNESSEE BOULEVARD
MURFREESBORO, TENNESSEE 37129
PHONE: (615) 890-7901 WWW.SEC-CIVIL.COM FAX: (615) 895-2567
NO PORTION OF THIS DRAWING MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN CONSENT OF SEC, INC. 2024



Beard Property
Yeargan Road
Murfreesboro, TN

Concept Plan

REVISIONS:
DRAWN: KMG
DATE: 01-31-2025
CHECKED: RSM
FILE NAME: 24066Yeargan Rd_CP E
SCALE: 1" = 100'
JOB NO. 24066
SHEET: CP 'E'

MINUTES
OF THE CITY OF MURFREESBORO
PLANNING COMMISSION
City Hall, 111 W. Vine Street, Council Chambers
May 7, 2025, 6:00 PM

Members Present:

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Tristan Carroll
Reggie Harris
Shawn Wright

Staff Present:

Darren Gore, City Manager
Sam Huddleston, Asst. City Manager
Greg McKnight, Exec. Dir. Dev. Services
Ben Newman, Dir. Of Land Mgmt.& Plan.
Matthew Blomeley, Asst. Planning Dir.
Holly Smyth, Principal Planner
Brad Barbee, Principal Planner
Richard Donovan, Principal Planner
Marc Shackelford-Rowell, Planner
Adam Tucker, City Attorney
John Tully, Assistant City Attorney

1. Call to Order.

Chair Kathy Jones called the meeting to order at 6:00pm.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Public Comments.

None.

4. Approve Minutes of the April 16, 2025 Planning Commission meeting.

Ms. Jami Averwater moved to approve the minutes of the April 16, 2025 Planning Commission meeting; the motion was seconded by Mr. Tristan Carroll and carried by the following vote:

Aye: Jami Averwater
Tristan Carroll

MURFREESBORO PLANNING COMMISSION MINUTES

MAY 7, 2025

Mr. Carroll inquired about blasting. Mr. Taylor explained the State regulations.

Ms. Jami Averwater moved to approve the rezoning subject to all staff comments; the motion was seconded by Mr. Reggie Harris and carried by the following vote:

Aye: Jami Averwater

Tristan Carroll

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

Abstain: Ken Halliburton

Annexation petition and plan of services [2025-501] for approximately 13.74 acres located along Yeargan Road, Shane and Dewayne Beard applicants.

Mr. Richard Donovan presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these minutes by reference.

Mr. Brian Grover (landscape architect) was in attendance representing the application.

Chair Kathy Jones opened the public hearing.

There being no one to speak for or against the request, Chair Jones closed the public hearing.

Mr. Shawn Wright moved to approve the annexation and plan of services subject to all staff comments; the motion was seconded by Mr. Tristan Carroll and carried by the following vote:

Aye: Jami Averwater

Tristan Carroll

Ken Halliburton

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

Zoning application [2025-405] for approximately 13.26 acres located along Yeargan Road to be zoned RS-10 simultaneous with annexation, Shane and Dewayne Beard applicants.

Mr. Richard Donovan presented the Staff Comments regarding this item, a copy of which is maintained in the permanent

MURFREESBORO PLANNING COMMISSION MINUTES

MAY 7, 2025

files of the Planning Department and is incorporated into these minutes by reference.

Mr. Brian Grover (landscape architect) was in attendance representing the application.

Chair Kathy Jones opened the public hearing.

There being no one to speak for or against the request, Chair Kathy Jones closed the public hearing.

Mr. Tristan Carroll moved to approve the rezoning subject to all staff comments; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Jami Averwater
Tristan Carroll
Ken Halliburton
Reggie Harris
Shawn Wright
Kathy Jones

Nay: None

Annexation petition and plan of services [2025-502] for approximately 843 acres located along Lebanon Pike and East Jefferson Pike, including an approximately 4,900-foot segment of Landfill Road ingress/egress right-of-way easement, an approximately 8,800-foot segment of Lebanon Pike right-of-way, and an approximately 7,900-foot segment of East Jefferson Pike right-of-way, City of Murfreesboro Administration Department applicant. Mr. Brad Barbee presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these minutes by reference.

Mr. Sam Huddleston and Mr. Adam Tucker were in attendance representing the application. Mr. Huddleston spoke about the application.

Chair Kathy Jones opened the public hearing.

1. **Mr. Shawn McGowan of 538 Dallas Court** spoke in favor of the request.
2. **Mr. Kenneth Byrd of 7339 Antietam Lane** asked questions concerning water pollution and expansion of the landfill.

There being no one else to speak for or against the request, Chair Kathy Jones closed the public hearing.

ORDINANCE 25-OZ-22 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect to zone approximately 13.26 acres along Yeargan Road as Single-Family Residential Ten (RS-10) District, simultaneous with annexation; Shane and Dewayne Beard, applicant(s) [2025-405].

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to zone the territory indicated on the attached map.

SECTION 2. That from and after the effective date hereof the area depicted on the attached map be zoned and approved Single-Family Residential Ten (RS-10) District, as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____


2nd reading _____

Shane McFarland, Mayor

ATTEST:

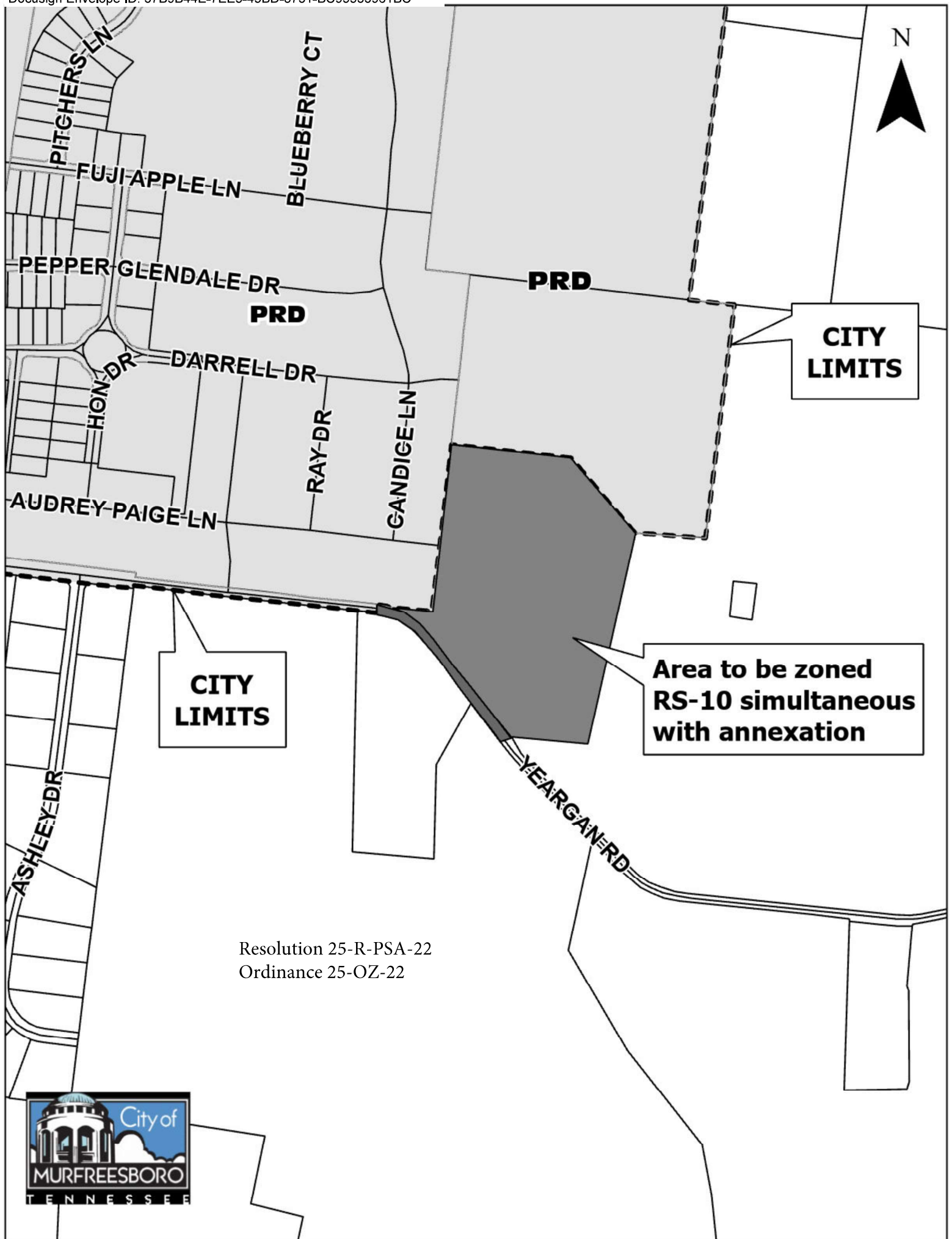
Erin Tucker
City Recorder

APPROVED AS TO FORM:

Signed by:


43A2035E51E9401
Adam F. Tucker
City Attorney

SEAL



Resolution 25-R-PSA-22
Ordinance 25-OZ-22



COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Amending the Zoning Ordinance – School and Institutional Group Assembly Uses
[Public Hearing Required]

Department: Administration

Presented by: Darren Gore, City Manager

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Ordinance amending the Zoning Ordinance Sections 7, 9, 19, and 27 and Chart 1 (including Chart 1 endnotes) primarily regarding school and institutional group assembly uses.

Staff Recommendation

Conduct a public hearing and enact the ordinance amendment.

The Planning Commission recommended approval of this ordinance amendment on May 7, 2025.

Background Information

The Planning Department presented an ordinance amendment [2025-802] regarding revisions to Sections 7, 9, 19, and 27 and Chart 1 (including Chart 1 endnotes) and pertaining primarily to school and institutional group assembly uses. During its regular meeting on April 9, 2025, the Planning Commission conducted a public hearing on this matter and then voted to defer action. At its regular meeting on May 7, 2025, the Planning Commission considered this matter under Old Business and then voted to recommend approval at that time.

Council Priorities Served

Establish Strong City Brand

This amendment will make the school approval process easier and more predictable to navigate and will strengthen the relationship between Rutherford County School Board ("RCS"), private school organizations, and the City.

Expand Infrastructure

This amendment allows the timelier approval of physical improvements to schools which will allow for the school systems and private schools to expand facilities in order to meet the educational needs of the community.

Attachments:

1. Ordinance 25-O-20
2. Planning Commission staff comments from 05/07/2025 meeting
3. Planning Commission minutes from 05/07/2025 meeting
4. Planning Commission staff comments from 04/09/2025 meeting
5. Planning Commission minutes from 04/09/2025 meeting

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
MAY 7, 2025
PROJECT PLANNER: MATTHEW BLOMELEY**

5.a. Proposed amendment to the Zoning Ordinance [2025-802] related to regulations for institutional group assembly uses, including school uses, and pertaining to the following sections:

- **Section 7: Site Plan Review;**
- **Section 9: Standards for Special Permit Uses;**
- **Section 19: Residential Districts;**
- **Section 27: Landscaping and Screening;**
- **Chart 1: Uses Permitted by Zoning District (and its endnotes); and**
- **Endnotes for Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios**

City of Murfreesboro Planning Department applicant.

The Planning Commission conducted a public hearing on this matter on April 9th, after which it voted to defer action. The April 9th Planning Commission staff comments have been included in the agenda packet for reference.

Based on the feedback provided by the Planning Commission at that meeting, Staff added to the draft ordinance amendment the following design standard for all school uses, whether allowed by right or via the planned development process:

Accessory uses to any school where machinery that generates noise is involved (e.g., certain trade classes, "shop" classes, auto repair classes, etc...) shall only be conducted indoors and inside of a building located at least 150' from any property line.

Also, at the April 9th meeting, Staff provided the Planning Commission with a list of school uses that were approved from 2021 to present. In order to provide additional context, Staff has done additional research and is providing a list of approved school uses dating back to 2015. This updated list follows this report.

Action Needed:

A draft of the language for the proposed ordinance amendment is included in the agenda packet for the Planning Commission's review. Because a public hearing has already been conducted, no additional public hearing before the Planning Commission is required. City Manager Darren Gore will be making a presentation on this proposed ordinance amendment. After the City Manager's presentation, the Planning Commission should discuss and then formulate a recommendation for City Council.

<u>Year</u>	<u>Project</u>	<u>Square-footage</u>	<u>Require rezoning to a PND under proposed ordinance?</u>
2015	Hobgood Elementary Building Addition	33,864	No
2016	Black Fox Elementary Building Addition	14,830	No
2017	Central Magnet Parking Addition	N/A	No
2017	Siegel High School Softball Building	5,000	No
2017	Siegel High School Building Addition	27,334	No
2017	Oakland Middle Bldg Addition/Athletic Fields	72,294	Yes
2018	PCA Building Additions	73,909	Yes
2019	Franklin Rd Athletic Fields (No Lights or Sound)	N/A	No
2022	MTCS Building Addition	23,551	No
2023	Oakland High School Building Addition	102,000	Yes
2023	Riverdale High School Building Addition	102,000	Yes
2023	MTCS Early Learning Center Building Addition	16,000	No
2023	Mitchell-Neilson Playground	N/A	No
2024	Reeves Rogers Building Addition	3,800	No
2024	Oakland High School Ag Barn	3,800	No
2024	Holloway High School Greenhouse	1,800	No
2024	Riverdale High School Ag Barn	2,280	No
2024	PCA Pre-K/Kindergarten Building	13,552	No

MURFREESBORO PLANNING COMMISSION

STAFF COMMENTS, PAGE 1

APRIL 9, 2025

PROJECT PLANNER: MATTHEW BLOMELEY

5.c. Proposed amendment to the Zoning Ordinance [2025-802] related to regulations for institutional group assembly uses, including school uses, and pertaining to the following sections:

- **Section 7: Site Plan Review;**
- **Section 9: Standards for Special Permit Uses;**
- **Section 19: Residential Districts;**
- **Section 27: Landscaping and Screening;**
- **Chart 1: Uses Permitted by Zoning District (and its endnotes); and**
- **Endnotes for Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios**

City of Murfreesboro Planning Department applicant.

The Planning Department was tasked with studying the City's review and approval process for new school facilities and expansions thereto in order to determine whether improvements could be made to the regulations and approval process. Staff determined that there were some efficiencies that could be achieved in the approval process via a Zoning Ordinance amendment. In addition, the Zoning Ordinance amendment could address other current gaps in the ordinance pertaining to school uses and institutional group assembly uses. This potential amendment seeks to streamline the school use approval process and create more predictability for the school systems.

Significant changes, as proposed, are identified below:

- 1) Eliminates the special use permit process for all school uses, which effectively eliminates submitting new school facilities and expansions to the Board of Zoning Appeals for review and approval.
- 2) Allows existing school uses and expansions thereto by right in all zoning districts, except P (Park), and sets forth clear design standards to create predictability for all involved, including a Type C buffer when the school use is adjacent to existing single-family residential uses or zoning.
- 3) However, there are several instances where rezoning to a PND (Planned Institutional Development) would be required. Rezoning process is governed by the Planning Commission and City Council, rather than the Board of Zoning Appeals. Such instances are as follows:

April 9th Planning Commission Staff Comments for Reference

- a) The use has never previously been established on the subject property;
 - b) A building expansion or an accessory structure with a gross floor area of 50,000 ft² or greater is proposed; or
 - c) One or more athletic or recreation fields with lighting or amplified sound are proposed.
- 4) Sets forth design requirements for school uses in the PND zone that are consistent with those for school uses in traditional bulk zoning districts, including a Type C buffer when the school use is adjacent to existing single-family residential uses or zoning; however, as with all planned developments, allows the Planning Commission and City Council the flexibility to grant exceptions to the requirements during the planned development review and approval process when warranted and to place any additional conditions on the approval needed to ensure that the use is compatible with the surrounding area.
 - 5) Site plan approval for school uses would predominantly follow an administrative review procedure. However, Planning Commission site plan review and approval would be required in the same instances identified in 3a-3c above.
 - 6) Modifies requirements for other types of institutional group assembly uses to exclude school uses but generally aligns the design standards for such uses with the design standards for school uses.
 - 7) Recommends but does not require irrigation for school uses.
 - 8) Creates additional flexibility for building height for school and church uses after having observed the need for such over the last several years.

This amendment is intended to make the school approval process easier and more predictable to navigate. It is also intended to allow the timelier approval of physical improvements to schools, which will allow for the school systems and private schools to expand facilities in order to meet the educational needs of the community.

As requested at the March 19th Planning Commission meeting, Staff will have additional information at the meeting pertaining to sizes of recent school additions.

Action Needed:

A draft of the language for the proposed ordinance amendment is included in the agenda packet for the Planning Commission's review. The Planning Commission should conduct a public hearing and then formulate a recommendation for City Council.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION APRIL 9, 2025

6:00 P.M.

CITY HALL

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Tristan Carroll
Reggie Harris
Bryan Prince
Shawn Wright

STAFF PRESENT

Ben Newman, Dir. of Land Mngt. & Planning
Matthew Blomeley, Assistant Planning Director
Holly Smyth, Principal Planner
Richard Donovan, Principal Planner
Sloane Lewis, Planner
Marc Shackelford-Rowell, Planner
Carolyn Jaco, Recording Assistant
John Tully, Assistant City Attorney

1. Call to order.

Chair Kathy Jones called the meeting to order.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Public Comments.

Chair Kathy Jones announced that no one signed up to speak during the Public Comment portion of the agenda.

4. Approve minutes of the March 19, 2025 Planning Commission meeting.

The minutes from the March 19, 2025 Planning Commission meeting were withdrawn from the Agenda by Staff.

5. Public Hearings and Recommendations to Council:

Zoning application [2025-404] to amend the Parkway Place PID on approximately 151 acres located on along Joe B Jackson Parkway, Richard Reeves Drive, and Logistics Way, Swanson Developments, LP applicant. Ms.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION APRIL 9, 2025

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the mandatory referral; therefore, Chair Kathy Jones closed the public hearing.

There being no further discussion, Mr. Shawn Wright made a motion to approve the mandatory referral subject to all staff comments, including all recommended conditions of approval in the staff report; the motion was seconded by Vice-Chairman Ken Halliburton and carried in favor by the following vote:

Aye: Jami Averwater
Tristan Carroll
Ken Halliburton
Reggie Harris
Bryan Prince
Shawn Wright
Kathy Jones

Nay: None

Proposed amendment to the Zoning Ordinance [2025-802] related to regulations for institutional group assembly uses, including school uses, and pertaining to the following sections:

☐ Section 7: Site Plan Review;

☐ Section 9: Standards for Special Permit Uses;

☐ Section 19: Residential Districts;

☐ Section 27: Landscaping and Screening;

☐ Chart 1: Uses Permitted by Zoning District (and its endnotes); and

☐ Endnotes for Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios

City of Murfreesboro Planning Department applicant.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION APRIL 9, 2025

Mr. Matthew Blomeley presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Chair Kathy Jones opened the public hearing.

- 1. Dr. Andrew Sheets, Head of School at Providence Chrisitan Academy –**
stated he was in favor of this proposal.

Chair Kathy Jones closed the public hearing.

The Planning Commission began discussing the square-footage threshold, different type of educational accessory uses, and portable buildings at schools.

Regarding conditions of approval for previously-approved special use permits for schools, Mr. John Tully stated this amendment provides a process to revisit those conditions. If a school wants to revisit any BZA requirements previously required, they can apply to rezone the school as a planned development.

There being no further discussion, Vice-Chairman Ken Halliburton made a motion to defer the proposed ordinance amendment; the motion was seconded by Mr. Reggie Harris and carried by the following vote:

Aye: Jami Averwater
Tristan Carroll
Ken Halliburton
Reggie Harris
Bryan Prince
Shawn Wright
Kathy Jones

Nay: None

MINUTES
OF THE CITY OF MURFREESBORO
PLANNING COMMISSION
City Hall, 111 W. Vine Street, Council Chambers
May 7, 2025, 6:00 PM

Members Present:

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Tristan Carroll
Reggie Harris
Shawn Wright

Staff Present:

Darren Gore, City Manager
Sam Huddleston, Asst. City Manager
Greg McKnight, Exec. Dir. Dev. Services
Ben Newman, Dir. Of Land Mgmt.& Plan.
Matthew Blomeley, Asst. Planning Dir.
Holly Smyth, Principal Planner
Brad Barbee, Principal Planner
Richard Donovan, Principal Planner
Marc Shackelford-Rowell, Planner
Adam Tucker, City Attorney
John Tully, Assistant City Attorney

1. Call to Order.

Chair Kathy Jones called the meeting to order at 6:00pm.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Public Comments.

None.

4. Approve Minutes of the April 16, 2025 Planning Commission meeting.

Ms. Jami Averwater moved to approve the minutes of the April 16, 2025 Planning Commission meeting; the motion was seconded by Mr. Tristan Carroll and carried by the following vote:

Aye: Jami Averwater
Tristan Carroll

MURFREESBORO PLANNING COMMISSION MINUTES

MAY 7, 2025

Ken Halliburton

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

5. Old Business:

a. Proposed amendment to the Zoning Ordinance [2025-802] related to regulations for institutional group assembly uses, including school uses, and pertaining to the following sections:

-Section 7: Site Plan Review

-Section 9: Standards for Special Permit Uses

-Section 19: Residential Districts

-Section 27: Landscaping and Screening

-Chart 1: Uses Permitted by Zoning District (and its endnotes); and

-Endnotes for Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios

City of Murfreesboro Planning Department applicant.

Mr. Matthew Blomeley and Mr. Darren Gore presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these minutes by reference.

Vice-Chairman Ken Halliburton moved to approve the amendment subject to all staff comments; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Jami Averwater

Tristan Carroll

Ken Halliburton

Reggie Harris

Shawn Wright

Kathy Jones

Nay: None

6. Public Hearings and Recommendations to Council:

Zoning application [2025-406] for approximately 14.81 acres located along Old Lascassas Road to be rezoned from RS-15 (12 acres) and RS-10 (2.81 acres) to PCD (Lascassas Storage PCD), Patterson Company, LLC applicant.

Ms. Holly Smyth presented the Staff Comments regarding this item, a copy of

ORDINANCE 25-O-20 amending Murfreesboro City Code Appendix A, Zoning, Sections 7, 9, 19, 27, Chart 1, Chart 1 Endnotes and Chart 2 Endnotes, pertaining to school uses, City of Murfreesboro Planning Staff, applicant [2025-802]

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. Appendix A, Section 7, Site Plan Review, of the Murfreesboro City Code is hereby amended at subsection (D)(2), by adding the following new subsection (e) as follows:

- (e) all site plans for the use “public or private schools, grades K-12” only when:
 - [1] such use has never previously been established on the subject property;
 - [2] a building expansion or an accessory structure with a gross floor area of 50,000 square feet or greater is proposed;
 - [3] one or more athletic fields with lighting or amplified sound are proposed;
 - [4] there are off-site transportation, traffic, or drainage improvements associated with such site plan either required by the City or offered by the applicant; or
 - [5] new sanitary sewer connections are proposed, in which case the Planning Director shall have the authority to require Planning Commission review of a site plan if he/she determines that the public interest would be served thereby.

SECTION 2. Appendix A, Section 7, Site Plan Review, of the Murfreesboro City Code is hereby amended at subsection (D)(4), by changing the existing subsection (g) to (h) and adding a new subsection (g) as follows:

- (g) all site plans for the use “public or private schools, grades K-12” involving building additions or accessory structures of less than 50,000 square feet and/or other miscellaneous site modifications (e.g. parking lot additions, on-site drainage improvements, athletic fields with no lighting or sound amplification, etc.).

SECTION 3. Appendix A, Section 7, Site Plan Review, of the Murfreesboro City Code is hereby amended by deleting subsection (J) Period of Validity, in its entirety and substituting in lieu thereof:

- (J) *Period of Validity.* The State law regarding vested property rights (T.C.A. 13-4-310, effective June 1, 2024), as it may be amended from time to time, shall govern the period of validity for both Planning Commission and administrative site plan approvals.

SECTION 4. Appendix A, Section 9, Standards for Special Permit Uses, of the Murfreesboro City Code is hereby amended by deleting subsection (D)(2)(zz) in its entirety and substituting in lieu thereof the following:

- (zz) Institutional group assembly uses, including recreational fields, public buildings, lodges, country clubs, clubs, churches, and other places of worship,

but excluding public or private schools grades K-12, shall be subject to the following additional standards:

- [1] Parking areas shall be designed and arranged so that backing from the site onto a public right-of-way will not be necessary and adequate space will be available for vehicles to turn around on-site. An on-site off-street area shall be provided for vehicles to load and unload passengers. Parking areas shall not be permitted in the required front yard;
- [2] In all residential districts an institutional group assembly use shall have a lot size not less than three times the minimum lot size permitted in the zoning district where the institutional group assembly use is proposed to be located. In the event the institutional group assembly use is proposed to be located on land that has two or more different zoning classifications, the minimum lot size shall be calculated by applying the larger required minimum lot size;

<u>Examples:</u>				
<u>MINIMUM ZONING DISTRICT</u>	<u>MINIMUM LOT SIZE (SQ. FT.)</u>	<u>LOT SIZE ACRES</u>	<u>X 3</u>	<u>ACRES</u>
RS-15	15,000	0.34	45,000	1.03
RS-12	12,000	0.28	36,000	0.83
RS-10	10,000	0.22	30,000	0.69
RS-8	8,000	0.18	24,000	0.55
RS-4	4,000	0.09	12,000	0.28
R-D	4,000	0.09	12,000	0.28
R-MO	4,000	0.09	12,000	0.28

- [3] On-site lighting for parking areas, fields for athletics, scoreboards, and grounds shall be arranged in such a manner as to minimize intrusion of lighting into areas zoned or used for residential or medical purposes. To this end, a plan depicting the proposed location of on-site exterior lighting fixtures shall be submitted for review by staff and the BZA. Such plan shall depict the arrangement of the lighting fixtures, their height, their specifications, the direction in which lighting will be oriented, and photometrics. Additional information may be required by the staff or the BZA in order to verify whether the lighting will be intrusive into areas zoned or used for residential or medical purposes;
- [4] Applications for an institutional group assembly use shall indicate the proposed locations of garbage dumpsters or receptacles. These facilities shall be located in such a manner as to minimize adverse effects upon neighboring properties and aesthetics from the public right-of-way. The use of dumpsters may be prohibited in the event the BZA determines that such would have a detrimental effect upon the adjacent property;
- [5] A Type C landscape buffer shall be required to screen the proposed use from any property zoned or used for single-family residential purposes (including single-family residential portions of an approved PUD), regardless of the zoning of the institutional group assembly use property. In the event of new building expansions, accessory structures, or other miscellaneous site improvements, the Type C buffer shall only be required in the area of such expansions or improvements. However, the BZA may require additional screening requirements if necessary to mitigate adverse impacts on adjacent residential properties;
- [6] The number of required parking spaces provided on-site shall be in accordance with Chart 4 of this article, provided, however, if the applicant can present evidence satisfactory to the BZA that a substantial portion of the expected users will arrive at the institutional

- group assembly use by bus, bicycle, walking, or by carpooling or that off-street parking areas on adjacent or nearby properties will be available on a long-term basis, the BZA shall have authority to determine the number of required parking spaces to be provided on-site. The BZA may require that a reserve area be retained on-site for future expansions of the parking area;
- [7] An application for a special use permit for an institutional group assembly use shall be accompanied by a description of uses or activities proposed for the facility which may be subject to separate regulation or which may result in unusual traffic patterns, traffic volumes, or other detrimental impacts upon adjacent properties, including but not necessarily limited to those uses which would require a special permit if not a part of the institutional group assembly use;
 - [8] The BZA shall have authority to approve an on-site location with water, sewer, and electric utility connections for accommodations for travel trailers or R.V.s (recreational vehicles) for use by visiting or traveling speakers or guests associated with the institutional group assembly use. Provided, however, such location for travel trailers or R.V.s shall not be permitted for use as a permanent residential dwelling unit;
 - [9] The BZA shall have the authority to grant variances to the standards imposed by this subsection for temporary or short-term uses of property for the institutional group assembly use purposes. In such cases, the BZA may impose conditions of approval to ensure the compatibility of the short-term land use with other property in the vicinity of the proposed use;
 - [10] The application for a special use permit for an institutional group assembly use shall indicate any intentions for the use of systems for the external broadcast or amplification of speech, music, or other sounds. If such are proposed, the applicant shall indicate the times of day and duration of their proposed use. The BZA shall have the authority to place restrictions upon their use in order to minimize excessive noise from intruding upon neighboring properties especially those zoned or used for residential purposes. In no event shall the BZA approve the use of such which would be in violation of the City Code or ordinances regulating noise. BZA approval does not constitute a waiver of any City Code or ordinances regulating noise;
 - [11] The building height of all principal and accessory buildings shall be limited to what is permitted by Chart 2 of the Zoning Ordinance and its endnotes. However, the BZA may approve building height that exceeds the above noted standards as a function of the special use permit, provided it finds that the use will still comply with the Standards of General Applicability in Section 9 of this article. Regardless, no special use permit shall grant authority for such a structure to exceed the maximum height requirements denoted in the Airport Overlay District;
 - [12] The development plans for such use shall comply with any requirements set forth by the State Fire Marshal and/or the City Fire Marshal, as applicable; and
 - [13] Where existing development on the subject property has failed to comply with conditions set forth in a prior approval or where there are current zoning or code violations on the subject property, such violation shall be grounds for denial of the application for said use.

SECTION 5. Appendix A, Section 19, Residential Districts, of the Murfreesboro City Code is hereby amended by removing all references to “schools”.

SECTION 6. Appendix A, Section 27, Landscaping and Screening, of the Murfreesboro City Code is hereby amended at subsection (M) by adding subsection (3) as follows:

- (3) Irrigation is recommended but not required to ensure the viability of required plantings at uses identified in Chart 1 of this article as “public or private schools, grades K-12.” However, the property owner and successor property owners for such uses shall be responsible for maintaining all required landscaping in perpetuity.

SECTION 7. Appendix A, Chart 1, Uses Permitted, of the Murfreesboro City Code is hereby amended within the “Institutions” section by deleting the line for “School, Public or Private, Grades K-12” in its entirety and substituting in lieu thereof line identified in the attached Exhibit A.

SECTION 8. Appendix A, Chart 1 Endnotes, Uses Permitted, of the Murfreesboro City Code is hereby amended by deleting Endnote 13 in its entirety and substituting in lieu thereof the following:

- 13. Institutional group assembly uses, including recreational fields, public buildings, lodges, country clubs, clubs, churches, and other places of worship but excluding public or private schools grades K-12, and expansions/additions thereto, where permitted by right, shall meet the following standards:
 - (a) Parking areas shall be designed and arranged so that backing from the site onto a public right-of-way will not be necessary and adequate space will be available for vehicles to turn around on-site. An on-site off-street area shall be provided for vehicles to load and unload passengers. Parking areas shall not be permitted in the required front yard.
 - (b) In all residential districts, institutional group assembly uses shall have a lot size not less than three times the minimum lot size permitted in the zoning district where the institutional group assembly use is proposed to be located. In the event the institutional group assembly use is proposed to be located on land that has two or more different zoning classifications, the minimum lot size shall be calculated by applying the larger required minimum lot size.

<u>Examples:</u>				
<u>ZONING</u>	<u>MINIMUM LOT SIZE</u>	<u>MINIMUM LOT SIZE</u>	<u>X 3</u>	<u>ACRES</u>
RM-12	7,500	0.17	22,500	0.52
RM-16	6,000	0.14	18,000	0.41

- (c) An institutional group assembly use may:
 - (1) conduct a use that is subject to separate definition under this Zoning Ordinance or regulation, e.g., childcare facility or mission for the homeless;
 - (2) use equipment producing noise audible upon residential property, e.g., outdoor speaker system, carillon, chimes, bells; or,
 - (3) construct exterior water, sewer, and electric utility connections for trailers or recreational vehicles only after a special use permit to that affect has been granted by the Board of Zoning Appeals.
- (d) A Type C landscape buffer shall be required to screen the proposed use from any property zoned or used for single-family residential purposes (including single-family residential portions of an approved PUD),

- regardless of the zoning of the institutional group assembly property. In the event of new building expansions, accessory structures, or other miscellaneous site improvements at the institutional group assembly use, the Type C buffer shall only be required in the area of such improvements.
- (e) The development plans for such use shall comply with any requirements set forth by the State Fire Marshal and/or the City Fire Marshal, as applicable.
 - (f) Where existing development on the subject property has failed to comply with conditions set forth in a prior approval or where there are current zoning or code violations on the subject property, such violation shall be grounds for denial of the application for said use.
 - (g) The building height of all principal and accessory buildings shall be limited to what is permitted by Chart 2 of the Zoning Ordinance and its endnotes and Section 25 of the Zoning Ordinance, respectively. Regardless, no structure shall exceed the maximum height requirements denoted in the Airport Overlay District.

SECTION 9. Appendix A, Chart 1 Endnotes, Uses Permitted, of the Murfreesboro City Code is hereby amended by adding new Endnotes 34 and 35 as follows:

34-1. Rezoning to PND or PUD (whichever is more appropriate for the respective situation, as determined by the Zoning Administrator) for the use “public or private schools, grades K-12” shall be required in the following circumstances; otherwise, the use shall be permitted by right:

- (a) The use has never previously been established on the subject property;
- (b) A building expansion or an accessory structure with a gross floor area of 50,000 square feet or greater is proposed; or
- (c) One or more athletic or recreation fields with lighting or amplified sound are proposed.

34-2. PND and PUD zoning applications for the use “public or private schools, grades K-12”, shall meet the following standards, in addition to all other applicable standards found elsewhere in this article (but excluding any exceptions to such regulations noted as a part of the approved PND or PUD zoning):

- (a) Parking areas shall be designed and arranged so that backing from the site onto a public right-of-way will not be necessary and adequate space will be available for vehicles to turn around on-site. An on-site off-street area shall be provided for vehicles to load and unload passengers. Parking areas shall not be permitted in the required front yard.
- (b) A Type C landscape buffer shall be required to screen the proposed use from any property zoned or used for single-family residential purposes (including single-family residential portions of an approved PUD). In the event of new building expansions, accessory structures, or other miscellaneous site improvements, the Type C buffer shall only be required in the area of such improvements.
- (c) An on-site location with water, sewer, and electric utility connections for accommodations for travel trailers or R.V.s (recreational vehicles) for use by visiting or traveling speakers or guests associated with the public and private school, grades K-12 use may be provided. However, such location for travel trailers or R.V.s shall not be permitted for use as a permanent residential dwelling unit.
- (d) The development plans for such use shall comply with any requirements set forth by the State Fire Marshal and/or the City Fire Marshal, as applicable.

- (e) Where existing development on the subject property has failed to comply with conditions set forth in a prior approval or where there are current zoning or code violations on the subject property, such violation shall be grounds for denial of the application for said use.
 - (f) The building height of all principal and accessory buildings, excluding light fixtures accessory to recreation fields, shall be limited to what is permitted by Chart 2 of the Zoning Ordinance and its endnotes and Section 25 of the Zoning Ordinance, respectively. However, exceptions to the maximum building height may be granted as part of the approval of the PND or PUD zoning. Regardless, no approval shall grant authority for such a structure to exceed the maximum height requirements denoted in the Airport Overlay District.
 - (g) Light fixtures associated with recreation fields that are accessory to a public or private school, grades K-12 shall not exceed eighty (80) feet in height. However, the maximum height for such light fixtures may be less than eighty (80) feet in height if further restricted by the maximum height requirements of the Airport Overlay District.
 - (h) The minimum yard requirements shall be as follows:
 - Front = 40 feet;
 - Sides = 12.5 feet; and
 - Rear = 30 feet.
 - (i) If the use has previously been granted a special use permit by the Board of Zoning Appeals on the site, then any conditions placed on the approval of the special use permit shall remain in effect unless the approved PND or PUD contains an exception to such conditions, but only (where applicable) in the area(s) specified in the special use permit. Unless the approved PND or PUD contains an exception, any subsequent development on the property must comply with any such conditions that apply to the entirety of the site, and any other conditions in the special use permit may be extended to the subsequent development area at the discretion of the Planning Commission and/or City Council.
 - (j) Prior to the approval of any site plan, the applicant shall enter into a development agreement with the City for any off-site public infrastructure improvements required in conjunction with the application.
 - (k) Accessory uses to any school where machinery that generates noise is involved (e.g., certain trade classes, "shop" classes, auto repair classes, etc...) shall only be conducted indoors and inside of a building located at least 150' from any property line.
35. Expansions, building additions, accessory structures, site modifications, and the like for the use "public or private schools, grades K-12", where permitted by right, shall meet the following standards, in addition to all other applicable standards found elsewhere in this article:
- (a) Parking areas shall be designed and arranged so that backing from the site onto a public right-of-way will not be necessary and adequate space will be available for vehicles to turn around on-site. An on-site off-street area shall be provided for vehicles to load and unload passengers. Parking areas shall not be permitted in the required front yard.
 - (b) A Type C landscape buffer shall be required to screen the proposed use from any property zoned or used for single-family residential purposes (including single-family residential portions of an approved PUD) regardless of the zoning of the school property. In the event of new building expansions, accessory structures, or other miscellaneous site improvements, the Type C buffer shall only be required in the area of such improvements.
 - (c) An on-site location with water, sewer, and electric utility connections for accommodations for travel trailers or R.V.s (recreational vehicles) for use by visiting or traveling speakers or guests associated with the public and

private school, grades K-12 use may be provided. However, such location for travel trailers or R.V.s shall not be permitted for use as a permanent residential dwelling unit.

- (d) The development plans for such use shall comply with any requirements set forth by the State Fire Marshal and/or the City Fire Marshal, as applicable.
- (e) Where existing development on the subject property has failed to comply with conditions set forth in a prior approval or where there are current zoning or code violations on the subject property, such violation shall be grounds for denial of the application for said use.
- (f) The building height of all principal and accessory buildings shall be limited to what is permitted by Chart 2 of the Zoning Ordinance and its endnotes and Section 25 of the Zoning Ordinance, respectively. Regardless, no structure shall exceed the maximum height requirements denoted in the Airport Overlay District.
- (g) If the use has previously been granted a special use permit by the Board of Zoning Appeals on the site, then any such conditions placed on the approval of the special use permit shall remain in effect and any subsequent development on the property must comply with those conditions.
- (h) Prior to the approval of the site plan, the applicant shall enter into a development agreement with the City for any off-site public infrastructure improvements required in conjunction with the application.
- (i) Accessory uses to any school where machinery that generates noise is involved (e.g., certain trade classes, "shop" classes, auto repair classes, etc...) shall only be conducted indoors and inside of a building located at least 150' from any property line.

SECTION 10. Appendix A, Chart 2 Endnotes, Minimum Lot Requirements, Minimum Yard Requirements and Land Use Intensity Ratios, of the Murfreesboro City Code is hereby amended by deleting subsection Endnote 16 in its entirety and substituting in lieu thereof the following:

- 16. Principal buildings associated with the uses identified in Chart 1 of this article as "church" or "public or private school, grades K-12" in the RS-15, RS-12, RS-10, RS-8, RS-6, RS-4, RS-A, R-D, RM-12, RM-16, R-MO, OG, OG-R, CL, and CF zones shall be permitted up to a maximum height of fifty (50) feet, provided that the use is located on a lot of at least five (5) acres and that any part of such building that exceeds thirty-five (35) feet in height is located at least one-hundred (100) feet from the nearest property zoned or used for single-family residential purposes (including single-family residential portions of an approved PUD). Provided, furthermore, however, that ornamental towers for churches in the RS-15, RS-12, RS-10, RS-8, RS-6, RS-4, RS-A, R-D, RM-12, RM-16, R-MO, CM, CM-R, OG, CL, CF, and CU zones shall be permitted up to a maximum height of seventy (70) feet. Plans for ornamental towers shall be prepared by an engineer registered in the State of Tennessee and designed in accordance with the currently adopted building codes set forth in Murfreesboro City Code Chapter 7.

SECTION 11. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____


ATTEST:

Erin Tucker
City Recorder

SEAL

Shane McFarland, Mayor

APPROVED AS TO FORM:

Signed by:


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Adam F. Tucker
City Attorney

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Resolution 25-R-23 Designated Representative FY25 COPS Hiring Program

Department: Public Safety: Murfreesboro Police Department

Presented by: Karen Lampert, Grants Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input checked="" type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider providing signing authority, within the scope of the grant application, to Amanda DeRosia, Finance Director, for the submission of the COPS Hiring Program grant.

Staff Recommendation

Approve Resolution 25-R-23

Background Information

MPD is applying for the FY25 COPS Hiring Program grant from the U.S. Department of Justice. If awarded, the grant will fund 17 new full-time law enforcement officers for FY27, aligning with MPD's growth projections. The application requires electronic signatures from both the Chief of Police and the Mayor in the *JustGrant* online portal.

Designating Ms. DeRosia as the Grantee Authorized Signing Official for the City is consistent with previous authorization, allowing Ms. DeRosia to manage applications and forms within the complex *JustGrants* grant system. This designation ensures consistent management and secure access practices are upheld for continuity and oversight.

Council Priorities Served

Maintain public safety

Continue to make Murfreesboro a safe place to live, work and visit.

Fiscal Impact:

None

Attachments:

Resolution 25-R-23

RESOLUTION 25-R-23 authorizing a designated representative for the FY25 COPS Hiring Program, under the U.S. Department of Justice, Office of Community Oriented Policing Services (“COPS”).

WHEREAS, the COPS Hiring Program is a competitive award program designed to provide funding directly to law enforcement agencies to hire and/or rehire additional career law enforcement officers in an effort to increase their community policing capacity and crime prevention efforts; and

WHEREAS, to apply for the award, the program requires that both the top law enforcement executive (i.e., Chief of Police) and the top government executive (i.e., Mayor) electronically sign the application within the online application portal JustGrants; and

WHEREAS, both the top law enforcement executive and top government executive must be assigned the role of Authorized Representative in JustGrants (application portal); and

WHEREAS, applications are automated and must be filed online; and

WHEREAS, Amanda DeRosia, Finance Director, and Jenny Licsko, Public Safety Finance Manager, both have authorized access to JustGrants, serve as Financial Point of Contacts, and have the relevant and appropriate skills to fulfill these duties to manage multiple Murfreesboro Police Department (“MPD”) grant awards through the Department of Justice; and

WHEREAS, MPD is submitting this application to support the hiring of 17 new full-time career law enforcement officers for the FY27 budget year in strategic alignment with MPD’s growth projections to meet the growing public safety demands due to our rapid population growth and 3% continued population growth; and

WHEREAS, if awarded, grant agreement notice would be received in October 2025 and be brought to Council for final award approval; and

WHEREAS, the period of this grant project, if awarded, would be October 1, 2025 through September 30, 2030; and

WHEREAS, Amanda DeRosia, Finance Director, has been previously authorized by Council resolution to execute application forms and complete correspondence for the City of Murfreesboro online as the Grantee Authorized Signing Official, delegated or formally designated them by Mayor of Murfreesboro for the Edward Byrne Memorial Justice Assistance Grant (JAG) monies; and

WHEREAS, having Amanda DeRosia, Finance Director, execute the FY25 COPS Hire application forms and complete correspondence for the City of Murfreesboro online as the Grantee Authorized Signing Official, delegated or formally designate them by the Mayor of Murfreesboro, would maintain secure access, continuity, and consistent management and oversight practices for the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. The City of Murfreesboro hereby authorizes and designates Amanda DeRosia, Finance Director, or any successor to the City of Murfreesboro Finance Director or Interim Finance Director job title, as the signing authority on behalf of the City of Murfreesboro within the scope of application for the COPS Hiring Program.

SECTION 2. The City of Murfreesboro hereby authorizes and designates Amanda DeRosia, Finance Director, or any successor to the City of Murfreesboro Finance Director or Interim Finance Director job title, and Jenny Licsko, Public Safety Finance Manager, or any successor to the City of Murfreesboro Public Safety Finance Manager job title, as the authorized Financial Point of Contacts for the COPS Hiring Program for open and future grant awards.

SECTION 3. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and the welfare of the City requiring it.

Passed: _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Erin Tucker
City Recorder

Signed by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Contract with Insight for LPR Cameras and Services

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider the contract for LPR cameras and services.

Staff Recommendation

Approve the contract with Insight for the continued subscription and support of the LPR camera system.

Background Information

Council approved the deployment of LPR cameras in March 2023. This system has proven to be an effective tool for investigations and data analytics for crime solvability. This contract will extend our subscription and services for an additional three years.

This purchase is available through an Omnia Partners cooperative contract, which is permitted by State Statute and Council Resolution. The proposed contract is a three-year subscription with a total cost of \$513,000, payable in annual installments. Staff have verified the cost effectiveness of this contract.

Council Priorities Served

Maintain Public Safety

Providing crime investigation tools and data analytics for crime solvability.

Fiscal Impact

The initial expense for year one of \$171,000 is provided for in the Department's FY26 operating budget. Years two and three of \$171,000 each will be budgeted accordingly in the department's FY27 and FY28 operating budgets.

Attachment

Contract with Insight for License Plate Recognition Cameras and Service

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
INSIGHT PUBLIC SECTOR, INC.
FOR LICENSE PLATE RECOGNITION CAMERAS AND SERVICES**

This Contract is entered into and effective as of _____, by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **INSIGHT PUBLIC SECTOR, INC.**, a corporation of the State of Illinois ("Contractor").

This Contract consists of the following documents:

- ***This Contract***
- ***Omnia Partners Cooperative Contract No. 23-6692-03 ("Omnia Agreement")***
- ***Price Quotation #0228521760 dated June 6, 2025 ("Contractor's Proposals")***
- ***Any properly executed amendments to this Agreement***

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- * ***First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority)***
- * ***Second, this Contract***
- * ***Third, Contractor's Omnia Partners Contract No. 23-6692-03 ("Omnia Agreement")***
- * ***Price Quotation #0228521760 dated June 6, 2025 ("Contractor's Proposals")***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase the equipment set forth on Contractor's Proposals using the Omnia Agreement. Furthermore, the City may utilize this Contract to procure additional equipment from Contractor per the Omnia Agreement through the term of the contract. Such future procurements shall be executed through a Purchase Order after purchases exceeding \$50,000 have been approved by City Council.
2. **Term.** The term of this contract shall be from July 11, 2025 to July 11, 2028.
3. Contractor's performance may be terminated in whole or in part:
 - a. Upon 30-day prior notice, for the convenience of the City.
 - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
 - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
 - e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

4. **Price; Compensation; Method of Payment.**

- a. The price for the goods and services to be provided under this Contract is set forth in Contractor's Quotation reflecting a **Total Purchase Price of Five Hundred Thirteen Thousand Dollars and Zero Cents (\$513,000.00)**. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Contract and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete. All invoices must be submitted to accountspayable@murfreesborotn.gov with a copy to the Contact person listed below.
 - b. Deliveries of all items shall be made within 4-6 weeks of order to: 1004 N. Highland Ave., Murfreesboro, TN 37130. Delivery Contact: Ryan J. Lawrence (email: 8028@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
 - c. Deliveries of all items shall be made as stated in the Contract documents. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
 - d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor's Quote.
 - e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.
5. **Warranty.** Unless otherwise specified, every item provided shall meet the warranty requirements set forth by the manufacturer.

6. **Indemnification.**

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
- c. Copyright, Trademark, Service Mark, or Patent Infringement.

- i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (1) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (2) no cost or expense whatsoever accrues to the City at any time; and (3) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
 - ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 1. Procure for the City the right to continue using the products or services.
 2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
 - iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.
7. **Notices.** Notice of assignment of any rights to money due to Contractor under this Contract must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:

City of Murfreesboro
Attn: City Manager
111 West Vine Street
Murfreesboro, TN 37130

If to the Contractor:

Insight Public Sector
Attn: Erica Falchetti
801 Adlai Stevenson Dr.
Springfield, IL 62703
480-333-3071
erica.falchetti@insight.com

8. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
9. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.
10. **Maintenance of Records.** Contractor shall maintain documentation for all charges against City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by City or its duly appointed representatives. The records shall be maintained in accordance with the Generally Accepted Accounting Principles.
11. **Modification.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto.
12. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
13. **Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
14. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying-off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
15. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

Contractor further acknowledges that the City is a federal government contractor, and that by virtue of this Contract, Contractor is a federal government subcontractor. Therefore, in accordance with federal law, Contractor specifically acknowledges and agrees as follows:

- a. **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment,**

- without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.
- b. **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**
 - c. **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**
16. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
17. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder
18. **Integration.** This Contract and State contract set forth the entire agreement between the parties with respect to the subject matter hereof and govern the respective duties and obligations of the parties.
19. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
20. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
21. **Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.
22. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution

23. **Effective Date.** This Contract shall not be binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2023
(the “Effective Date”).

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

Insight Public Sector, Inc.

Signed by:
By: Erica Falchetti
Erica Falchetti
Senior SLED Capture Manager

APPROVED AS TO FORM:

DocuSigned by:
Kelley Blevins Baker
Kelley Blevins Baker, Deputy City
Attorney

Account name: 10183254

CITY OF MURFREESBORO
111 W VINE ST
MURFREESBORO TN 37130-3573

SHIP-TO

MURFREESBORO POLICE DEPT
BILL TERRY
1004 N HIGHLAND AVE
MURFREESBORO TN 37130-2454

Quotation	
Quotation Number	: 0228521760
Document Date	: 06-JUN-2025
PO Number	: FLOCK FALCON
PO Release	: Q-142377
Sales Rep	: Ashley McDonald
Email	: ASHLEY.MCDONALD@INSIGHT.COM
Phone	: +18004674448
Sales Rep 2	: Chalsey Hinton
Email	: CHALSEY.HINTON@INSIGHT.COM
Phone	: +14804096546

We deliver according to the following terms:

Payment Terms : Net 30 days
Ship Via : Electronic Delivery
Terms of Delivery : FOB DESTINATION
Currency : USD

A signature below is required at time of Purchase Order if it is not fully funded. Insight will not be able to process the Purchase Order without this quote being signed. If placing POs annually, Insight will require POs for the out years to be placed at least 15 days prior to the renewal date. By executing this quote, Customer agrees to the below terms and annual payment schedule.

Customer understands, accepts and agrees that this purchase is subject to Flock Safety's End User License Agreement, available at: <https://www.flocksafety.com/terms-and-conditions-eula>. By issuing Insight a PO for this quote, Customer agrees to be bound by the terms of the End User License Agreement and any special terms noted below.

TERM LENGTH: 36 Months
RENEWAL TERM: 7/12/2025-7/11/2028
RETENTION: 30 Days

MUST BE INCLUDED ON CLIENT PO
THIS IS A 3 YEAR ANNUAL PAYMENT COMMITMENT
Year 1 - Line 10 - \$171,000.00 Invoiced upon issuance of PO
Year 2 - Line 20 - \$171,000.00 - Invoiced on first anniversary
Year 3 - Line 30 - \$171,000.00 - Invoiced on second anniversary
Total Contract Commit - \$513,000.00 plus applicable tax

Material	Material Description	Quantity	Unit Price	Extended Price
FLCK-FALCON-2-LE	FLOCK GROUP FALCON INFRASTRUCTURE-POWER + LTE), LICENSE PLATE RECOGNITION CAMERA WITH VEHICLE FINGERPRINT™ + MACHINE LEARNING SOFTWARE AND REAL-ALERTS FOR UNLIMITED USERS Coverage Dates: 12-JUL-2025 - 11-JUL-2026 OMNIA PARTNERS (COBB COUNTY) IT PRODUCTS AND SERVICES(# 23-6692-03) List Price: 3319.99 Discount: 9.638%	57	3,000.00	171,000.00
FLCK-FALCON-2-LE	FLOCK GROUP FALCON INFRASTRUCTURE-POWER + LTE), LICENSE PLATE RECOGNITION CAMERA WITH VEHICLE FINGERPRINT™ + MACHINE LEARNING SOFTWARE AND REAL-ALERTS FOR UNLIMITED USERS	57	3,000.00	171,000.00



constraints, production delays, component shortages, and logistical pressures have contributed to cost increases and product shipment delays from manufacturers and suppliers. Insight is actively engaged with its contracting officials, suppliers, and partners to address these challenges. While we strive to honor initial price proposals and quotes, the fluid nature of the impact on manufacturer and supplier costs and product availability due to tariffs and supply disruptions could require a requote, subject to the contract terms if the purchase is being made under an Insight Public Sector, Inc. contract vehicle, before finalizing any subsequent or impacted proposals, quotes, and orders. Insight will not finalize any transaction involving a requote without the client's written consent.

Insight's online Terms of Sale can be found at the "terms-and-policies" link below.
<https://www.insight.com/terms-and-policies>

Insight Public Sector, Inc.

City of Murfreesboro

Signature:

Signature:

Name:

Name:

Title:

Title:

Date:

Date:

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: 2025-2029 Consolidated Plan & First Year Action Plan
Department: Community Development
Presented by: Jessica Cline, Assistant Director of Community Development
Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider Community Development's 5-year Consolidated Plan.

Staff Recommendation

Approve the 2025-2029 Community Development Consolidated Plan and First Year Action Plan

Background Information

Community Development operates under a 5-year Consolidated Plan outlining program goals and objectives specific to the City. HUD Regulations require a Consolidated Plan be approved every as a condition of receiving Community Development Block Grant (CDBG) and Home Investment Partnership Program (HOME) funds. Staff has prepared a draft Consolidated Plan with the assistance of our consultant, BluLynx Solutions. Input for the plan was gathered from our public participation activities. The plan outlines the use of CDBG funding for a period from July 1, 2025, to June 30, 2026. After council approval, HUD will approve the plan.

Council Priorities Served

Responsible Budgeting

Approval of the Consolidated Plan will provide services to low- and moderate-income households, homeless individuals, or individuals in danger of becoming homeless.

Fiscal Impact

Future funding authorizations will be presented to Council based on the First Year Action Plan.

Attachment

1. 2025-2029 Draft Consolidated Plan One-Pager
2. 2025-2026 Draft Action Plan One-Pager
3. 2025-2029 Draft Consolidated Plan

2025 Annual Action Plan



Important Dates



May 20 – June 23, 2025, Public Comment Period

June 17, 2025 @ 3:00 pm Public Meeting

June 26, 2025 – Council Approval

July 14, 2025, Plan submitted to U.S. Department of Housing and Urban Development (HUD)

2025 CDBG & HOME Funding

\$422,443

In HOME Funding

\$1,002,520

In CDBG Funding

The City of Murfreesboro Community Development Department administers HUD's Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) funding.

CDBG & HOME funding is used for a variety of programs and projects that benefit the low-and moderate-income residents of the city.

Projects include:

- Fair Housing Education
- Public Services
- Housing Rehabilitation
- Affordable Housing Incentives
- New Construction/Rehab of Rental Housing
- Public Facilities/Infrastructure

Recommended Funding Allocations CDBG

Administration & Planning – \$200,504

Fair Housing – \$2,500

Public Services – \$125,000

Community Helpers - \$25,000

Endure Athletics - \$25,000

Kymari House - \$25,000

Possibility Place - \$25,000

The Journey Home - \$25,000

Public Facilities/ Infrastructure – \$75,000

Owner-Occupied Housing Rehab – \$374,520

Affordable Housing Incentives – \$225,000

HOME

Administration & Planning – \$42,244

Affordable Housing – \$295,711

Murfreesboro Housing Authority - \$220,711

Rutherford County Area Habitat for Humanity - \$75,000

CHDO – \$84,488

To provide feedback on these proposed activities or to learn more,
contact the Community Development Office.

615-890-4660 | communitydevelopment@murfreesborotn.gov

2025 Annual Action Plan



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contact the Community Development Office.

615-890-4660 | communitydevelopment@murfreesborotn.gov



2025 - 2029

CONSOLIDATED PLAN

& 2025 ANNUAL ACTION PLAN

PREPARED FOR:

The City of Murfreesboro
Community Development



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Executive Summary

ES-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

Every five years, the U.S. Department of Housing and Urban Development (HUD) requires the development of a Consolidated Plan to help the City of Murfreesboro assess community needs and facilitate a citywide dialogue on affordable housing and community development priorities. The City's Consolidated Plan for the period of July 1, 2025, to June 30, 2029, serves as the application for federal entitlement funding through the following programs that support low-income individuals and families:

- Community Development Block Grant (CDBG)
- HOME Investment Partnerships Program (HOME)

The Five-Year Consolidated Plan outlines Murfreesboro's affordable housing, community development, and homelessness needs, along with a strategic approach to addressing them. The document includes required narrative responses to comply with HUD's Consolidated Planning Regulations. All funds must benefit low- and moderate-income (LMI) individuals and families and must be used to advance at least one of the following objectives for LMI persons:

- Increase the availability, accessibility, affordability, and sustainability of decent housing
- Create suitable living environments
- Expand economic opportunities

The City of Murfreesboro has contracted with BluLynx Solutions to develop these planning documents.

2. Summary of the objectives and outcomes identified in the Plan Needs Assessment Overview

The City of Murfreesboro has established priorities and goals to address community needs over the next five years. This plan outlines the City's housing, community development, and economic development needs and is based on data from various sources, including the U.S. Census, the 2022 1-Year American Community Survey (ACS), and a specialized tabulation of ACS data known as the Comprehensive Housing

Affordability Strategy (CHAS), which estimates the number of households experiencing one or more housing challenges.

Additionally, local data on homelessness and assisted housing is incorporated to provide a comprehensive understanding of community needs. Public input, gathered through interviews, focus groups, meetings, and community surveys, is combined with data analysis to identify priority needs related to affordable housing, homelessness, assisted housing, community development, and economic development in Murfreesboro.

FY2025-2029 Consolidated Plan Priorities

- Preservation of Existing Homes
- Increased Homeownership Opportunities
- Public Facilities and Improvements
- Affordable Housing
- Improving Public Services
- Fair Housing
- Program Administration and Planning

3. Evaluation of past performance

CDBG and HOME funds received during the 2020-2024 Consolidated Plan period enabled the City of Murfreesboro to enhance housing opportunities, strengthen neighborhoods, and provide essential services for low- and moderate-income residents. Each year, the City reports its progress toward achieving its five-year strategic and annual goals in the Consolidated Annual Performance and Evaluation Report (CAPER).

Through the use of CDBG and HOME funds, the City made significant progress by increasing the supply of affordable permanent housing, providing public services for households in need, improving public infrastructure and facilities, and affirmatively furthering fair housing. The summaries below highlight key outcomes in affordable housing, homelessness and special needs activities, and other efforts aligned with the City's strategic priorities as outlined in its Consolidated and Annual Action Plans.

4. Summary of citizen participation process and consultation process

The City of Murfreesboro conducted extensive consultations through interviews and focus groups with residents, municipal officials, nonprofit organizations, public housing agencies, private developers, government entities, and the Continuum of Care in the development of this plan. City staff and consultants hosted two in-person meetings

before drafting the plan to gather input from stakeholders and the general public. Details of these meetings are outlined in the consultation section below.

To further engage the community, a needs assessment survey was conducted to collect input from residents and stakeholders regarding the City's priorities for federal funding, which primarily serves low- to moderate-income individuals and areas. The survey asked respondents to assess the level of need in their neighborhoods across various categories that could potentially be addressed through Consolidated Plan funding. It was available in both print and electronic formats via SurveyMonkey, accessible on smartphones, tablets, and web browsers. While the survey was primarily available in English, translations in Vietnamese and Spanish were provided upon request. A total of 107 responses were collected, and the results are included in the Appendix of this document.

To gather public feedback on the draft 2025-2029 Consolidated Plan, the City held two additional public meetings and one formal public hearing to receive comments on the draft document.

5. Summary of public comments

The summary of public comments will be included and the conclusion of the public comment period.

6. Summary of comments or views not accepted and the reasons for not accepting them

All comments were accepted.

7. Summary

The Proposed Consolidated Plan 2025-2029 established strategic priorities as a product of extensive consultation with community stakeholders, combined with data from the U.S. Census and other sources, which indicate specific housing and community development needs in the City of Murfreesboro. Combined with a needs assessment survey, under the Citizen Participation Plan, the City identified the following strategic priorities to address utilizing CDBG and HOME funds in conjunction with leveraging other public and private investments:

- Preservation of existing homes
- Increased homeownership opportunities
- Public Facilities and Improvements
- Affordable Housing
- Improving Public Services
- Fair Housing

- Program Administration and Planning

Over the next five years, the City will continue to focus on developing affordable housing opportunities for low-income families and supporting local efforts to address critical basic needs for families and individuals in need.

The Process

PR-05 Lead & Responsible Agencies 24 CFR 91.200(b)

1. Describe agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
Lead Agency	Murfreesboro	Community Development Department
CDBG Administrator	Murfreesboro	Community Development Department
HOME Administrator	Murfreesboro	Community Development Department

Table 1 – Responsible Agencies

Narrative

The City of Murfreesboro's Community Services Department serves as the lead agency responsible for developing, administering, and evaluating the 5-Year Consolidated Plan and Annual Action Plan. The City of Murfreesboro provides administrative support on financial matters, internal controls, and processes to ensure compliance with federal grant requirements. City staff, along with its consultants, conducted research and prepared this Plan, which outlines a comprehensive strategy to address the City's housing and community development needs using CDBG and HOME program funds.

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PR-10 Consultation – 91.100, 91.110, 91.200(b), 91.300(b), 91.215(I) and 91.315(I)

1. Introduction

The City of Murfreesboro conducted extensive consultations through interviews and focus groups with residents, municipal officials, nonprofit organizations, public housing agencies, private developers, government entities, and the Continuum of Care in the development of this plan. City staff and consultants hosted two in-person public meetings before drafting the plan to gather input from stakeholders and the general public. A summary of these meetings is provided in the sections below.

Provide a concise summary of the jurisdiction’s activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(I)).

Murfreesboro’s approach to enhancing coordination is built on robust public and stakeholder engagement. In developing its Consolidated Plan, the City established a comprehensive stakeholder list that brought together public agencies, assisted and public housing providers, nonprofit housing developers, and private as well as governmental health, mental health, and human services organizations. To ensure a well-informed strategy, the City conducted multiple public meetings, needs assessments, and surveys to validate data, identify priority needs, and integrate feedback from diverse groups, including service providers working with low-income and homeless populations. Additionally, Murfreesboro coordinated closely with local housing authorities and the Continuum of Care partners to align housing assistance with health and supportive services, ensuring that vulnerable populations—such as chronically homeless individuals, families with children, veterans, and unaccompanied youth—receive integrated support. The City also fostered ongoing communication and regular consultation through public hearings and subrecipient meetings to refine strategies, maximize the use of federal and state resources, and build long-term partnerships among housing and social service entities. These efforts demonstrate the City’s commitment to a coordinated, cross-sector strategy in addressing affordable housing and related social service needs in compliance with 24 CFR §91.215(I).

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness

The City of Murfreesboro actively collaborates with the United Way of South Central Tennessee, as well as local service providers, to strengthen the community's Continuum of Care (CoC) system in addressing homelessness. This partnership brings together various community organizations and government agencies to create a comprehensive and coordinated response. The United Way of South Central Tennessee serves as the Lead Agency for the CoC and has been designated as the Collaborative Applicant for HUD's CoC grant funding, ensuring a streamlined approach to securing and utilizing resources effectively.

To enhance coordination among public, private, and nonprofit housing providers, human service agencies, and social service organizations, the City undertakes several key actions. It continues to work alongside other jurisdictions and the Murfreesboro Housing Authority to prioritize housing needs, provide critical services, and maximize the use of federal, state, and local funding for affordable housing, community development, and related services. Additionally, the City remains actively involved in coordinated efforts to provide shelter and services for homeless individuals and families, ensuring that those in need have access to comprehensive support.

City staff also play a direct role in shaping policy and service delivery by participating in committees that oversee the implementation of the 10-Year Plan to End Homelessness. Their involvement helps guide strategic decisions and ensures that local initiatives align with broader efforts to reduce homelessness. Through these coordinated actions, Murfreesboro strengthens its support system for vulnerable populations and continues to work toward sustainable solutions for housing stability and homelessness prevention.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards and evaluate outcomes, and develop funding, policies and procedures for the administration of HMIS

The City of Murfreesboro collaborates closely with the United Way of South Central Tennessee, the designated Collaborative Applicant for the local Continuum of Care (CoC), to effectively manage and allocate resources aimed at addressing homelessness.

- **Allocation of Emergency Solutions Grant (ESG) Funds:**

City staff actively participate in CoC meetings, working alongside the United Way to assess community needs and determine the most effective allocation of state ESG funds. This collaborative approach ensures that funding decisions are data-driven and aligned with the specific requirements of the community including the Consolidated Plan.

- **Development of Performance Standards and Outcome Evaluation:**

The CoC's Service Delivery Committee, which includes representatives from the City and the United Way, is responsible for establishing performance standards for ESG-funded projects and ensuring their consistency with the Consolidated Plan. This committee monitors program outcomes to ensure that services are effective in reducing homelessness and meeting the community's needs.

- **Administration of the Homeless Management Information System (HMIS):**

The United Way, serving as the Collaborative Applicant, works in conjunction with the CoC to oversee the administration of HMIS. This includes developing funding strategies, policies, and procedures to ensure accurate data collection and reporting, which are essential for evaluating program performance and securing future funding.

Through this coordinated effort, the City of Murfreesboro and the United Way of South Central Tennessee effectively address homelessness by ensuring that resources are allocated efficiently, performance standards are met, and data management systems are robust and reliable.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdictions consultations with housing, social service agencies and other entities

1	Agency/Group/Organization	The Family Center
	Agency/Group/Organization Type	Children Services
	What section of the Plan was addressed by Consultation?	Other – Non-Housing Community Development Needs
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting
2	Agency/Group/Organization	Boys & Girls Club of Rutherford County
	Agency/Group/Organization Type	Youth services
	What section of the Plan was addressed by Consultation?	Other – Non-Housing Community Development Needs

	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting
3	Agency/Group/Organization	Doors of Hope
	Agency/Group/Organization Type	Services - Homeless
	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting
4	Agency/Group/Organization	The Journey Home
	Agency/Group/Organization Type	Housing/Homeless
	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting
5	Agency/Group/Organization	United Way of South Central Tennessee
	Agency/Group/Organization Type	Services - Homeless
	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy
	How was the agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting.
6	Agency/Group/Organization	Murfreesboro Police Department HOST
	Agency/Group/Organization Type	Services - Homeless
	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy

	How was the agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting.
7	Agency/Group/Organization	Hazard Mitigation
	Agency/Group/Organization Type	City Government
	What section of the Plan was addressed by Consultation?	Market Analysis
	How was the agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The City of requested input from the Department of Emergency Management regarding services provided, statistical data and/or specific actions currently underway or being implemented as it pertains to the Consolidated Plan.
8	Agency/Group/Organization	Federal Communications Commission
	Agency/Group/Organization Type	Federal Government
	What section of the Plan was addressed by Consultation?	Market Analysis
	How was the agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The City requested specific data pertaining to Murfreesboro from this organization regarding services provided, statistical data and/or specific actions currently underway or being implemented as it pertains to the Consolidated Plan. The FCC provides data on internet coverage and access allowing the City of Murfreesboro to adequately plan digital equity initiatives in the City.
9	Agency/Group/Organization	Barnaba Vision
	Agency/Group/Organization Type	Non-Profit Agency
	What section of the Plan was addressed by Consultation?	Non-Homeless Needs Assessment Anti-Poverty Strategy
	How was the agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The City of Murfreesboro requested input from this organization regarding services provided, statistical data and/or specific actions currently underway or being implemented as it pertains to the Consolidated Plan.
10	Agency/Group/Organization	The Salvation Army
	Agency/Group/Organization Type	Services - Homeless

11	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy
	How was the agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting.
	Agency/Group/Organization	The Journey Home
	Agency/Group/Organization Type	Services - Homeless
11	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy
	How was the agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting.

Table 2 – Agencies, groups, organizations who participated
Identify any Agency Types not consulted and provide rationale for not consulting

The City did not exclude any agency type or agency during this process.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	United Way of South Central Tennessee	Affordable housing, services, and economic development
10-Year Plan to Prevent Hunger and End Homelessness	United Way of South Central Tennessee	The Strategic Plan's goals to address homelessness align with Continuum of Care's goals and strategies.
Analysis of Impediments to Fair Housing Choice, 2025	City of Murfreesboro	Barriers to affordable housing opportunities from the Analysis of Impediments were included in this Action Plan.
Public Housing Plan	Murfreesboro Housing Authority	MHA's Five-Year Plan to ensure consistency with City's HUD Consolidated Plan

Table 3 – Other local / regional / federal planning efforts

Describe cooperation and coordination with other public entities, including the State and any adjacent units of general local government, in the implementation of the Consolidated Plan (91.215(I))

In compliance with 24 CFR 91.100(4), the City of Murfreesboro ensures that adjacent local government units are informed about the non-housing community development needs outlined in its Consolidated Plan. This notification process fosters regional collaboration and ensures that community development efforts align with broader regional goals. The City remains committed to maintaining active engagement with public entities at the local, state, and federal levels to facilitate coordination in the implementation of the Consolidated Plan. By fostering cooperation and strategic alignment, the City maximizes the impact of its housing and community development initiatives, enhancing the quality of life for residents and ensuring the efficient use of available resources.

Narrative (optional):

Together, these agencies play a vital role in delivering housing and supportive services to the community's special needs populations, including persons with disabilities, homeless families and individuals, chronically homeless persons, persons with HIV/AIDS, and the elderly. Their collective efforts ensure that vulnerable residents have access to safe, stable housing and essential services that promote self-sufficiency and well-being. In addition to the agencies previously mentioned, several other groups and organizations actively participated in the consultation process during the development of the plan. Their contributions provided critical insights into the needs of the community, helping to shape strategies that effectively address housing and supportive service challenges. Through this collaborative approach, the City strengthens its capacity to serve its most at-risk populations and enhance overall community development efforts.

PR-15 Citizen Participation – 91.105, 91.115, 91.200(c) and 91.300(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

City of Murfreesboro Community Development staff worked with the community in developing goals and objectives. The developed goals are a result of feedback from the community regarding issues to be resolved and projects in need of funding. The City has an adopted Citizen Participation Plan to ensure consistent outreach efforts. A community needs survey in English and Spanish was available to residents, housing service providers. The survey ran from January 3, 2025 to January 31, 2025 and was advertised along with the community meetings through a newspaper advertisement and English and Spanish. A total of 116 surveys were collected.

The City will hold an initial Public Review Meeting to solicit comments on the amended 2025-2029 Consolidated Plan and 2025 Annual Action Plan on Tuesday, March 30, 2025 at the Murfreesboro Airport Business Center located at 1930 Memorial Blvd. Murfreesboro, TN, 37130. The City commenced its first 30-day Public Comment period on Tuesday, March 11, 2025 and ended on Friday, April 11, 2025. The City accepted and incorporated written comments for the Plan until 5:00 P.M. on Friday, April 11, 2025. The City commenced its second 30-day Public Comment period on Tuesday, May 20, 2025 and will end on Monday, June 23, 2025. The City will also hold an additional Public Review Meeting on June 17, 2025 at the Murfreesboro Airport Business Center located at 1930 Memorial Blvd, Murfreesboro, TN 37130. The City will also accept and incorporate written comments for the Plan until 5:00 P.M. on Monday, June 23, 2025.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Survey	Non-targeted/ broad community	A total of 116 surveys was received.	See Survey Results in Citizen Participation Comments.	None	file:///F:/Murfreeboro/2025-2029%20ConPlan/Murfreeboro%20Needs%20Revised.pdf
2	Public Hearing	Non-targeted/ broad community	Local organizations attended the Needs Assessment Meeting and One-on-One Meetings with stakeholders	Affordable housing, lack of affordable rental housing, lack of shelters, homeless prevention assistance and improved transportation options in the City were the top needs identified.	None	N/A
3	Newspaper Ad	Non-targeted/ broad community	The public was notified of the public meetings via a newspaper ad	The City did not receive any comments based solely on the newspaper ad.	All comments were accepted	N/A

Table 4 – Citizen Participation Outreach

Needs Assessment

NA-05 Overview

Needs Assessment Overview

The City of Murfreesboro is dedicated to promoting the development and maintenance of high-quality housing and appropriate living conditions for individuals with low to moderate incomes through the Consolidated Planning process. A Needs Assessment has been conducted to evaluate housing challenges faced by both renters and homeowners throughout Murfreesboro. The data collected reveals the number and percentage of these groups that may encounter housing difficulties based on their income levels. The Comprehensive Housing Affordability Strategy (CHAS) data highlights the households requiring housing assistance, derived from a specialized tabulation of the 2016-2020 American Community Survey (ACS) data provided by the Census Bureau. This specialized data offers insights into the number of households experiencing various housing issues that align with specific criteria established by HUD, including defined income limits (primarily at 30%, 50%, and 80% of Area Median Income) and household types that are particularly relevant to planners and policymakers. It is important to note that CHAS data often lags more current ACS data due to the necessity for the Census Bureau to conduct further calculations of estimated housing problems at a more granular level.

For the current Consolidated Plan period, most of the data utilized originates from a HUD-prepared tabulation of U.S. Census and ACS data spanning 2016 to 2020. The City is employing the most recent data available from HUD to depict housing challenges within Murfreesboro, specifically the 2016-2020 Comprehensive Housing Affordability Data (CHAS), as enhanced disclosure avoidance measures implemented by the Census have led to the suppression of some previously available estimates. To accommodate for the rapid change, the latest U.S. Census and American Community Survey have been added manually as an alternative data source, where appropriate.

The Needs Assessment concludes with a review of non-housing community development needs, including the need for public facilities, improvements, and services. The sections below provide highlights of the assessment.

NA-10 Housing Needs Assessment - 24 CFR 91.205 (a,b,c)

Summary of Housing Needs

Murfreesboro, Tennessee, is currently evaluating its housing requirements to guide future development and community planning efforts. Understanding the specific housing needs of Murfreesboro is essential for formulating a practical and effective strategy for affordable housing. Consequently, an analysis of affordable rental options and single-family homes was conducted, drawing on the city's demographic, economic, and housing data. This assessment employed HUD's innovative eCon Planning Suite, which is part of the Integrated Disbursement and Information System (IDIS). The eCon Planning Suite automatically populates the latest housing and economic data, aiding jurisdictions in determining funding priorities for the Consolidated Plan and Annual Action Plan. The HUD CHAS data highlights that issues such as overcrowding, extreme cost burden, inadequate kitchen facilities, and insufficient plumbing primarily impact the poor and working poor.

Demographics	Base Year: 2009	Most Recent Year: 2020	% Change
Population	117,975	141,700	20%
Households	44,520	52,255	17%
Median Income	\$51,094.00	\$60,683.00	19%

Table 5 - Housing Needs Assessment Demographics

Data Source: 2000 Census (Base Year), 2016-2020 ACS (Most Recent Year)

Number of Households Table

	0-30% HAMFI	>30-50% HAMFI	>50-80% HAMFI	>80-100% HAMFI	>100% HAMFI
Total Households	6,393	6,635	11,830	6,260	21,130
Small Family Households	2,203	2,440	4,490	2,550	12,345
Large Family Households	380	279	895	399	2,074
Household contains at least one person 62-74 years of age	789	699	1,574	934	3,684
Household contains at least one person age 75 or older	499	704	864	290	1,085
Households with one or more children 6 years old or younger	1,024	1,339	1,599	895	3,229

Table 6 - Total Households Table

Data Source: 2016-2020 CHAS

Housing Needs Summary Tables

1. Housing Problems (Households with one of the listed needs)

	Renter					Owner				
	0-30% AMI	>30- 50% AMI	>50- 80% AMI	>80- 100% AMI	Total	0- 30% AMI	>30- 50% AMI	>50- 80% AMI	>80- 100% AMI	Total
NUMBER OF HOUSEHOLDS										
Substandard Housing - Lacking complete plumbing or kitchen facilities	110	180	0	125	415	15	0	20	0	35
Severely Overcrowded - With >1.51 people per room (and complete kitchen and plumbing)	50	60	130	10	250	0	0	4	14	18
Overcrowded - With 1.01-1.5 people per room (and none of the above problems)	80	100	285	65	530	45	10	15	50	120
Housing cost burden greater than 50% of income (and none of the above problems)	3,170	1,045	130	15	4,360	670	584	125	44	1,423

	Renter					Owner				
	0-30% AMI	>30-50% AMI	>50-80% AMI	>80-100% AMI	Total	0-30% AMI	>30-50% AMI	>50-80% AMI	>80-100% AMI	Total
Housing cost burden greater than 30% of income (and none of the above problems)	444	2,290	2,935	164	5,833	340	715	1,255	455	2,765
Zero/negative Income (and none of the above problems)	380	0	0	0	380	119	0	0	0	119

Table 7 – Housing Problems Table

Data 2016-2020 CHAS
Source:

2. Housing Problems 2 (Households with one or more Severe Housing Problems: Lacks kitchen or complete plumbing, severe overcrowding, severe cost burden)

	Renter					Owner				
	0-30% AMI	>30-50% AMI	>50-80% AMI	>80-100% AMI	Total	0-30% AMI	>30-50% AMI	>50-80% AMI	>80-100% AMI	Total
NUMBER OF HOUSEHOLDS										
Having 1 or more of four housing problems	3,405	1,380	540	215	5,540	730	594	165	110	1,599
Having none of four housing problems	1,583	3,075	6,925	3,255	14,838	655	1,605	4,205	2,690	9,155
Household has negative income, but none of the other housing problems	0	0	0	0	0	0	0	0	0	0

Table 8 – Housing Problems 2

Data 2016-2020 CHAS
Source:

3. Cost Burden > 30%

	Renter				Owner			
	0-30% AMI	>30-50% AMI	>50-80% AMI	Total	0-30% AMI	>30-50% AMI	>50-80% AMI	Total
NUMBER OF HOUSEHOLDS								
Small Related	1,599	1,305	1,175	4,079	279	719	515	1,513
Large Related	230	125	80	435	105	84	85	274
Elderly	334	359	189	882	459	329	378	1,166
Other	1,650	1,865	1,660	5,175	219	170	384	773
Total need by income	3,813	3,654	3,104	10,571	1,062	1,302	1,362	3,726

Table 9 – Cost Burden > 30%

Data 2016-2020 CHAS
Source:

4. Cost Burden > 50%

The information presented in Table 10 reveals that a total of 4,261 households in Murfreesboro allocate 50% or more of their income towards housing expenses, comprising 2,984 renter households and 1,277 owner-occupied households. The following is a detailed analysis of the income levels of renters who are facing a cost burden exceeding 50% of their family income:

- 23.66% earn less than 30% of the Area Median Income (AMI)
- 50.65% earn between 30% and 50% of AMI
- 25.70% earn between 50% and 80% of AMI.

	Renter				Owner			
	0-30% AMI	>30-50% AMI	>50-80% AMI	Total	0-30% AMI	>30-50% AMI	>50-80% AMI	Total
NUMBER OF HOUSEHOLDS								
Small Related	0	0	260	260	139	304	0	443
Large Related	0	0	55	55	85	39	10	134
Elderly	279	250	35	564	355	135	60	550
Other	0	1,430	675	2,105	150	0	0	150
Total need by income	279	1,680	1,025	2,984	729	478	70	1,277

Table 10 – Cost Burden > 50%

Data 2016-2020 CHAS
Source:

5. Crowding (More than one person per room)

The Department of Housing and Urban Development (HUD) characterizes overcrowding as situations where residences accommodate more than one individual per room. Furthermore, there exists a category known as severe overcrowding, which applies when the number of occupants exceeds 1.5 individuals per room. A cost burden is identified when housing expenses, inclusive of utilities, surpass 30% of a household's monthly income. In cases where these costs exceed 50% of monthly income, it is referred to as a severe cost burden. Presently, the available housing options present significant difficulties for working-class families with two or more children, often compelling them to seek affordable family housing in neighboring areas.

	Renter					Owner				
	0-30% AMI	>30-50% AMI	>50-80% AMI	>80-100% AMI	Total	0-30% AMI	>30-50% AMI	>50-80% AMI	>80-100% AMI	Total
NUMBER OF HOUSEHOLDS										
Single family households	110	100	390	95	695	45	10	19	39	113
Multiple, unrelated family households	20	0	25	40	85	0	0	0	25	25
Other, non-family households	0	60	0	0	60	0	0	0	0	0
Total need by income	130	160	415	135	840	45	10	19	64	138

Table 11 – Crowding Information – 1/2

Data 2016-2020 CHAS
Source:

	Renter				Owner			
	0-30% AMI	>30-50% AMI	>50-80% AMI	Total	0-30% AMI	>30-50% AMI	>50-80% AMI	Total
Households with Children Present								

Table 12 – Crowding Information – 2/2

1. Describe the number and type of single person households in need of housing assistance.

Single-person households constitute a considerable segment of the community and encounter unique housing difficulties. Individuals in these households who earn at or below the specified income threshold frequently allocate an excessive portion of their earnings to housing costs, resulting in financial insecurity. The lack of affordable housing options for low-income individuals significantly heightens the risk of homelessness for single-person households. In addition to financial support, many individuals also need access to essential services, including job training, mental health support, and substance abuse treatment, to secure and sustain stable housing.

2. Estimate the number and type of families in need of housing assistance who are disabled or victims of domestic violence, dating violence, sexual assault and stalking.

Determining the precise number of families in Murfreesboro who are disabled or have experienced domestic violence, dating violence, sexual assault, and stalking, and who require housing assistance, is difficult because of the scarcity of publicly accessible data. The City of Murfreesboro, in partnership with nonprofit organizations, provides affordable rental and homeownership options, with specific support for individuals with disabilities. The Domestic Violence & Sexual Assault Center in Murfreesboro offers essential services such as emergency shelter, court advocacy, and counseling for victims. Additionally, the Murfreesboro Housing Authority oversees public housing and delivers rental assistance to low-income residents, including those with disabilities and survivors of domestic violence.

3. What are the most common housing problems?

Murfreesboro, Tennessee, is currently facing a range of housing issues stemming from its swift growth and development. The median home prices in the area have surged by 166%, approaching \$420,000 in 2023, which has rendered homeownership increasingly difficult for many residents. The supply of affordable housing has not matched the rising demand, resulting in a notable shortage. Low-income families are at risk of eviction due to the scarcity of affordable housing alternatives. According to the Murfreesboro Housing Authority, there is a waitlist of around 2,000 applications for housing assistance. Additionally, residents have raised concerns that the influx of new housing developments could place additional pressure on the existing infrastructure, including roads and educational facilities.

4. Are any populations/household types more affected than others by these problems?

Housing issues in Murfreesboro significantly affect lower-income individuals, seniors, young adults, minorities, and essential workers. A considerable number of low-income families allocate over 30-50% of their earnings to rent, which hampers their ability to cover other essential expenses such as food, healthcare, and transportation. Retirees living on fixed incomes find it increasingly challenging to manage rising property taxes and maintenance expenses, complicating their ability to remain in their residences. Single parents, particularly those employed in minimum-wage positions, frequently encounter difficulties in securing safe and affordable housing. Furthermore, Black and Hispanic households are disproportionately affected by housing instability, facing greater rent burdens and restricted access to homeownership opportunities, a situation rooted in historical economic inequalities. Low-wage workers in sectors such as restaurants, retail, and hospitality are among those most burdened by rent and have limited options for affordable housing.

5. Describe the characteristics and needs of Low-income individuals and families with children (especially extremely low-income) who are currently housed but are at imminent risk of either residing in shelters or becoming unsheltered 91.205(c)/91.305(c)). Also discuss the needs of formerly homeless families and individuals who are receiving rapid re-housing assistance and are nearing the termination of that assistance

Low-income individuals and families with children face a significant risk of homelessness, primarily due to allocating 50% or more of their income towards housing costs. This financial strain leaves them with insufficient resources for essential needs such as food, healthcare, and transportation. Employment opportunities in sectors such as hospitality, retail, food service, and gig work typically offer low wages, irregular hours, and lack of benefits, further exacerbating their financial instability. Many of these individuals possess minimal savings, rendering them particularly susceptible to unforeseen expenses, including medical emergencies, vehicle repairs, or job loss. Although some depend on assistance programs like SNAP, TANF, Section 8, or childcare subsidies, these resources frequently come with lengthy waitlists or gaps in eligibility. Additionally, a number of families find themselves living in overcrowded situations with extended relatives or in substandard rental properties that pose safety risks. The city has experienced an increase in homelessness, leading to a greater number of individuals reaching out for assistance from organizations such as The Journey Home and The Salvation Army. Emergency housing and transitional programs are often overwhelmed, resulting in many individuals resorting to living in vehicles, motels, or encampments.

Numerous families and individuals who were previously homeless and are currently benefiting from rapid re-housing assistance are approaching the end of this support while still lacking financial independence. This situation poses challenges for them in affording rent without continued aid. Factors such as previous evictions, poor credit histories, or prolonged periods of homelessness complicate their ability to obtain housing without financial subsidies. Additionally, some individuals hold part-time or seasonal employment, which does not guarantee a consistent income. Many lack a support network of family or friends who could offer temporary accommodation or financial assistance during difficult times. Furthermore, a significant number of families and individuals face physical disabilities, PTSD, or other mental health issues that necessitate ongoing support. Individuals continue to require Housing Choice Vouchers (Section 8) or permanent supportive housing to maintain their stability. Ongoing access to counseling and support groups is also essential.

6. If a jurisdiction provides estimates of the at-risk population(s), it should also include a description of the operational definition of the at-risk group and the methodology used to generate the estimates:

The City of Murfreesboro pulls data for its at-risk population through the Murfreesboro/Rutherford County CoC Point in Time Count. The at-risk group refers to individuals and households who are currently housed but face imminent risk of homelessness due to economic, social, or structural factors. The Murfreesboro/Rutherford County CoC prepares a point-in-time count to estimate the number of people who are considered at-risk. This effort aims to gather data on both sheltered and unsheltered populations, providing valuable insights for resource allocation and program development. The data collected is instrumental in understanding the scope of homelessness in the area and in shaping local policies and services.

7. Specify particular housing characteristics that have been linked with instability and an increased risk of homelessness

The foremost housing issue associated with instability and a heightened risk of homelessness is the scarcity of affordable housing options. This deficiency often compels families to share living spaces with relatives or friends, leading to situations where these households are precariously close to losing their homes due to overcrowding and various relational or financial challenges. Additionally, exorbitant utility costs frequently arise in conjunction with a lack of energy-efficient housing, further straining household budgets. Deteriorating housing conditions that render living spaces unsafe or uninhabitable also contribute to this risk, particularly when families lack the means to relocate. Moreover, overcrowded living environments can exacerbate existing mental health challenges or

interpersonal conflicts, which may increase the financial strain on the primary household, thereby elevating the likelihood of homelessness for individuals or families.

Discussion

Households are classified as cost burdened when their housing expenses surpass 30 percent of their gross income, and they are deemed severely cost burdened when these expenses exceed 50 percent of their gross income. In Murfreesboro, a considerable number of households allocate half of their gross monthly income to housing costs. The rising expenses associated with inflation, including those for food, transportation, healthcare, utilities, and other necessities, may render these households susceptible to eviction and homelessness. Furthermore, unforeseen life events such as illness, job loss, or other circumstances that lead to a decrease in income or unexpected costs can heighten a household's vulnerability. A limited or absent income is often associated with instability and an increased risk of homelessness.

NA-15 Disproportionately Greater Need: Housing Problems – 91.205 (b)(2)

Assess the need of any racial or ethnic group that has disproportionately greater need in comparison to the needs of that category of need as a whole.

Introduction

The CHAS data tables from 2016-2020 presented below outline the percentage of each racial and ethnic group facing housing challenges, categorized by HUD Adjusted Median Income (AMI) levels. These tables are divided into four income ranges: 0% - 30% of Area Median Income, 30% - 50% of Area Median Income, 50% - 80% of Area Median Income, and 80% - 100% of Area Median Income.

Housing requirements are primarily determined by the state of current residences and the capacity of inhabitants to maintain and repair their homes, as well as their financial ability to cover rental or mortgage expenses. The U.S. Department of Housing and Urban Development (HUD) characterizes disproportionately greater need as the situation faced by individuals from racial or ethnic minority groups who encounter issues at a rate of 10% or more compared to the overall income group. For the purposes of this analysis, HUD's definition of disproportionately greater need will be utilized. The four identified housing issues are as follows:

- Absence of complete kitchen facilities.
- Absence of complete plumbing facilities.
- Overcrowding (defined as more than one person per room); and
- Cost burden exceeding 30%.

0%-30% of Area Median Income

Housing Problems	Has one or more of four housing problems	Has none of the four housing problems	Household has no/negative income, but none of the other housing problems
Jurisdiction as a whole	4,944	1,449	0
White	2,999	764	0
Black / African American	1,320	355	0
Asian	80	109	0
American Indian, Alaska Native	0	0	0
Pacific Islander	0	0	0
Hispanic	395	60	0

Table 13 - Disproportionally Greater Need 0 - 30% AMI

Data 2016-2020 CHAS
Source:

*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost Burden greater than 30%

30%-50% of Area Median Income

Housing Problems	Has one or more of four housing problems	Has none of the four housing problems	Household has no/negative income, but none of the other housing problems
Jurisdiction as a whole	4,970	1,674	0
White	3,050	1,380	0
Black / African American	1,195	243	0
Asian	20	0	0
American Indian, Alaska Native	0	0	0
Pacific Islander	0	0	0
Hispanic	599	40	0

Table 14 - Disproportionally Greater Need 30 - 50% AMI

Data 2016-2020 CHAS
Source:

*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost Burden greater than 30%

50%-80% of Area Median Income

Housing Problems	Has one or more of four housing problems	Has none of the four housing problems	Household has no/negative income, but none of the other housing problems
Jurisdiction as a whole	4,880	6,935	0
White	3,075	4,770	0
Black / African American	1,155	1,435	0
Asian	100	309	0
American Indian, Alaska Native	10	0	0
Pacific Islander	0	0	0
Hispanic	310	299	0

Table 15 - Disproportionally Greater Need 50 - 80% AMI
Data 2016-2020 CHAS
Source:

*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost Burden greater than 30%

80%-100% of Area Median Income

Housing Problems	Has one or more of four housing problems	Has none of the four housing problems	Household has no/negative income, but none of the other housing problems
Jurisdiction as a whole	945	5,335	0
White	445	3,675	0
Black / African American	395	918	0
Asian	10	295	0
American Indian, Alaska Native	0	0	0
Pacific Islander	0	0	0
Hispanic	68	295	0

Table 16 - Disproportionally Greater Need 80 - 100% AMI
Data 2016-2020 CHAS
Source:

*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost Burden greater than 30%

Discussion

The data presented in the tables above highlight the differences in housing challenges faced by various racial or ethnic groups and income levels. A comprehensive evaluation indicates that Whites across all income brackets exhibit the highest prevalence of housing issues. Following them, Blacks represent the second-largest group affected. This issue extends beyond those classified as low-income; numerous individuals categorized as moderate to high-income also encounter housing difficulties. The four identified housing problems are significant obstacles that hinder households from operating effectively and securing affordable living conditions. Initiatives aimed at mitigating housing deterioration through repairs to essential facilities such as kitchens and plumbing will not only fulfill residents' basic needs but also contribute to alleviating their financial burdens.

NA-20 Disproportionately Greater Need: Severe Housing Problems – 91.205 (b)(2)

Assess the need of any racial or ethnic group that has disproportionately greater need in comparison to the needs of that category of need as a whole.

Introduction

The information presented in the tables below is derived from specialized tabulations of the Comprehensive Housing Affordability Strategy (CHAS) provided by HUD. It reveals that an increasing number of low-income households are encountering housing challenges. The Housing Needs Tables below illustrate the statistics related to housing issues, income levels, and racial demographics for Murfreesboro. Severe housing challenges are defined as follows:

- More than 1.5 individuals per room
- Cost burden exceeding 50%

A notably greater need is identified when the proportion of individuals within a specific category of need belonging to a racial or ethnic group exceeds the overall percentage of that group by at least 10 percentage points. White and Black / African American populations are more frequently affected by these housing issues, with elderly individuals also representing a significant segment of those experiencing severe housing difficulties. The data suggests that Whites disproportionately occupy housing units that exhibit one or more of the four identified housing problems, with Black/African Americans following closely behind.

0%-30% of Area Median Income

Severe Housing Problems*	Has one or more of four housing problems	Has none of the four housing problems	Household has no/negative income, but none of the other housing problems
Jurisdiction as a whole	4,135	2,238	0
White	2,525	1,223	0
Black / African American	1,030	645	0
Asian	80	109	0
American Indian, Alaska Native	0	0	0
Pacific Islander	0	0	0
Hispanic	365	89	0

Table 17 – Severe Housing Problems 0 - 30% AMI

Data Source: 2016-2020 CHAS

*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost Burden over 50%

30%-50% of Area Median Income

Severe Housing Problems*	Has one or more of four housing problems	Has none of the four housing problems	Household has no/negative income, but none of the other housing problems
Jurisdiction as a whole	1,974	4,680	0
White	1,299	3,155	0
Black / African American	495	948	0
Asian	0	20	0
American Indian, Alaska Native	0	0	0
Pacific Islander	0	0	0
Hispanic	179	460	0

Table 18 – Severe Housing Problems 30 - 50% AMI

Data 2016-2020 CHAS
Source:

*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost Burden over 50%

50%-80% of Area Median Income

Severe Housing Problems*	Has one or more of four housing problems	Has none of the four housing problems	Household has no/negative income, but none of the other housing problems
Jurisdiction as a whole	705	11,130	0
White	385	7,485	0
Black / African American	190	2,405	0
Asian	75	334	0
American Indian, Alaska Native	0	10	0
Pacific Islander	0	0	0
Hispanic	55	554	0

Table 19 – Severe Housing Problems 50 - 80% AMI

Data 2016-2020 CHAS
Source:

*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost Burden over 50%

80%-100% of Area Median Income

Severe Housing Problems*	Has one or more of four housing problems	Has none of the four housing problems	Household has no/negative income, but none of the other housing problems
Jurisdiction as a whole	325	5,945	0
White	114	4,000	0
Black / African American	160	1,159	0
Asian	10	295	0
American Indian, Alaska Native	0	0	0
Pacific Islander	0	0	0
Hispanic	14	349	0

Table 20 – Severe Housing Problems 80 - 100% AMI

Data 2016-2020 CHAS
Source:

*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost Burden over 50%

Discussion

An examination of significant housing issues among different income levels and racial/ethnic demographics uncovers notable patterns of inequality. Throughout all income categories, White and Black or African American households consistently demonstrate a significantly higher demand for housing support than the overall jurisdiction. This observation emphasizes ongoing disparities and highlights the necessity for focused strategies to tackle the unique housing difficulties encountered by these communities. The findings indicate that, even with advancements at elevated income tiers, racial and ethnic minorities continue to be disproportionately impacted by severe housing challenges, reinforcing the critical need for equitable solutions.

NA-25 Disproportionately Greater Need: Housing Cost Burdens – 91.205 (b)(2)

Assess the need of any racial or ethnic group that has disproportionately greater need in comparison to the needs of that category of need as a whole.

Introduction:

Housing Cost Burden

Housing Cost Burden	<=30%	30-50%	>50%	No / negative income (not computed)
Jurisdiction as a whole	36,338	9,239	6,184	504
White	27,130	5,629	3,895	214
Black / African American	5,555	2,260	1,605	140
Asian	1,110	125	95	84
American Indian, Alaska Native	0	10	0	0
Pacific Islander	0	0	0	0
Hispanic	1,645	874	419	60

Table 21 – Greater Need: Housing Cost Burdens AMI

Data Source: 2016-2020 CHAS

Discussion:

NA-30 Disproportionately Greater Need: Discussion – 91.205(b)(2)

- 1. Are there any income categories in which a racial or ethnic group has disproportionately greater need than the needs of that income category as a whole?**

The data indicates that White households, especially among the elderly demographic, are disproportionately represented among those earning less than 30 percent of the Area Median Family Income (AMFI). Overall, in Murfreesboro, elevated housing cost burdens correlate with lower income levels, a higher incidence of housing-related issues, and a concentration of specific ethnic and racial groups, as well as senior residents, in particular geographic areas of the city.

Housing issues predominantly affect low-income, very low-income, and extremely low-income households, where the likelihood of encountering at least one of the four identified housing problems is significantly heightened. These housing challenges are closely associated with specific ethnic and racial groups, with distinct groups manifesting in various categories of issues, including cost burden, overcrowding, and severe housing deficiencies. The most pressing need is illustrated by the cost burden experienced at income levels across diverse demographic segments.

- 2. If they have needs not identified above, what are those needs?**

Households that face a significantly higher level of need often encounter additional challenges, such as the lack of affordable rental options in areas that offer opportunities, particularly those near public transportation and essential supportive services. Furthermore, housing issues, including severe housing challenges, disproportionately impact individuals with disabilities, encompassing those with mental health conditions as well as those with physical, intellectual, and developmental disabilities. This demographic tends to experience some of the lowest income levels and the most critical housing needs. The disparity in income is also evident among various groups, including children from low-income families, individuals with disabilities who receive Supplemental Security Income (SSI), seniors living on fixed incomes, families led by single parents, households managed by seasonal or temporary workers, individuals with lower educational attainment, and those with limited proficiency in English.

- 3. Are any of those racial or ethnic groups located in specific areas or neighborhoods in your community?**

In Murfreesboro, like numerous other cities, particular racial and ethnic communities often concentrate in designated neighborhoods. This phenomenon can be attributed to historical settlement trends, socioeconomic conditions, and the availability of housing. Increased populations of African American residents are notably found in historically Black neighborhoods, especially those located near downtown and along North Highland Avenue. Certain regions within these neighborhoods include public housing developments overseen by the Murfreesboro Housing Authority, including Oakland Court and Parkside. The growing presence of Hispanic and Latino communities is particularly notable in regions characterized by affordable rental housing and mobile home parks. A significant portion of the residents in these areas consists of low- to moderate-income families employed in the service, construction, and manufacturing sectors. West Murfreesboro has a more mixed-income and diverse population, including growing numbers of Asian and Middle Eastern residents. Suburban and affluent regions (Blackman, Siegel, and North Rutherford County) are characterized by a majority of White, middle- to upper-income households. The demographic trends significantly affect the availability of affordable housing, transportation, and community resources. Therefore, it is crucial for urban planning initiatives to tackle the inequalities in housing access and economic opportunities throughout the neighborhoods of Murfreesboro.

NA-35 Public Housing – 91.205(b)

Introduction

The Murfreesboro Housing Authority (MHA) is a nonprofit entity founded in 1950, dedicated to ensuring that eligible families in Murfreesboro, Tennessee, have access to decent, safe, and sanitary housing. The organization emphasizes the importance of serviceability, economic viability, efficiency, and stability in its housing initiatives. Additionally, MHA strives to leverage all available resources to enhance the social and economic prospects of its residents. The Section 8 Homeownership Program offered by the Murfreesboro Housing Authority enables qualified participants to transition from renting to homeownership. To participate, individuals must contribute a minimum of 1% of the home's purchase price, and the mortgage must be secured through a federally regulated financial institution. MHA collaborates with Affordable Housing Resources Inc. to deliver essential pre- and post-purchase counseling for those involved in the program. Currently, MHA administers 695 Housing Choice Vouchers and oversees 120 public housing units.

Totals in Use

	Certificate	Mod-Rehab	Public Housing	Program Type					
				Vouchers					
				Total	Project - based	Tenant - based	Special Purpose Voucher		
							Veterans Affairs Supportive Housing	Family Unification Program	Disabled *
# of units vouchers in use	0	0	278	693	0	663	30	0	0

Table 22 - Public Housing by Program Type

*includes Non-Elderly Disabled, Mainstream One-Year, Mainstream Five-year, and Nursing Home Transition

Data Source: PIC (PIH Information Center)

Characteristics of Residents

	Program Type							
	Certificate	Mod-Rehab	Public Housing	Vouchers				
				Total	Project - based	Tenant - based	Veterans Affairs Supportive Housing	Family Unification Program
Average Annual Income	0	0	11,270	10,250	0	10,339	8,283	0
Average length of stay	0	0	6	5	0	5	0	0
Average Household size	0	0	2	2	0	2	1	0
# Homeless at admission	0	0	6	0	0	0	0	0
# of Elderly Program Participants (>62)	0	0	58	102	0	100	2	0
# of Disabled Families	0	0	68	198	0	188	10	0
# of Families requesting accessibility features	0	0	278	693	0	663	30	0
# of HIV/AIDS program participants	0	0	0	0	0	0	0	0
# of DV victims	0	0	0	0	0	0	0	0

Table 23 – Characteristics of Public Housing Residents by Program Type

Data Source: PIC (PIH Information Center)

Race of Residents

Race	Program Type								
	Certificate	Mod-Rehab	Public Housing	Vouchers					
				Total	Project - based	Tenant - based	Special Purpose Voucher		
							Veterans Affairs Supportive Housing	Family Unification Program	Disabled *
White	0	0	119	267	0	250	17	0	0
Black/African American	0	0	146	422	0	409	13	0	0
Asian	0	0	13	1	0	1	0	0	0
American Indian/Alaska Native	0	0	0	2	0	2	0	0	0
Pacific Islander	0	0	0	1	0	1	0	0	0
Other	0	0	0	0	0	0	0	0	0
*includes Non-Elderly Disabled, Mainstream One-Year, Mainstream Five-year, and Nursing Home Transition									

Table 24 – Race of Public Housing Residents by Program Type

Data Source: PIC (PIH Information Center)

Ethnicity of Residents

Ethnicity	Program Type								
	Certificate	Mod-Rehab	Public Housing	Vouchers					
				Total	Project - based	Tenant - based	Special Purpose Voucher		
							Veterans Affairs Supportive Housing	Family Unification Program	Disabled *
Hispanic	0	0	1	7	0	6	1	0	0
Not Hispanic	0	0	277	686	0	657	29	0	0
*includes Non-Elderly Disabled, Mainstream One-Year, Mainstream Five-year, and Nursing Home Transition									

Table 25 – Ethnicity of Public Housing Residents by Program Type

Data Source: PIC (PIH Information Center)

Section 504 Needs Assessment: Describe the needs of public housing tenants and applicants on the waiting list for accessible units:

There is a continual necessity for accommodations related to accessibility features for residents of public housing. The irregularity of open application periods creates challenges in maintaining accurate metrics for quantitative data, which would reveal the number of applicants on each housing authority's waiting list for public housing who require such accessibility features.

Most immediate needs of residents of Public Housing and Housing Choice voucher holders

The needs of residents of Public Housing and Housing Choice voucher holders can be categorized into financial assistance, housing quality, access to supportive services, and community resources. The primary concern is the accessibility of available housing units. Individuals in these categories typically have very low-income levels. Among the urgent requirements identified by residents of Public Housing and participants in the Housing Choice Voucher Programs are the availability of affordable grocery stores, retail outlets, and department stores. These essential needs significantly influence their daily lives and play a crucial role in their capacity to sustain stable housing.

How do these needs compare to the housing needs of the population at large

The housing needs of residents in Public Housing and holders of Housing Choice Vouchers (HCV) are distinct from those of the broader population in Murfreesboro. Although both demographics encounter difficulties related to affordability stemming from escalating housing prices, individuals in subsidized housing endure more pronounced economic instability, encounter increased maintenance problems, and exhibit a heightened reliance on public assistance. Public housing and Housing Choice Voucher (HCV) recipients experience a significantly higher likelihood of being severely rent-burdened, defined as allocating over 50% of their income towards housing costs, compared to middle-income households. Residents of public housing frequently find themselves with limited options to address substandard living conditions, whereas renters in the private market enjoy greater flexibility in relocating to better-maintained properties. Additionally, public housing and HCV recipients rely more heavily on government-funded services, in contrast to middle-income households, which are often able to access private resources or employer-sponsored benefits. Furthermore, those in public housing and HCV programs face considerably fewer housing options and endure longer waiting periods to secure accommodations, while middle-income households benefit from greater mobility based on their financial capacity and personal preferences.

Discussion

NA-40 Homeless Needs Assessment – 91.205(c)

Introduction:

This section provides an assessment of City of Murfreesboro's homeless population and their needs. Data is provided by the United Way of South Central Tennessee Point in Time (PIT) Count of sheltered and unsheltered homeless persons in the City of Murfreesboro. The 2023 PIT Count for the Murfreesboro/Rutherford County Continuum of Care (CoC) took place on the night of January 23, 2023. The count involved local agencies and community volunteers who surveyed both sheltered and unsheltered individuals across all municipalities in Rutherford County, including Murfreesboro. According to the available data for the 2023 PIT Count a total of 339 individuals experiencing homelessness were identified, comprising of 281 adults and 56 children and 39 households. Among these individuals, 16 were veterans, and 116 were classified as chronically homeless. Additionally, 51 individuals were recorded as needing assistance with services.

The number of sheltered individuals counted were 182 individuals, while 155 were counted as unsheltered. The gender distribution reveals that 130 individuals identified as female, 199 as male, 1 as transgender, and 10 as unknown. The racial breakdown indicates that 210 individuals were White, 92 were Black, 8 were Native American, 3 were Asian, 1 was Hispanic, 10 identified as multiple races, and 17 were classified as other.

In terms of age distribution, homelessness affects a wide range of age groups, with ages 25-34 and 35-44 age categories represented. There are also significant numbers in the under 18 and 45-54 age groups as well. A survey methodology analysis reveals that most data was collected through interviews, with a small portion obtained via observations. A heat map of homelessness concentration indicates that homeless individuals are primarily located in and around Murfreesboro, with notable clusters along key transportation routes and city centers.

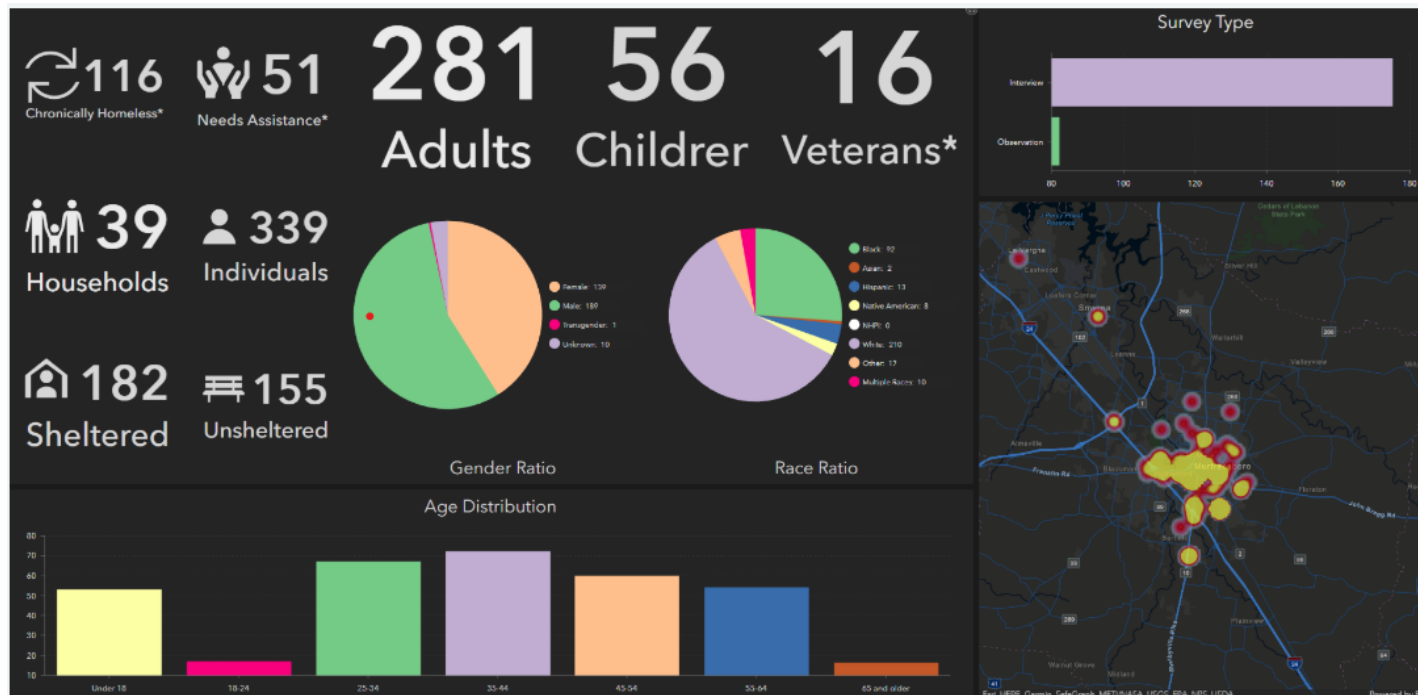


Figure 1: PIT Count 2023

If data is not available for the categories "number of persons becoming and exiting homelessness each year," and "number of days that persons experience homelessness," describe these categories for each homeless population type (including chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth):

Chronically homeless individuals and families often experience long-term or repeated episodes of homelessness, sometimes lasting over a year. Many face significant barriers such as severe mental illness, substance use disorders, chronic health conditions, or disabilities, making it difficult to maintain stable housing without comprehensive supportive services. Programs like Permanent Supportive Housing (PSH) and Housing First initiatives are crucial in helping them exit homelessness.

Families with children typically experience shorter episodes of homelessness, often staying in emergency shelters, transitional housing, or with relatives and friends. Economic hardship, domestic violence, job loss, and high rental costs are common causes. The average duration of homelessness for families ranges from several weeks to months, depending on access to rental assistance, rapid rehousing programs, and childcare support. Similarly, veterans and their families may face short-term or chronic homelessness, often due to service-related disabilities, PTSD, or difficulty transitioning to civilian employment. Federal programs such as HUD-VASH, Supportive Services for Veteran Families (SSVF), and VA health services provide housing assistance and essential support.

Unaccompanied youth frequently experience unstable housing situations, including shelters, couch-surfing, or sleeping in unsafe locations. Many youth experience family conflict, aging out of foster care, financial instability, or exposure to human trafficking risks, leaving them vulnerable to prolonged homelessness. Their experiences can last several months or even years without intervention. Programs such as youth shelters, transitional housing, and mentorship programs help provide education, employment assistance, and pathways to stable housing.

Although precise numerical data may be missing, these descriptions highlight how different subpopulations experience homelessness in Murfreesboro. Understanding these patterns allows local agencies to prioritize funding, develop targeted interventions, and coordinate services to reduce homelessness. Expanding affordable housing, job training programs, mental health services, and case management resources remains essential in breaking the cycle of homelessness in the community

Estimate the number and type of families in need of housing assistance for families with children and the families of veterans.

Based on the 2023 Rutherford County Continuum of Care (CoC) Point-in-Time (PIT) Count, there is a clear need for housing assistance for families with children and veteran families in Murfreesboro. According to the PIT Count, 39 households were experiencing homelessness, which included 56 children. The presence of children in these households emphasizes the urgent need for family-centered housing, such as transitional housing, rapid rehousing programs, and rental assistance.

The PIT Count also revealed 16 homeless veterans in Rutherford County. Ensuring that veteran families have access to affordable housing, case management, and employment resources is crucial in preventing long-term homelessness.

Determining the exact number of families with children and veteran families in Murfreesboro requiring housing assistance is challenging due to limited specific data.

Describe the Nature and Extent of Homelessness by Racial and Ethnic Group.

According to the 2020 United States Census, Murfreesboro's population of 152,769 is composed of approximately 62.15% White (non-Hispanic), 19.26% Black or African American (non-Hispanic), 3.76% Asian (non-Hispanic), 0.26% Native American (non-Hispanic), 0.06% Pacific Islander (non-Hispanic), 4.87% identifying as Mixed Race or Multi-Racial (non-Hispanic), and 9.11% Hispanic or Latino (of any race).

The 2023 PIT Count for Rutherford County count identified that out of the 339 individuals counted, Black or African American individuals constituted approximately 19.26% of Murfreesboro's population but represented about 27.1% of the homeless population, indicating a disproportionate representation. White individuals make up 62.15% of the general population and approximately 61.9% of the homeless population. Hispanic individuals account for 9.11% of the general population but are underrepresented in the homelessness data, with only 1 individual identified.

These disparities suggest that Black or African American individuals in Murfreesboro experience homelessness at a higher rate relative to their share of the general population. This overrepresentation may stem from systemic issues such as economic inequality, limited access to affordable housing, and other socio-economic factors.

Describe the Nature and Extent of Unsheltered and Sheltered Homelessness.

The PIT data shows that out of 339 individuals experiencing homelessness, 182 were in shelters, while 155 remained unsheltered. This indicates a shortage of emergency and

transitional housing options, especially for families with children who may require specialized support services.

NA-45 Non-Homeless Special Needs Assessment - 91.205 (b,d)

Introduction:

Non-homeless special needs characteristics describe the various subpopulations of Murfreesboro who are not homeless but may require supportive services, including the elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with HIV/AIDS, persons with alcohol or drug addiction, victims of domestic violence, persons with a criminal record, those who have limited English proficiency, and those who are transportation disadvantaged. Persons belonging to this population may have additional needs before, during, and after an incident in functional areas including but not limited to maintaining independence, communication, transportation, supervision, and medical care. The section below will describe why identifying the characteristics and needs of these sub-populations is essential to the planning process for these federal dollars.

Describe the characteristics of special needs populations in your community:

Special needs populations in Murfreesboro face unique housing, transportation, and service-related challenges that impact their quality of life and stability. These populations include the elderly, persons with disabilities, individuals with substance use disorders, people living with HIV/AIDS, and victims of domestic violence. Addressing their needs requires a comprehensive approach that integrates affordable and accessible housing, healthcare, supportive services, and transportation options.

Both seniors and individuals with disabilities face difficulties in securing affordable, accessible housing that meets their physical and mobility needs. Many live on fixed incomes, making it difficult to afford rising housing costs, home modifications, or assisted living facilities. Additionally, transportation remains a major challenge, as public transit and paratransit services may be limited or not fully accessible. These populations also require access to home healthcare services, meal assistance programs, and social services to maintain their independence.

Individuals struggling with substance use disorders often encounter barriers to stable housing and treatment services. Many of them face stigma, employment challenges, and legal issues, making it difficult to find housing that supports their recovery. A lack of a centralized resource hub for addiction treatment makes it harder for individuals to connect with detox programs, outpatient treatment, and long-term recovery housing. Expanding access to affordable, supportive housing programs with integrated substance use treatment is critical for this population.

People living with HIV/AIDS often experience income instability due to their medical condition, which increases their risk of homelessness or housing insecurity. They require

affordable, stable housing combined with access to healthcare, case management, and supportive services. Expanding housing assistance programs and ensuring coordination between housing agencies and healthcare providers can help improve their long-term stability.

Survivors of domestic violence have varied housing needs, including emergency shelters, transitional housing, and permanent housing options. Many also require access to medical care, counseling, legal services, and job training programs to regain stability and independence. Limited availability of safe, confidential housing options can force survivors to remain in unsafe situations. Strengthening collaborations between domestic violence service providers, housing agencies, and law enforcement can help address these urgent needs.

What are the housing and supportive service needs of these populations and how are these needs determined?

The primary housing and supportive needs of these subpopulations were determined by input from both service providers and the public through the survey, public meetings, and stakeholder interviews. These needs include affordable, safe housing opportunities in areas with access to transportation and paratransit, commercial and job centers, and social services including counseling, case management, and subsidies for childcare, and for education regarding fair housing rights and actions that can be taken in the event those rights are violated. Persons with disabilities often require accessible features and ground floor housing units and use of supportive/therapeutic animals. Victims of domestic violence need safe housing, removal of barriers to relocation, and protection from perpetrators. Persons with criminal records and their families may be disqualified from public housing or Section 8 rental assistance, and accordingly, assistance with housing for low-income members of this subpopulation must be provided by other nongovernmental organizations. Interviews with stakeholders and residents indicated that residents with alcohol and substance abuse histories, as well as victims of domestic violence may have criminal records.

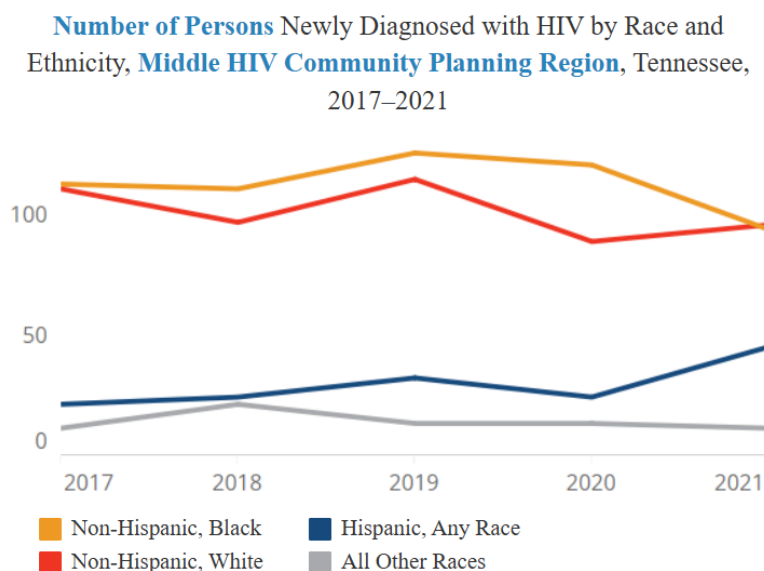
Discuss the size and characteristics of the population with HIV/AIDS and their families within the Eligible Metropolitan Statistical Area:

The Nashville-Davidson--Murfreesboro--Franklin, TN Metropolitan Statistical Area (MSA) encompasses a diverse population, including individuals and families affected by HIV/AIDS. Understanding the size and characteristics of this population is crucial for effective public health planning and resource allocation. According to the Tennessee Department of Health, in 2021 there were 19,523 persons living with HIV, and 843 newly diagnosed persons with HIV in the state. In Rutherford County, which is located in the

Middle HIV Community Planning Region, the rate of people newly diagnosed with HIV was 10.2 per 100,000 persons, and there were 36 (19% of the region) newly diagnosed cases in 2021. This rate was an increase from 2017, in which newly diagnosed cases were 8.5 in 100,000 persons and 27 new cases. Rutherford County has the 2nd highest number of new cases in the planning region, and 1 of the 6 counties with the highest new incidences of new HIV cases in Tennessee.

HIV/AIDS disproportionately affects certain demographic groups within the Nashville MSA. Non-Hispanic Black individuals are diagnosed with HIV at a higher rate, comprising of about half of the incidence and prevalence each year, despite representing a smaller percentage of the overall population. Younger populations are notably impacted, with a significant number of new diagnoses occurring among individuals aged 25–34 years.

Understanding how many people are diagnosed with HIV infection each year, and their stage of disease at diagnosis, is important for planning and resource allocation and for monitoring trends and disparities between groups. Similarly, monitoring HIV incidence is critical for allocating resources and evaluating the effectiveness of HIV testing and other prevention programs. Improved surveillance methods allow resources to be better directed for programs and resources to the populations most affected.



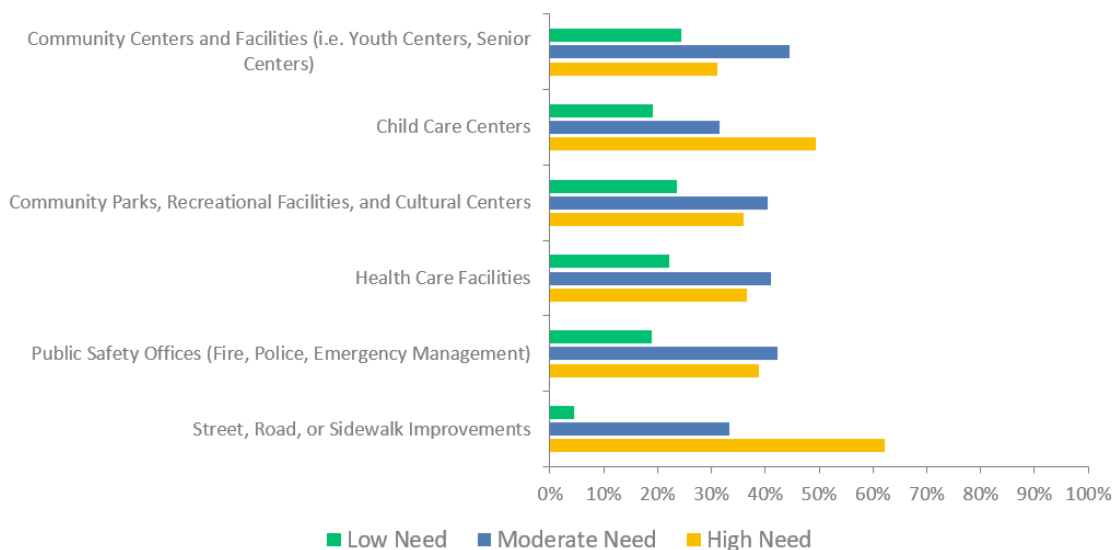
Source: Tennessee Department of Health, HIV Surveillance Reports

NA-50 Non-Housing Community Development Needs – 91.215 (f)

Describe the jurisdiction's need for Public Facilities:

Based on needs assessment survey results, Murfreesboro's residents identified key areas of need for infrastructure and public facilities. Street, road, and sidewalk improvements (62.2%) were identified as the highest priority. Childcare centers (49.44%) ranked 2nd for critical community needs, suggesting a lack of accessible and affordable options for families. Community parks, recreational facilities, and cultural centers (35.96%) were also identified as a significant high demand.

Community centers and facilities such as youth and senior centers (31.11%) were rated as moderate-to-high need, which signals a growing demand for social and support services. Likewise, health care facilities (36.67%) also received a mix of moderate and high-need responses. Public safety offices, including fire, police, and emergency management (38.89%), are viewed as important but not as urgent as other infrastructure improvements based on responses.



Source: 2025 City of Murfreesboro Needs Assessment

How were these needs determined?

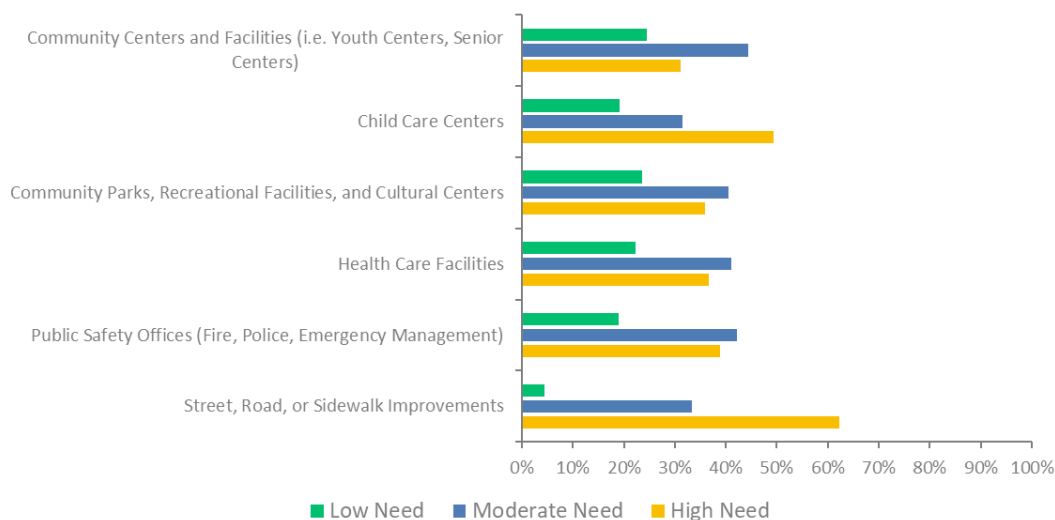
These needs were determined by requesting feedback on needs across the community through a series of stakeholder interviews, public meetings, and an online resident survey.

Describe the jurisdiction's need for Public Improvements:

Based on needs assessment survey results, Murfreesboro's residents identified key areas of need for public improvements. Street, road, and sidewalk improvements emerged as the highest priority, with 62.22% of respondents rating it as a high need, indicating widespread concern about road conditions, pedestrian infrastructure, and overall transportation accessibility. Childcare centers also ranked as a significant need, with 49.44% of respondents identifying it as a high priority.

Other areas of moderate to high need include public safety offices (fire, police, and emergency management) and health care facilities, reflecting concerns about the accessibility and affordability of healthcare. Community parks, recreational facilities, and cultural centers were also recognized as areas needing improvement, indicating a desire for enhanced public spaces and recreational opportunities.

Community centers and facilities were rated as the lowest priority among public improvements, with 31.11% of respondents identifying them as a high need and 24.44% considering them a low need, suggesting that while improvements may be necessary, they are less urgent compared to infrastructure, childcare, and public safety concerns.



Source: 2025 City of Murfreesboro Needs Assessment

How were these needs determined?

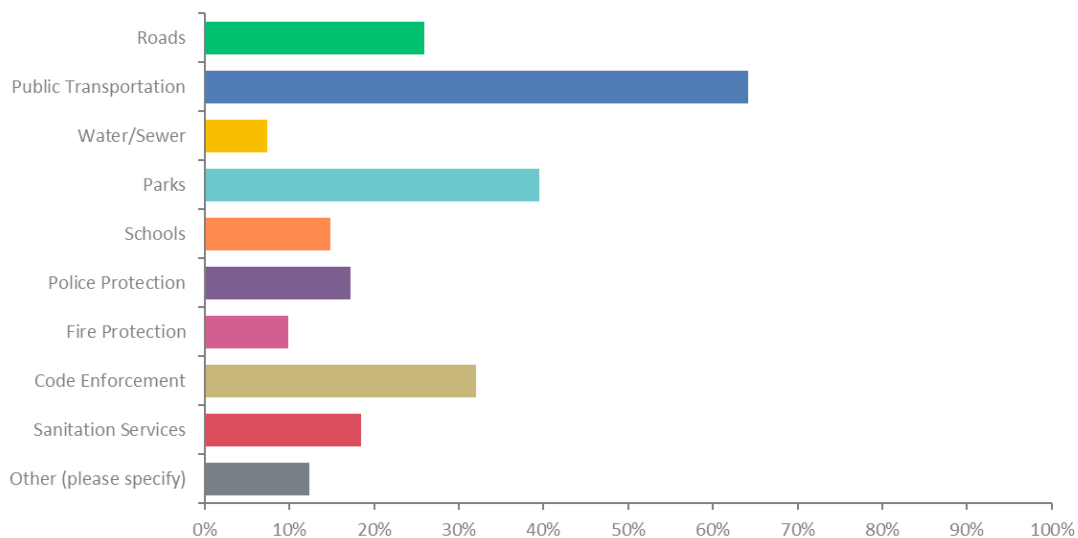
These needs were determined by requesting feedback on needs across the community through a series of stakeholder interviews, public meetings, and an online resident survey.

Describe the jurisdiction's need for Public Services:

Based on needs assessment survey results, Murfreesboro's residents identified key areas of need for public services. The survey results highlight the most critical public service and infrastructure priorities for the community. Water/Sewer infrastructure ranked as the most significant concern, with 75.90% of respondents identifying it as a priority. Similarly, fire protection (72.29%) and police protection (69.88%) were identified as major concerns.

Other key priorities included schools (61.45%) and sanitation services (66.27%). While public transportation (13.25%) ranked relatively low, which suggests that while transportation improvements are needed, they may not be as urgent as other infrastructure concerns.

The chart also shows that roads (57.83%) and parks (32.53%) were of moderate importance, with roads being a more pressing concern for over half of respondents. Code enforcement (26.51%) received lower prioritization, though it remains a relevant issue.



Source: 2025 City of Murfreesboro Needs Assessment

How were these needs determined?

These needs were determined by requesting feedback on needs across the community through a series of stakeholder interviews, public meetings, and an online resident survey.

Housing Market Analysis

MA-05 Overview

Housing Market Analysis Overview:

The Market Analysis aims to deliver a comprehensive overview of the environment in which the jurisdiction will implement its programs throughout the duration of the Consolidated Plan. The housing market in Murfreesboro is experiencing notable growth in development, indicating a robust economic and market recovery and a combination of growth and new opportunities for buyers. The median sale price in the area reached around \$450,000, reflecting an 11.5% rise compared to the previous year. The market is shifting towards a buyer's landscape, indicating a rise in inventory and enhanced negotiating leverage for purchasers. While Murfreesboro's housing market continues to show significant price appreciation, factors such as an increase in the number of days properties remain on the market and the transition to a buyer's market point to changing conditions. It is essential for both potential buyers and sellers to remain updated on these trends to make informed and strategic choices.

Alongside the Needs Assessment, the Market Analysis will serve as the foundation for the Strategic Plan and the associated programs and projects. The Housing Market Analysis encompasses the following information:

- Key features of Murfreesboro's housing market, including supply, demand, housing conditions, and pricing
- Availability of housing stock for individuals with disabilities and other special needs
- Assessment of the condition and requirements of public and assisted housing
- A concise inventory of facilities, housing, and services designed to address the needs of homeless individuals
- Identification of regulatory obstacles to affordable housing
- Essential characteristics of the jurisdiction's economic landscape

MA-10 Number of Housing Units – 91.210(a)&(b)(2)

Introduction

This section examines the housing supply in Murfreesboro. The accompanying tables and narrative illustrate the housing market in the area based on unit number, type, tenure, and size. Data from the 2016-2020 American Community Survey, as presented in Table 26, indicates that the predominant form of housing is single-family detached homes. The remaining housing inventory consists of various multi-family configurations, including structures with 2 to 4 units as well as those containing 20 or more units. In terms of size, most owner-occupied units in the city are spacious, featuring three or more bedrooms. Similarly, rental units tend to be sizable, with nearly 75% of them offering two or three or more bedrooms.

All residential properties by number of units

Property Type	Number	%
1-unit detached structure	30,230	54%
1-unit, attached structure	5,110	9%
2-4 units	3,704	7%
5-19 units	11,440	20%
20 or more units	4,670	8%
Mobile Home, boat, RV, van, etc.	763	1%
Total	55,917	100%

Table 26 – Residential Properties by Unit Number

Data 2016-2020 ACS
Source:

Unit Size by Tenure

	Owners		Renters	
	Number	%	Number	%
No bedroom	63	0%	940	4%
1 bedroom	115	0%	5,050	20%
2 bedrooms	2,750	10%	10,614	42%
3 or more bedrooms	24,180	89%	8,545	34%
Total	27,108	99%	25,149	100%

Table 27 – Unit Size by Tenure

Data 2016-2020 ACS
Source:

Describe the number and targeting (income level/type of family served) of units assisted with federal, state, and local programs.

In the City of Murfreesboro, a range of federal, state, and local initiatives work in unison to offer affordable housing solutions that cater to various income brackets and family structures. The Murfreesboro Housing Authority (MHA) oversees 194 conventional affordable housing units, where residents generally pay around 30% of their income in rent or choose a fixed rental rate. The Housing Choice Voucher (HCV) program supports very low-income individuals, families, the elderly, and persons with disabilities in securing decent, safe, and sanitary housing within the private market. Typically, eligibility is restricted to households earning up to 80% of the area median income (AMI). Additionally, the city's Community Development Department provides programs aimed at assisting low- and moderate-income families. The Affordable Housing Program offers down payment and closing cost assistance to first-time homebuyers who meet HUD income guidelines and other requirements, including the completion of a HUD-approved homebuyer education course and a minimum cash contribution of 1% towards closing costs. The Housing Rehabilitation Program is designed to aid income-eligible homeowners in rectifying substandard living conditions, thereby ensuring safe and habitable homes. These initiatives are designed to assist a wide array of residents, encompassing low- to moderate-income families, senior citizens, and individuals with disabilities, by ensuring access to affordable and secure housing alternatives.

Provide an assessment of units expected to be lost from the affordable housing inventory for any reason, such as expiration of Section 8 contracts.

Murfreesboro does not expect to lose any affordable housing units from the inventory during this Consolidated Plan period. While specific information regarding the number of units in Murfreesboro that may be at risk due to expiring Section 8 contracts is not easily accessible, proactive actions by housing authorities can help reduce potential losses. Property owners whose Section 8 Housing Assistance Payment (HAP) contracts are nearing expiration have several options for renewal. The Department of Housing and Urban Development (HUD) offers guidance aimed at promoting the sustainability of affordable housing through initiatives such as "Mark-Up-To-Market," which aligns rents with current market rates, thereby enhancing the financial feasibility for owners to extend their contracts.

Does the availability of housing units meet the needs of the population?

No; Murfreesboro, Tennessee, is facing a significant gap between the availability of housing and the needs of the population. Although there has been considerable expansion in the housing inventory, the demand, especially for affordable housing, remains greater than the current supply.

Describe the need for specific types of housing:

Murfreesboro, Tennessee, is experiencing a vibrant housing market marked by substantial growth and changing demands across different housing categories. Affordable Housing, Single-Family Homes, Rental Housing, and Specialized Housing are all in focus. As the demographic shifts with an aging population, there is a rising demand for senior-friendly housing solutions, such as assisted living facilities and age-restricted communities. Additionally, it is crucial to provide accessible housing options that cater to individuals with disabilities, thereby addressing the varied needs of the community.

Discussion

MA-15 Housing Market Analysis: Cost of Housing - 91.210(a)

Introduction

This section features pre-filled tables that offer a comprehensive overview of housing costs and affordability for both homeowners and renters in Murfreesboro, utilizing data from the 2013-2017 American Community Survey (ACS). It begins with a discussion on the evolution of housing costs, analyzes Fair Market Rents in comparison to market rents, and highlights primary needs identified through gap analysis, resident surveys, and consultations with stakeholders. The limited availability of affordable housing presents significant obstacles to homeownership and rental options for low- and moderate-income families. The swift increase in home sale prices, coupled with consistently rising rents, poses challenges that adversely impact the capacity of low- and moderate-income residents in the city to find affordable housing. Although escalating home sale prices may benefit current homeowners looking to sell, they simultaneously hinder low- and moderate-income buyers from entering the housing market. It is crucial to acknowledge that there has been a notable rise in housing prices in recent years, which is not reflected in this data but is essential for understanding housing costs during this Consolidated Plan period.

Cost of Housing

	Base Year: 2009	Most Recent Year: 2020	% Change
Median Home Value	181,900	257,500	42%
Median Contract Rent	739	966	31%

Table 28 – Cost of Housing

Data Source: 2000 Census (Base Year), 2016-2020 ACS (Most Recent Year)

Rent Paid	Number	%
Less than \$500	2,524	10.0%
\$500-999	11,535	45.9%
\$1,000-1,499	8,545	34.0%
\$1,500-1,999	2,310	9.2%
\$2,000 or more	195	0.8%
Total	25,109	99.9%

Table 29 - Rent Paid

Data Source: 2016-2020 ACS

Housing Affordability

Number of Units affordable to Households earning	Renter	Owner
30% HAMFI	1,354	No Data
50% HAMFI	5,648	1,240
80% HAMFI	16,978	5,841
100% HAMFI	No Data	9,432
Total	23,980	16,513

Table 30 – Housing Affordability

Data 2016-2020 CHAS
Source:

Monthly Rent

Monthly Rent (\$)	Efficiency (no bedroom)	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
Fair Market Rent	\$1,404	\$1,442	\$1,619	\$2,035	\$2,482
High HOME Rent	\$1,196	\$1,283	\$1,542	\$1,774	\$1,959
Low HOME Rent	\$936	\$1,003	\$1,203	\$1,390	\$1,551

Table 31 – Monthly Rent

Data HUD FMR and HOME Rents
Source:

Is there sufficient housing for households at all income levels?

No, there is not sufficient housing for households at all income levels in Murfreesboro. There is a range of housing options catering to different income levels; however, low-income households encounter considerable difficulties stemming from a scarcity of affordable housing and rental prices that can be excessively high in relation to their earnings. To rectify this imbalance, the city has focused initiatives aimed at enhancing the availability of affordable housing and ensuring that rental costs are more compatible with the financial means of low-income residents.

How is affordability of housing likely to change considering changes to home values and/or rents?

The City of Murfreesboro is experiencing significant changes in home values and rental costs, which are affecting housing affordability for individuals across different income brackets. The rising trends in both home values and rental prices indicate that housing affordability in Murfreesboro is expected to become increasingly difficult, particularly for residents with low to moderate incomes. To tackle these growing issues, Murfreesboro has adopted proactive strategies, including the expansion of affordable housing programs and the introduction of regulations to manage steep rent hikes.

How do HOME rents / Fair Market Rent compare to Area Median Rent? How might this impact your strategy to produce or preserve affordable housing?

Murfreesboro does not receive HOME funds; therefore, this analysis relies on Fair Market Rent (FMR). As the city formulates its affordable housing strategy, it considers the advantages of utilizing small area rents and other relevant factors in setting its affordable housing objectives. The National Low Income Housing Coalition’s “Out of Reach” 2024 Annual Report indicates that the Fair Market Rent (FMR) for a two-bedroom apartment in the Nashville-Davidson-Murfreesboro-Franklin HMFA is \$1,619. While Fair Market Rents are typically lower than the actual median rents, the current FMRs seem appealing to developers and affordable for tenants with a moderate level of HOME subsidy. Research indicates that increasing housing costs hinder equitable access to neighborhoods that provide health and quality of life benefits, including safety, walkability, open spaces, and access to healthy food options. The rising demand for housing and related development is driven by a consistently growing population.

Discussion

MA-20 Housing Market Analysis: Condition of Housing – 91.210(a)

Introduction

This section examines the condition of housing and HUD's mandate regarding the evaluation of natural disaster risks, followed by an exploration of the challenges related to housing conditions from the residents' viewpoint. The section concludes with an evaluation of the risks associated with lead-based paint. The age and state of housing units in Murfreesboro are critical factors in understanding the overall characteristics of the local housing market. This analysis will review data to identify significant elements that influence the city's housing inventory.

In the tables below, we will compare and contrast the conditions of units occupied by homeowners and renters in Murfreesboro, assess the age disparities between these two types of occupied units, and analyze the ratio of vacant units to those potentially at risk of containing lead-based paint. For this study, properties situated in low-income neighborhoods that are over 30 years old are classified as "older housing stock."

Describe the jurisdiction's definition of "standard condition" and "substandard condition but suitable for rehabilitation":

Murfreesboro considers a housing unit in "standard condition" if it is in good condition and provides a safe, sanitary, and suitable permanent living environment. Conversely, a housing unit is in "substandard condition" if it is in poor condition, and both structurally and financially feasible to rehabilitate.

Condition of Units

Condition of Units	Owner-Occupied		Renter-Occupied	
	Number	%	Number	%
With one selected Condition	4,625	17%	10,934	43%
With two selected Conditions	130	0%	715	3%
With three selected Conditions	0	0%	0	0%
With four selected Conditions	0	0%	0	0%
No selected Conditions	22,360	82%	13,485	54%
Total	27,115	99%	25,134	100%

Table 32 - Condition of Units

Data Source: 2016-2020 ACS

Year Unit Built

Year Unit Built	Owner-Occupied		Renter-Occupied	
	Number	%	Number	%
2000 or later	13,990	52%	9,549	38%
1980-1999	8,465	31%	9,284	37%
1950-1979	3,919	14%	4,999	20%
Before 1950	749	3%	1,290	5%
Total	27,123	100%	25,122	100%

Table 33 – Year Unit Built

Data 2016-2020 CHAS
Source:

Risk of Lead-Based Paint Hazard

Risk of Lead-Based Paint Hazard	Owner-Occupied		Renter-Occupied	
	Number	%	Number	%
Total Number of Units Built Before 1980	4,668	17%	6,289	25%
Housing Units build before 1980 with children present	6,869	25%	3,756	15%

Table 34 – Risk of Lead-Based Paint

Data 2016-2020 ACS (Total Units) 2016-2020 CHAS (Units with Children present)
Source:

Vacant Units

	Suitable for Rehabilitation	Not Suitable for Rehabilitation	Total
Vacant Units			
Abandoned Vacant Units			
REO Properties			
Abandoned REO Properties			

Table 35 - Vacant Units

Need for Owner and Rental Rehabilitation

The need for owner and rental property rehabilitation is significant, particularly for low-income households residing in aging or substandard housing. Homeowners in Murfreesboro encounter difficulties in maintaining their properties due to financial limitations, which often result in postponed maintenance and inadequate living conditions. To support these individuals, various programs are available:

- Housing Rehabilitation Program: Managed by the Murfreesboro Community Development Department, this initiative provides assistance to qualifying homeowners to address substandard living conditions. Funding is provided by

- the U.S. Department of Housing and Urban Development's Community Development Block Grant and is structured as a forgivable loan over five years.
- Emergency Repair Assistance: The city offers grants of up to \$5,000 for very low-income homeowners to address urgent repairs, including those related to roofs, HVAC systems, plumbing, and electrical systems.
 - Aging in Place Program: This initiative, provided by the Rutherford County Area Habitat for Humanity, aims to assist senior citizens with improvements in accessibility, energy efficiency, and essential home repairs, thereby allowing them to maintain their independence and safely reside in their homes.

Programs for the rehabilitation of rental properties in Murfreesboro are not widely recognized. Tenants living in inadequate rental conditions can communicate their concerns to the city to enable appropriate actions. It is critical to uphold the quality of rental housing to ensure tenant safety and promote community welfare. Landlords are directed to available resources and incentives aimed at the maintenance and enhancement of their properties.

Estimated Number of Housing Units Occupied by Low- or Moderate-Income Families with LBP Hazards

HUD regulations concerning lead-based paint are applicable to all housing that receives federal assistance. The presence of lead-based paint poses a significant environmental risk from a housing standpoint. Lead, a highly toxic metal, can lead to various health issues, particularly in children. The primary source of lead exposure is lead-contaminated dust found in aging homes and buildings. Lead was prohibited in residential paint in 1978, having been a common component in most oil-based paints used for both interior and exterior applications prior to that year. Consequently, homes constructed before 1978 may pose a lead hazard if any layer of paint contains lead. Unfortunately, accurately determining the number of housing units with lead-based paint hazards is challenging. Typically, low-income households earning between 0 to 50% of the Median Family Income (MFI) are less likely to afford well-maintained housing, placing them at a higher risk of lead poisoning. The health risks associated with residing in homes built before 1978 and exposure to lead-based paint are particularly detrimental to children.

The 2016 ACS 5yr Census data indicates that within the Murfreesboro CDBG service area, there are 45,554 occupied housing units. Of this number 25.4% (11,571) were constructed in 1980 or before. 4,747 owner-occupied units and 6,866 renter-occupied units.

Discussion

MA-25 Public and Assisted Housing – 91.210(b)

Introduction

The Murfreesboro Housing Authority (MHA) is a nonprofit entity founded in 1950, dedicated to ensuring that eligible families in Murfreesboro, Tennessee, have access to decent, safe, and sanitary housing. The organization emphasizes the importance of serviceability, economic viability, efficiency, and stability in its housing initiatives. Additionally, MHA strives to leverage all available resources to enhance the social and economic prospects of its residents. The Section 8 Homeownership Program offered by the Murfreesboro Housing Authority enables qualified participants to transition from renting to homeownership. To participate, individuals must contribute a minimum of 1% of the home's purchase price, and the mortgage must be secured through a federally regulated financial institution. MHA collaborates with Affordable Housing Resources Inc. to deliver essential pre- and post-purchase counseling for those involved in the program. Currently, MHA administers 695 Housing Choice Vouchers and oversees 120 public housing units.

Totals Number of Units

	Program Type								
	Certificate	Mod-Rehab	Public Housing	Vouchers					
				Total	Project - based	Tenant - based	Special Purpose Voucher		
							Veterans Affairs Supportive Housing	Family Unification Program	Disabled *
# of units vouchers available	0	0	336	609	0	0	56	0	0
# of accessible units									
*includes Non-Elderly Disabled, Mainstream One-Year, Mainstream Five-year, and Nursing Home Transition									

Table 36 – Total Number of Units by Program Type

Data Source: PIC (PIH Information Center)

Describe the supply of public housing developments:

The Murfreesboro Housing Authority (MHA) is responsible for managing various public housing developments that focus on delivering safe and affordable housing options for qualifying families in Murfreesboro, Tennessee. These developments encompass a combination of newly built communities and ongoing initiatives aimed at improving residents' quality of life.

1. **Oakland Court:** Located between North Academy and Maney Avenues, the Oakland Court development covers an area of 20 acres. Initially constructed in the 1950s with 75 homes, the site has been redeveloped to include 150 contemporary residences, effectively doubling its capacity. The redevelopment was carried out in phases to ensure that residents could remain in their homes during construction, thereby minimizing disruption. Under MHA's management, Oakland Court provides rental units where families pay 30% of their income towards rent and utilities.
2. **Mercury Park:** Currently in the construction phase, Mercury Park represents a significant initiative by MHA to offer affordable housing for low-income individuals. Situated at the intersection of South Bilbro Avenue and Minor Street, this development will consist of 34 units featuring two- and three-bedroom apartments. The first phase of Mercury Park is anticipated to be completed, with eligible residents expected to begin moving in by April 2025.
3. **Parkside:** Located adjacent to Patterson Park on East Castle Street, Parkside is another important project undertaken by MHA. This development comprises 46 units that have been transitioned under the Rental Assistance Demonstration (RAD) program, moving from traditional public housing to a more sustainable funding approach. The RAD conversion is designed to maintain and enhance affordable housing by ensuring more reliable funding for essential renovations and upkeep.

Describe the number and physical condition of public housing units in the jurisdiction, including those that are participating in an approved Public Housing Agency Plan:

Public Housing Condition

Public Housing Development	Average Inspection Score
Murfreesboro Housing Authority	92

Table 37 - Public Housing Condition

Describe the restoration and revitalization needs of public housing units in the jurisdiction:

Murfreesboro's public housing units need extensive modernization, structural repairs, and energy-efficient updates. Many units require ADA-compliant modifications, such as wheelchair ramps, wider doorways, and accessible bathrooms for disabled residents. The Murfreesboro Housing Authority has a plan to undertake comprehensive upgrades which includes a full-scale renovation, professional exterior pressure washing and painting, installation of upgraded emergency systems, installation of a tele-entry system, as well as eco-friendly initiatives such as roof replacement, installation of handrails and upgraded elevators in multi-story housing developments. This will improve resident safety, comfort, and affordability while preserving affordable housing options for future generations.

Describe the public housing agency's strategy for improving the living environment of low- and moderate-income families residing in public housing:

The Murfreesboro Housing Authority (MHA) implements a comprehensive approach aimed at improving the living conditions for low- and moderate-income families residing in public housing. This approach encompasses redevelopment, modernization, community involvement, and the provision of supportive services, all designed to guarantee that residents enjoy safe, stable, and flourishing communities. MHA is committed to restoring and revitalizing older public housing developments by modernizing interiors, upgrading HVAC systems, improving insulation, and enhancing overall energy efficiency. Redevelopment projects, such as Oakland Court and Mercury Park, replaced outdated housing with modern, high-quality units that better meet residents' needs. MHA has transitioned some public housing properties into RAD units, which ensures long-term funding for maintenance and capital improvements. This strategy will create sustainable, affordable, and high-quality housing while promoting economic stability and well-being for residents.

Discussion:

MA-30 Homeless Facilities and Services – 91.210(c)

Introduction

Facilities and Housing Targeted to Homeless Households

	Emergency Shelter Beds		Transitional Housing Beds	Permanent Supportive Housing Beds	
	Year-Round Beds (Current & New)	Voucher / Seasonal / Overflow Beds	Current & New	Current & New	Under Development
Households with Adult(s) and Child(ren)	69	32	150	0	N/A
Households with Only Adults	25	56	218	0	N/A
Chronically Homeless Households	0	0	0	1	N/A
Veterans	0	0	0	222	N/A
Unaccompanied Youth	0	5	0	0	N/A

Table 38 - Facilities and Housing Targeted to Homeless Households

Describe mainstream services, such as health, mental health, and employment services to the extent those services are used to complement services targeted to homeless persons.

Murfreesboro and Rutherford County offer a comprehensive network of social services aimed at addressing homelessness and helping individuals and families transition into stable, independent living. Various organizations provide counseling, case management, life skills training, financial literacy education, and victim advocacy, all designed to equip homeless individuals with the tools they need to secure permanent housing and maintain steady employment. The ultimate goal of these supportive services is to foster self-sufficiency and long-term stability.

Healthcare services for homeless individuals in Murfreesboro are available through the Rutherford County Health Department, Primary Care/Hope Clinic, St. Thomas Rutherford Hospital, St. Louise Clinic, and Greenhouse Ministry's Nursing Center. These facilities ensure that homeless individuals have access to primary medical care, preventive screenings, and treatment for chronic conditions.

For those struggling with substance abuse, addiction treatment is provided by the VA Tennessee Valley Health Care System, Pathfinders, The Guidance Center, Alcoholics Anonymous, and Narcotics Anonymous. The Guidance Center's PATH Program is specifically designed to assist homeless individuals suffering from severe and persistent mental illness, helping them access healthcare, mental health services, financial support, and housing assistance. Additionally, Trustpoint offers in-patient services for individuals facing acute mental health crises, while faith-based organizations such as the Hope Center provide addiction recovery programs tailored to those in need.

These services collectively create a strong safety net for Murfreesboro's homeless population, addressing healthcare, mental health, addiction recovery, and employment readiness to help individuals rebuild their lives. However, continued investment in housing-first initiatives, affordable housing programs, and expanded mental health and addiction treatment services would further strengthen efforts to reduce homelessness and improve overall community well-being.

List and describe services and facilities that meet the needs of homeless persons, particularly chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth. If the services and facilities are listed on screen SP-40 Institutional Delivery Structure or screen MA-35 Special Needs Facilities and Services, describe how these facilities and services specifically address the needs of these populations.

Murfreesboro offers a range of services and facilities designed to meet the needs of homeless individuals, particularly chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth. These services include emergency shelters, transitional housing, permanent supportive housing, healthcare, mental health services, addiction treatment, and employment assistance.

American Legion & Veterans Outreach Programs – Local veteran service organizations assist with benefit applications, emergency financial aid, and legal support.

Childcare Assistance Programs – Several agencies, including Community Helpers of Rutherford County, provide financial support for childcare to help parents secure employment.

Doors of Hope – A transitional housing program for women, including those exiting incarceration, offering life skills training and case management.

Doors of Hope – Youth Services – Offers case management, mentoring, and transitional housing for young adults (18–24) in unstable housing situations.

Family Promise of Rutherford County – Offers emergency shelter, meals, and case management for families experiencing homelessness while assisting them in finding permanent housing.

Greenhouse Ministries Housing Program – Offers supportive housing for individuals transitioning out of homelessness, focusing on financial stability and employment readiness.

Greenhouse Ministries Nursing Clinic – Offers free medical care, counseling, and wellness programs for homeless individuals.

Murfreesboro City Schools Homeless Education Program – Ensures that homeless students receive transportation, meals, school supplies, and counseling services.

Operation Stand Down Tennessee – Provides job training, housing assistance, and case management to help veterans reintegrate into the workforce and secure stable housing.

Pathfinders & Alcoholics Anonymous (AA)/Narcotics Anonymous (NA) – Offer support groups and rehabilitation programs for individuals struggling with substance use disorders.

Primary Care/Hope Clinic & St. Thomas Rutherford Hospital – Provide medical services, screenings, and prescription assistance for uninsured and homeless individuals.

Stepping Stones Safe Haven – A women’s and children’s shelter providing emergency housing, case management, and support services for families experiencing homelessness.

The Guidance Center’s PATH Program – Assists chronically homeless individuals with severe mental illness, helping them obtain permanent housing, mental health treatment, and employment resources.

The Journey Home – Provides day shelter, meals, showers, and case management services to help homeless individuals transition into stable housing.

The Salvation Army – Offers emergency shelter, transitional housing, food assistance, and financial literacy programs for individuals and families experiencing homelessness.

Veterans Affairs Supportive Housing (VASH) Program – A collaboration between HUD and the VA to provide rental assistance and case management for homeless veterans and their families.

Youth Villages LifeSet Program – Supports young adults aging out of foster care or experiencing homelessness by providing housing assistance, career coaching, and life skills training.

MA-35 Special Needs Facilities and Services – 91.210(d)

Introduction

The special needs population includes individuals having mobility impairments, disabilities, or that require supportive services. Typically, this population has a severe or persistent mental illness, development, and physical disabilities. Several organizations provide facilities and services for special needs populations in Murfreesboro.

Including the elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with alcohol or other drug addictions, persons with HIV/AIDS and their families, public housing residents and any other categories the jurisdiction may specify and describe their supportive housing needs.

The elderly and frail elderly have physical, medical, maintenance, social, emotional, and financial needs. Elderly and frail elderly are often unable to maintain existing homes or to afford rent. Housing cost burden related issues are often compounded by the requirement of additional services it takes for elderly and frail elderly to age in place. Various populations with special needs require supportive housing. For some individuals, supportive housing is needed because they are unable to undertake the activities of daily living without assistance. The specific needs of local special needs subpopulations are described in NA-45, Non-Homeless Special Needs Assessment.

Describe programs for ensuring that persons returning from mental and physical health institutions receive appropriate supportive housing.

Public systems or institutions (i.e., jails, prisons, hospitals, child welfare, mental health facilities, etc.) often release individuals directly into homelessness. To prevent this from happening, the Murfreesboro Housing Authority partners with The Guidance Center to provide supportive housing services using Continuum of Care funds and other service providers to develop strategies for ensuring appropriate housing for all persons leaving these systems. The Guidance Center and Mental Health Coop case managers assist mental health clients with daily activities such as making and keeping appointments, medication management, and housing search.

Specify the activities that the jurisdiction plans to undertake during the next year to address the housing and supportive services needs identified in accordance with 91.215(e) with respect to persons who are not homeless but have other special needs. Link to one-year goals. 91.315(e)

In the next year, Murfreesboro will undertake several activities to address the housing and supportive service needs of non-homeless special needs populations, including the elderly, persons with disabilities, victims of domestic violence, and individuals with

substance use disorders or chronic illnesses. These efforts align with 91.215(e) and 91.315(e) and are linked to the jurisdiction's one-year goals for housing stability and supportive service expansion.

- Fair Housing Initiatives - Strengthen education and outreach programs to ensure that individuals with disabilities, seniors, and other vulnerable populations are aware of their housing rights and protections.
- Housing Rehabilitation - Housing repairs of rental units for LMI renters and housing repairs for of single-family homes for LMI homeowners.
- Affordable Housing Operating Assistance - Community Housing Development Organization (CHDO) Set-Aside for housing rehabilitation, new construction, or acquisition.
- New Construction of Housing - The Affordable Housing program will construct or acquire property.
- Down Payment Assistance will be provided to 5 qualified first-time home buyers.

For entitlement/consortia grantees: Specify the activities that the jurisdiction plans to undertake during the next year to address the housing and supportive services needs identified in accordance with 91.215(e) with respect to persons who are not homeless but have other special needs. Link to one-year goals. (91.220(2))

The City of Murfreesboro, as an entitlement grantee, will undertake several activities in the next year to address the housing and supportive service needs of non-homeless special needs populations, in accordance with 91.215(e) and 91.220(2). These activities align with the city's one-year goals and focus on improving housing accessibility, enhancing public services, and ensuring safe and quality living environments for seniors, persons with disabilities, and other vulnerable populations.

Provide Public Services

- Expand supportive services for seniors, persons with disabilities, and low-income households by funding programs that offer case management, transportation assistance, financial literacy training, and job readiness programs.
- Support organizations that provide health, mental health, and addiction recovery services to special needs populations, ensuring they have access to the care necessary for stability and self-sufficiency.
- Improve access to fair housing services by conducting outreach, education, and compliance monitoring to ensure equal housing opportunities for special needs populations.

Improve Access to and Quality of Housing

- Housing Rehabilitation Administration – Provide oversight and management of housing rehabilitation programs to ensure effective use of funds and successful project implementation.
- Rental Rehabilitation Program – Support the renovation and improvement of rental housing to ensure safe, quality, and affordable units for special needs populations, including low-income families, persons with disabilities, and seniors.

MA-40 Barriers to Affordable Housing – 91.210(e)

Negative Effects of Public Policies on Affordable Housing and Residential Investment

Despite zoning regulations not being inherently prohibitive, Murfreesboro continues to experience a significant affordability gap for both affordable and workforce housing. This challenge is exacerbated by rising rent and home prices, which are expected to continue their upward trend. Various public policies, particularly development-related fees, contribute to the increasing cost of new housing, limiting the supply of affordable homes.

One key policy impacting affordability is Rutherford County's development fee on all new residential construction. While the proceeds from this fee are used for essential school construction, it increases the overall cost of building new homes, which in turn is passed on to buyers and renters. The Rutherford County Commission has expressed no interest in rescinding this fee, as the need for funding school infrastructure remains critical due to population growth. Similarly, the City of Murfreesboro's stormwater fee on new developments, designed to support its federally mandated stormwater management program, further raises development costs.

Both fees contribute to higher housing prices, discouraging residential investment in the affordable housing sector. Developers may opt to build higher-end housing rather than affordable units, as they seek to offset these costs, reducing the number of housing options for low- and moderate-income families. Additionally, the increasing financial burden on developers limits the feasibility of constructing multi-family housing, which is essential for expanding the affordable rental market.

Community Development Department staff have played a crucial role in assessing these challenges and providing insights into housing issues. Their input has helped shape local housing strategies, particularly in efforts to expand affordable housing options. However, without adjustments to these policies or the introduction of alternative funding mechanisms, the affordability crisis in Murfreesboro will likely intensify. Policymakers may need to explore waivers or incentives for affordable housing developments to counteract the negative impact of these fees and encourage a more diverse and sustainable housing market.

MA-45 Non-Housing Community Development Assets – 91.215 (f)

Introduction

The City of Murfreesboro is experiencing a transformative period of growth, characterized by infill development, redevelopment, and expansion across various sectors. Over the past 30 years, the city has seen extraordinary development, replacing older infrastructure with new buildings, communities, activity centers, and innovative ways of living. This evolution presents both opportunities and challenges in ensuring sustainable economic growth and equitable access to resources.

To effectively allocate federal funds, Murfreesboro has recognized the need to foster a competitive local economy that expands economic opportunities for present and future residents. A key component of this strategy is strengthening the local workforce, ensuring that residents have access to stable, well-paying jobs that support long-term prosperity. The city recognizes the importance of workforce training, business development, and infrastructure investments in driving economic sustainability. As Murfreesboro continues to expand, strategic investments in workforce development, economic infrastructure, and business support services will ensure the city remains a thriving, competitive, and inclusive economic hub.

Economic Development Market Analysis

Business Activity

Business by Sector	Number of Workers	Number of Jobs	Share of Workers %	Share of Jobs %	Jobs less workers %
Agriculture, Mining, Oil & Gas Extraction	114	27	0	0	(0)
Arts, Entertainment, Accommodations	7,486	9,953	14	18	4
Construction	2,153	2,133	4	4	(0)
Education and Health Care Services	7,826	10,136	15	18	3
Finance, Insurance, and Real Estate	3,832	4,257	7	8	0
Information	1,255	440	2	1	(2)
Manufacturing	6,946	6,103	13	11	(2)
Other Services	1,609	1,504	3	3	(0)

Business by Sector	Number of Workers	Number of Jobs	Share of Workers %	Share of Jobs %	Jobs less workers %
Professional, Scientific, Management Services	4,308	2,546	8	4	(4)
Public Administration	-	-	-	-	-
Retail Trade	7,430	11,278	14	20	6
Transportation & Warehousing	3,476	2,752	6	5	(2)
Wholesale Trade	2,384	1,140	4	2	(2)
Grand Total	53,903	56,735	91	92	2

Table 39 - Business Activity

Data 2016-2020 ACS (Workers), 2020 Longitudinal Employer-Household Dynamics (Jobs)
Source:

Labor Force

Total Population in the Civilian Labor Force	96,895
Civilian Employed Population 16 years and over	67,779
Unemployment Rate	6.7%
Unemployment Rate for Ages 16-24	34%
Unemployment Rate for Ages 25-65	26%

Table 40 - Labor Force

Data 2016-2020 ACS
Source:

Occupations by Sector	Number of People
Management, business and financial	23,462
Farming, fisheries and forestry occupations	130
Service	10,906
Sales and office	17,380
Construction, extraction, maintenance and repair	2,946
Production, transportation and material moving	8,530

Table 41 – Occupations by Sector

Data 2016-2020 ACS
Source:

Travel Time

Travel Time	Number	Percentage
< 30 Minutes	58,129	62.8%
30-59 Minutes	25,084	27.1%
60 or More Minutes	9,349	10.1%
Total	92,562	100%

Table 42 - Travel Time

Data 2016-2020 ACS
Source:

Education:

Educational Attainment by Employment Status (Population 16 and Older)

Educational Attainment	In Labor Force		Not in Labor Force
	Civilian Employed	Unemployed	
Less than high school graduate	5,630	2,640	2,990
High school graduate (includes equivalency)	17,461	10,669	6,792
Some college or Associate's degree	21,874	15,989	5,885
Bachelor's degree or higher	27,286	21,629	5,657

Table 43 - Educational Attainment by Employment Status

Data 2016-2020 ACS
Source:

Educational Attainment by Age

	Age				
	18-24 yrs	25-34 yrs	35-44 yrs	45-65 yrs	65+ yrs
Less than 9th grade	100	212	255	915	596
9th to 12th grade, no diploma	886	706	983	1,144	819
High school graduate, GED, or alternative	5,114	4,321	3,601	6,165	3,374
Some college, no degree	12,378	5,668	3,668	5,074	2,224
Associate's degree	742	1,605	1,207	1,910	518
Bachelor's degree	2,478	5,822	4,663	6,465	1,649
Graduate or professional degree	134	1,817	2,066	3,276	1,528

Table 44 - Educational Attainment by Age

Data 2016-2020 ACS
Source:

Educational Attainment – Median Earnings in the Past 12 Months

Educational Attainment	Median Earnings in the Past 12 Months
Less than high school graduate	236,673
High school graduate (includes equivalency)	501,245
Some college or Associate's degree	461,224
Bachelor's degree	642,677
Graduate or professional degree	717,862

Table 45 – Median Earnings in the Past 12 Months

Based on the Business Activity table above, what are the major employment sectors within your jurisdiction?

The Business Activity Table for Murfreesboro, TN, provides insights into the distribution of workers and jobs across various economic sectors. Education and Health Care Services is the largest employment sector, making up 15% of total employment. Similarly, Retail Trade (14%) and Arts, Entertainment, and Accommodations (14%) reflect significant employment bases.

Describe the workforce and infrastructure needs of the business community:

The business community in Murfreesboro faces both workforce and infrastructure challenges as the city continues to grow and attract new industries. Workforce needs are driven by the expansion of key industries, including education, healthcare, retail, professional services, and manufacturing. Employers in these sectors may experience labor shortages, particularly in high-skill professions such as healthcare, information technology, and finance, where job availability surpasses the local labor force. Additionally, sectors like construction and transportation have more workers than available jobs, indicating a need for job creation programs, business expansion incentives, or workforce retraining efforts to ensure that workers can transition into high-demand fields. Expanding technical training programs, trade schools, and university partnerships will be essential in closing skill gaps and preparing workers for the evolving job market.

In terms of infrastructure, transportation and road improvements remain a critical need for businesses. Murfreesboro's rapid growth has led to increased traffic congestion, inadequate public transportation options, and insufficient pedestrian and bicycle infrastructure, all of which impact commuting patterns and business operations. Street, road, and sidewalk improvements were identified as the highest public improvement need in a recent community assessment, reinforcing the urgency for expanded roadway capacity, traffic management systems, and alternative transit solutions. Industrial and commercial sectors also require enhanced logistics and freight infrastructure, particularly in warehousing and distribution, to support supply chain efficiency. Additionally, continued investment in high-speed internet, reliable utilities, and commercial real estate development will be necessary to sustain business growth and attract new companies to the region.

Describe any major changes that may have an economic impact, such as planned local or regional public or private sector investments or initiatives that have affected or may affect job and business growth opportunities during the planning period. Describe any needs for workforce development, business support or infrastructure these changes may create.

Murfreesboro, Tennessee, is experiencing significant economic growth driven by both public and private sector investments, which are projected to impact job creation and business expansion during the Consolidated Plan period.

Major Developments and Investments:

Clari Park: This mixed-use community, located along Medical Center Parkway, is set to include 300 apartment units, townhomes, a 50,000-square-foot entertainment center, and various retail, hotel, and restaurant establishments. Construction began in late 2023, with initial apartments expected to be ready by 2025.

Marketplace at Savannah Ridge: Situated across from the Walmart Supercenter at Joe B. Jackson Parkway and Highway 231, this development offers over 10,000 square feet of space for retail and restaurants. An Aldi grocery store has already opened, aiming to serve the growing population on Murfreesboro's south side.

Buc-ee's: The Texas-based convenience store chain opened a new location in Murfreesboro in September 2024, near Interstate 24 at Exit 84. Known for its vast array of products and services, Buc-ee's has created over 100 jobs in the area.

Fountains at Gateway Expansion: The second phase of this mixed-use development, Two Fountains Plaza, is underway, adding more retail, office, and restaurant spaces to the fully leased first phase.

Town Creek Project: Initiated in mid-2024, this project involves "daylighting" the underground Town Creek to create a natural waterway, enhancing the downtown area's aesthetics and providing walking and biking trail connectivity from the Discovery Center to Cannonsburgh Village.

Economic Impact and Workforce Development Needs:

These developments are expected to generate numerous job opportunities across sectors such as construction, retail, hospitality, and professional services. To meet the demands of this expanding job market, several workforce development initiatives are underway:

Tennessee College of Applied Technology (TCAT) Murfreesboro: TCAT offers workforce development programs tailored to the needs of local industries, providing courses that facilitate career advancement and skill acquisition.

Middle Tennessee State University (MTSU): One of Tennessee's fastest growing universities, offers a diverse education for today and tomorrow's highly skilled workforce has enrollment of over 20,00 students as of the 2024-25 academic year. MTSU offers doctoral degrees including programs in English, Human Performance, and Public History. Due to this new development, public and private sectors committed to working together to stimulate and encourage new business development and growth.

Rutherford Works: This organization collaborates with educational institutions and businesses to create career pathways, focusing on sectors like healthcare, technology, manufacturing, supply chain, and construction.

Infrastructure Enhancements:

To support the city's growth, infrastructure improvements are essential:

Transportation: Projects like the Town Creek development include constructing pedestrian bridges and enhancing trail connectivity, promoting alternative transportation modes and easing traffic congestion.

Downtown Revitalization: Main Street Murfreesboro is applying for a \$300,000 Downtown Improvement Grant to fund facade enhancements and other improvements within the historic.

How do the skills and education of the current workforce correspond to employment opportunities in the jurisdiction?

Murfreesboro, Tennessee is home to a diverse range of employers across sectors such as healthcare, education, manufacturing, professional services, and supply chain management. The table below highlights some of the city's top employers, their respective sectors, and approximate employee counts:

Employer	Sector	Number of Employees
Nissan	Manufacturing	8,000
Rutherford County Government and Schools	Public Administration	7,441
Amazon Fulfillment Center	Supply Chain Management	2,700
City of Murfreesboro (including schools)	Public Administration	2,388
Middle Tennessee State University	Education	2,205
Ascension St. Thomas Rutherford	Healthcare	1,741
Ingram Content Group	Supply Chain Management	1,700
Taylor Farms	Manufacturing	1,700
Alvin C. York Veterans Administration Medical Center	Healthcare	1,300
Asurion	Professional Services	1,250

Source: Murfreesboro's 2023 Comprehensive Annual Financial Report
<https://www.murfreesborotn.gov/134/Financial-Reports>

Positions in sectors like retail, food service, and certain manufacturing roles often do not require advanced degrees, making them accessible for part-time or temporary employment opportunities.

Describe any current workforce training initiatives, including those supported by Workforce Investment Boards, community colleges and other organizations. Describe how these efforts will support the jurisdiction's Consolidated Plan.

Murfreesboro, Tennessee, is actively engaged in workforce training initiatives to enhance employment opportunities and support economic growth. These programs are collaborative efforts involving local educational institutions, and various organizations.

Tennessee College of Applied Technology (TCAT) Murfreesboro: TCAT Murfreesboro offers comprehensive workforce development programs designed to provide individuals with the skills necessary for career advancement. These programs are tailored to address the specific needs of local industries, ensuring that the training aligns with current job market demands.

Workforce Innovation and Opportunity Act (WIOA) Programs: In 2021, Educational Data Systems, Inc. (EDSI) began operating WIOA programs in Rutherford County, serving adults, dislocated workers, employers, and youth. These programs offer a range of services, including outreach, recruitment, assessment, case management, employability plan development, referrals to training, on-the-job training (OJT), job placement, and retention support. The goal is to equip participants with the skills and opportunities needed to secure sustainable employment.

Tennessee Board of Regents (TBR) and Google Partnership: In a recent collaboration, TBR and Google have partnered to offer Google Career Certificates in high-growth fields

to students across Tennessee's community and technical colleges. This initiative aims to equip students with industry-recognized credentials, enhancing their employability in sectors experiencing significant growth.

Does your jurisdiction participate in a Comprehensive Economic Development Strategy (CEDS)?

Yes, Murfreesboro actively participates in a Comprehensive Economic Development Strategy (CEDS) through its collaboration with the Greater Nashville Regional Council (GNRC).

If so, what economic development initiatives are you undertaking that may be coordinated with the Consolidated Plan? If not, describe other local/regional plans or initiatives that impact economic growth.

Murfreesboro's 2035 Comprehensive Plan outlines a multifaceted economic development strategy that aligns with the objectives of the city's Consolidated Plan. This strategy emphasizes several key initiatives including engagement with Middle Tennessee State University (MTSU), downtown investment, workforce development, and entrepreneurship cultivation.

MA-50 Needs and Market Analysis Discussion

Are there areas where households with multiple housing problems are concentrated? (include a definition of "concentration").

A concentration refers to a geographically clustered or densely occurring condition where a high percentage of households experience multiple housing burdens in a specific area. In this case, housing problems are not evenly distributed but rather grouped in certain neighborhoods, making them more prominent and impactful in those locations.

In the context of the map below, concentration of housing problems means:

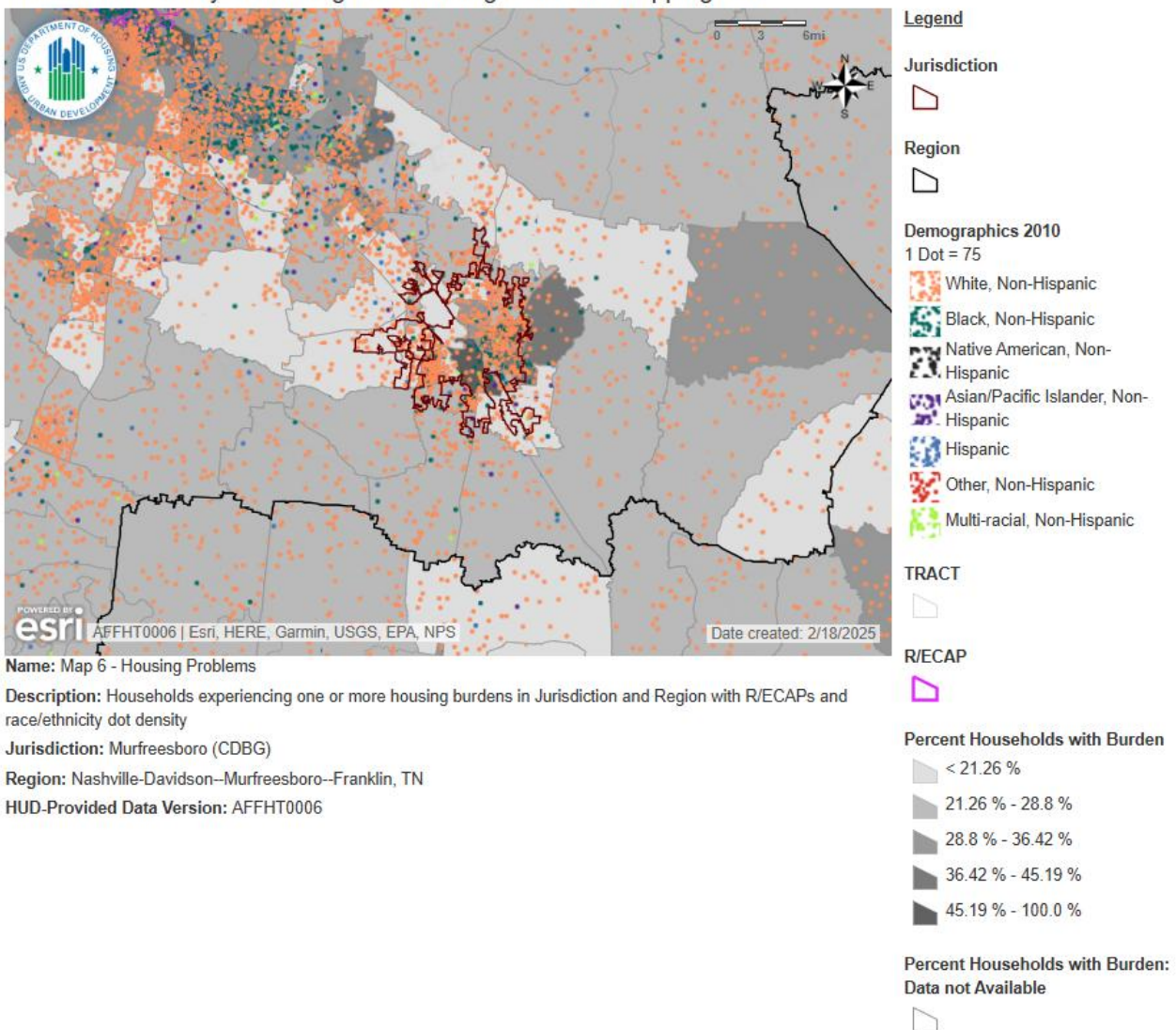
1. A high percentage of households (above 36-45%) in a specific area face multiple housing burdens, such as:
 - Cost burden (spending more than 30% of income on housing).
 - Overcrowding (more than one person per room).
 - Incomplete kitchen or plumbing facilities.
 - Structural deficiencies in housing.
2. These areas often overlap with racially and ethnically concentrated areas of poverty (R/ECAPs), shown in purple outlines on the map.

As shown in the map, the darkest gray shaded areas within Murfreesboro indicate the highest concentrations of households with multiple housing burdens (45.19%-100%). the areas with the most severe housing problems appear to be:

- Central Murfreesboro (Downtown & Inner-City Areas) – Higher density of cost-burdened renters and older housing stock.
- North Murfreesboro (Near Broad St. and Public Housing Areas) – Overlaps with R/ECAP-designated areas, indicating a mix of racial/ethnic concentration and economic hardship.
- Southeast Murfreesboro (Along Major Transit Corridors) – Areas with higher Hispanic and Black populations also show significant housing burdens.

These areas likely correspond to low-income, renter-heavy areas with older housing stock that may have deteriorating conditions, overcrowding, or unaffordable rent.

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool



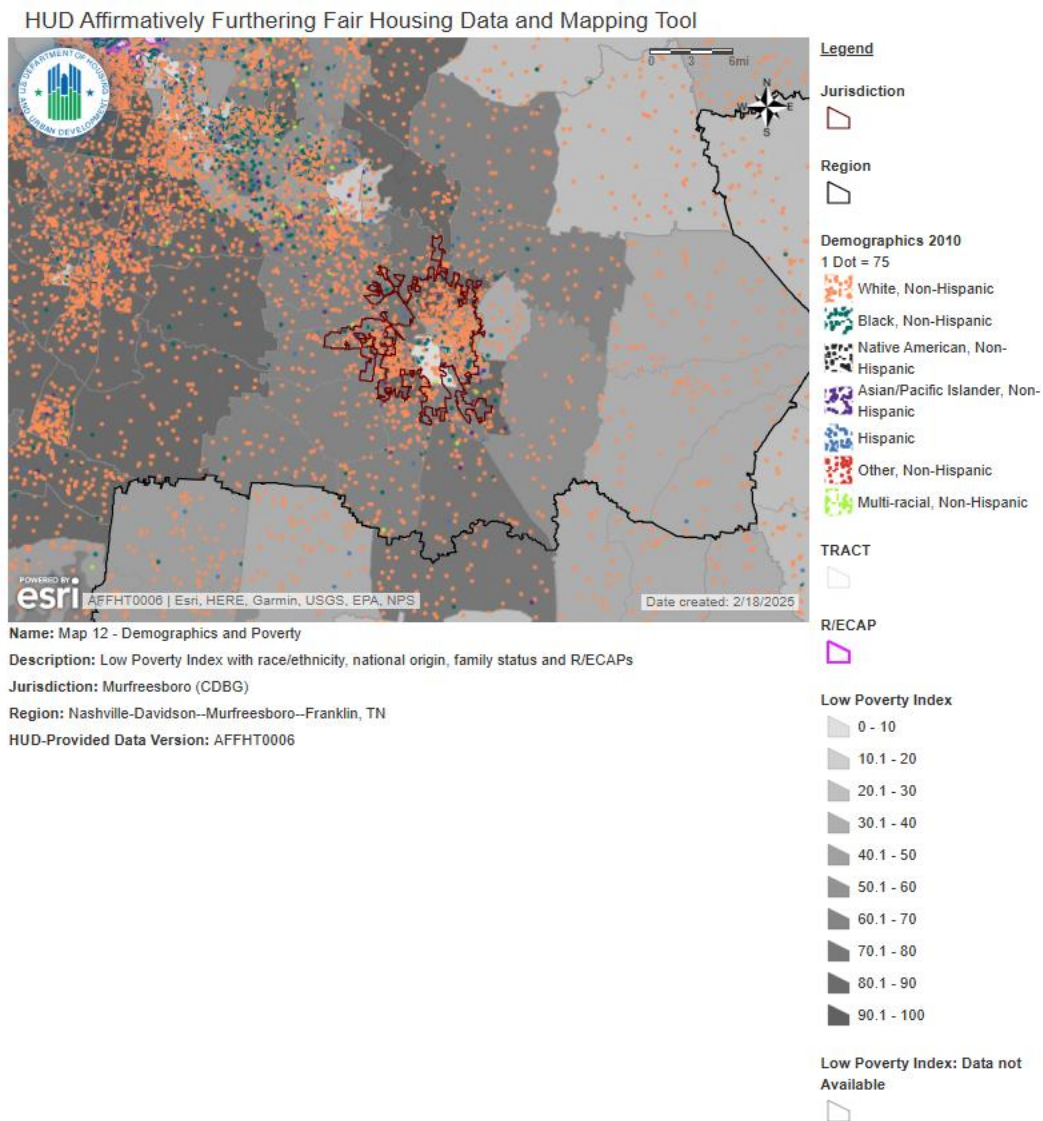
Source: HUD AFFH Mapping Tool, <https://egis.hud.gov/affht/>

Are there any areas in the jurisdiction where racial or ethnic minorities or low-income families are concentrated? (include a definition of "concentration")

HUD defines areas of racial or ethnic concentration as geographical locations where a minority population share exceeds the countywide average by at least 10%. Similarly, areas of poverty concentration (also called Racially/Ethnically Concentrated Areas of Poverty (R/ECAPs)) are defined as census tracts where 50% or more of the population is non-white, and 40% or more of households live below the federal poverty level, or the poverty rate is three times the county average.

There are not officially any designated Racially/Ethnically Concentrated Areas of Poverty (R/ECAPs) that exist in Murfreesboro, according to HUD's analysis. This suggests that

racial and ethnic groups are more evenly dispersed across the city, rather than segregated into specific high-poverty neighborhoods.



Source: HUD AFFH Mapping Tool, <https://egis.hud.gov/affht/>

What are the characteristics of the market in these areas/neighborhoods?

The rapid economic boom in Murfreesboro during the 1990s led to widespread housing construction, primarily consisting of single-family detached homes built in a uniform style within concentrated areas. While this development pattern met the city's immediate housing needs, it also created long-term challenges for affordability and housing

diversity. As these homes age, many now require costly repairs and renovations, placing financial strain on homeowners and leading to increased vacancy rates.

The reliance on single-family structures has also contributed to the decline of naturally occurring affordable housing. Without sufficient funding for maintenance, many lower-income households struggle to keep up with necessary repairs, resulting in deteriorating housing conditions. Additionally, the limited availability of multi-family and mixed-income developments restricts options for affordable rentals, further exacerbating the housing crisis. These challenges disproportionately impact vulnerable populations, including low-income families, seniors, and individuals in need of social services, concentrating them in areas where supportive resources may be lacking.

To address these issues, Murfreesboro could expand housing rehabilitation programs by offering grants and low-interest loans for home repairs. Encouraging zoning adjustments to allow for diverse housing types, including multi-family units and mixed-income developments, would help increase affordability. Incentivizing affordable housing development through tax benefits and public-private partnerships could also create more sustainable housing solutions. Additionally, integrating neighborhood-based social services and housing assistance programs would provide essential support to residents at risk of displacement. Implementing these strategies would help preserve the city's aging housing stock while ensuring equitable access to safe and affordable homes.

Are there any community assets in these areas/neighborhoods?

Despite some of the challenges these communities face, there are some assets available in the community that serve as the foundation for future growth and sustainability. For example, water is among the vital substances that communities need to not only survive, but to thrive. Murfreesboro has placed extreme importance on this valuable resource to ensure excellence in water production, wastewater treatment, and infrastructure development.

Aside from infrastructure assets, Murfreesboro has many physical assets such as parks, plazas, health centers, recreational facilities, libraries, senior centers, roads, sidewalks, paths, and transit options. These community assets play a vital role in enhancing the quality of life for residents in these neighborhoods by offering recreational opportunities.

Are there other strategic opportunities in any of these areas?

Yes, there are strategic opportunities in Murfreesboro's low- and moderate-income areas that can be leveraged to promote housing stability, economic development, and infrastructure improvements. The city's commitment to funding alternatives presents an

opportunity to create a comprehensive and cohesive implementation plan that integrates multiple investment strategies.

MA-60 Broadband Needs of Housing occupied by Low- and Moderate-Income Households - 91.210(a)(4), 91.310(a)(2)

Describe the need for broadband wiring and connections for households, including low- and moderate-income households and neighborhoods.

For many Americans, access to computers and high-speed Internet connections in an integral part of their everyday lives. As most of information, services, and resources have transitioned to online access, digital inequality has a direct impact on low-income household's social inequality. According to HUD's Office of Policy Development, in the Digital Inequality and Low-Income Households Report, the disparate access to broadband can correlate with the inequality of income, education, race, and ethnicity.

As part of the 2008 Broadband Data Improvement Act, the U.S. Census Bureau began asking about computer and Internet use in the 2018 American Community Survey (ACS). Federal agencies use these statistics to measure and monitor the nationwide development of broadband networks and to allocate resources intended to increase access to broadband technologies, particularly among groups with traditionally low levels of access.

	2021		2022		2023	
	Estimate	%	Estimate	%	Estimate	%
Total Households:	54,768	33.79%	57,399	33.69%	58567	33.63%
Has a Computer:	52,533	32.41%	55,586	32.62%	57033	32.75%
With Internet Subscription	34	0.02%	50	0.03%	16	0.01%
With a broadband internet subscription	49,527	30.56%	53,153	31.20%	54681	31.40%
Without a broad internet subscription	2,972	1.83%	2,383	1.40%	2336	1.34%
No Computer	2,235	1.38%	1,813	1.06%	1534	0.88%

Describe the need for increased competition by having more than one broadband Internet service provider serve the jurisdiction.

Increasing broadband competition in Murfreesboro, Tennessee, is essential for enhancing service quality, reducing costs, and ensuring equitable Internet access for all

residents and businesses. Limited competition often leads to inadequate infrastructure investments, resulting in slower speeds and unreliable service. Introducing more Internet service providers (ISPs) encourages improvements in connectivity and customer service¹. A competitive broadband market drives down costs, making Internet access more affordable, particularly for low- and moderate-income households. Currently, limited provider options allow ISPs to set higher prices without the risk of losing customers. Increased competition creates pricing pressure, leading to more competitive rates and better service offerings².

Expanding broadband competition is also crucial for bridging the digital divide. In Murfreesboro, certain neighborhoods, especially lower-income and rural areas, may experience slower speeds or limited provider options due to ISPs prioritizing more profitable regions³. Encouraging new providers to enter the market can help these underserved communities gain access to high-speed connectivity, ensuring digital equity across the city. Increased broadband competition supports Murfreesboro's economic growth and innovation. Businesses depend on fast, reliable Internet for operations, e-commerce, and cloud-based services. Limited provider choices may deter new businesses from relocating to the area and hinder growth for existing companies. Startups, small businesses, and remote workers particularly benefit from more ISP options that offer competitive pricing, tailored business plans, and enhanced customer support. Murfreesboro's rapid population growth further underscores the need for broadband expansion. A single or limited number of ISPs may struggle to meet the increasing demand efficiently, leading to network congestion and reduced service quality. A more competitive environment encourages investment in advanced technologies such as 5G and fiber-optic networks, ensuring that the city remains well-connected and prepared for future technological advancements.

Encouraging broadband competition in Murfreesboro is critical to creating a more resilient and inclusive digital infrastructure. The city should explore strategies such as public-private partnerships, regulatory incentives, and municipal broadband initiatives to attract new providers and promote fair competition. Doing so would not only enhance service quality and affordability but also drive economic development and improve the overall quality of life for residents.

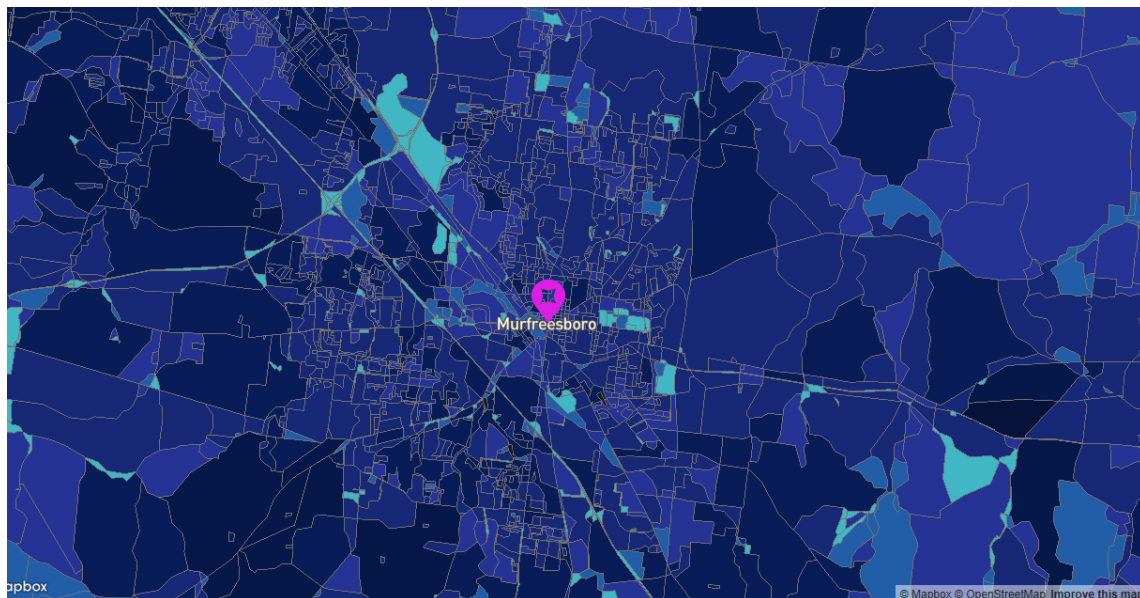
¹ Brookings. (2019). *Better together: Broadband deployment and broadband competition*. Retrieved from <https://www.brookings.edu/articles/better-together-broadband-deployment-and-broadband-competition/>

² Information Technology & Innovation Foundation (ITIF). (2019). *A policymaker's guide to broadband competition*. Retrieved from <https://itif.org/publications/2019/09/03/policymakers-guide-broadband-competition/>

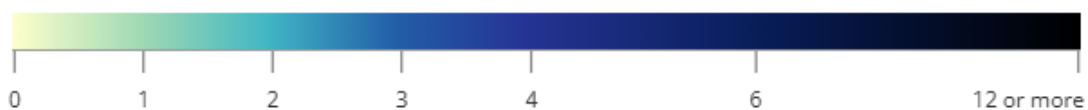
³ Urban Institute. (2021). *Could investments in community broadband bridge the digital divide?* Retrieved from <https://www.urban.org/urban-wire/could-investments-community-broadband-bridge-digital-divide>

Recent developments indicate positive trends in this direction. United Communications, owned by the not-for-profit electric cooperative Middle Tennessee Electric, and Google Fiber have announced significant plans to expand affordable gigabit fiber within Murfreesboro, reflecting the city's booming growth and the increasing demand for high-speed Internet services.

The figure below shows the number of fixed broadband providers. While the figure shows the number of providers available, it does not reflect the household level usage of broadband. From a fair housing perspective, ensuring that residential broadband is available to housing projects both within and in the outskirts of the city will support community viability and improve the quality of life for residents. There are multiple broadband providers in Murfreesboro including AT&T, Comcast, Viasat, and Hughes Network.



Number of Fixed Residential Broadband Providers



Provider	Tech	Down ▼ (Mbps)	Up (Mbps)
+ Comcast Corporation	Cable	1200	35
+ ViaSat, Inc.	Satellite	100	3
+ Hughes Network Systems, LLC	Satellite	25	3
+ AT&T Inc.	ADSL	18	1.5
+ VSAT Systems, LLC	Satellite	2	1.3

MA-65 Hazard Mitigation - 91.210(a)(5), 91.310(a)(3)

Describe the jurisdiction's increased natural hazard risks associated with climate change.

Murfreesboro, Tennessee, is experiencing heightened natural hazard risks due to climate change, impacting the community's safety, infrastructure, and environment. The primary concerns include increased flooding, more frequent and severe storms, elevated temperatures, and ecological challenges.

Increased Flooding

Climate change has led to a rise in heavy precipitation events in Tennessee, resulting in more severe flooding. The state has seen a 27% increase in heavy rainfall since 1958, a trend expected to continue. This escalation poses significant risks to areas like Murfreesboro, where 11.9% of properties currently face flood risks, a figure projected to remain steady over the next 30 years.

More Frequent and Severe Storms

The region has experienced notable tornado events, such as the EF4 tornado in 2009 that caused extensive damage in Murfreesboro. While attributing individual tornadoes directly to climate change is complex, shifts in climate patterns may influence the frequency and intensity of such storms, expanding the areas traditionally affected by tornadoes.

Elevated Temperatures

Tennessee has experienced warming over the past two decades, leading to longer periods of extreme heat. Projections indicate that the western part of the state could see 15 to 30 more days annually with temperatures exceeding 95°F within the next 70 years. This increase poses health risks, strains energy resources, and affects agriculture.

Ecological Challenges

Climate change exacerbates ecological issues in and around Murfreesboro, including the proliferation of invasive species, vegetation changes due to long-term fire suppression, and the impacts of urbanization. These factors degrade habitats, decrease biodiversity, and disrupt essential ecosystem processes⁴.

⁴ City of Murfreesboro. (2024). *Natural Resource Management*. Retrieved from <https://www.murfreesborotn.gov/1926/Natural-Resource-Management>

Addressing these escalating natural hazard risks requires comprehensive planning and adaptation strategies to enhance the resilience of Murfreesboro's communities and ecosystems.

Describe the vulnerability to these risks of housing occupied by low- and moderate-income households based on an analysis of data, findings, and methods.

Low- and moderate-income households in Murfreesboro, Tennessee, face heightened vulnerability to natural hazards exacerbated by climate change. Factors such as the location and condition of affordable housing, limited resources for mitigation, and socio-economic constraints contribute to this increased risk.

Location and Condition of Affordable Housing

Affordable housing is often situated in areas more susceptible to natural hazards. Historically, low-income housing has been built on less desirable land, which is more prone to flooding and other natural disasters. This trend is evident in Murfreesboro, where about 21% of buildings are at risk of flooding, with significant risk levels for these structures. Additionally, approximately 99% of buildings in Murfreesboro are at risk of wildfire, although the risk level for these buildings is relatively low⁵.

The physical condition of affordable housing further exacerbates vulnerability. Low-income households are more likely to reside in older homes that may not comply with current building codes or lack resilience to withstand natural hazards. These structures are more susceptible to damage during disasters, increasing the risk for occupants.

Limited Resources for Mitigation and Recovery

Economic constraints limit the ability of low- and moderate-income households to invest in mitigation measures, such as structural reinforcements or obtaining adequate insurance coverage. After a disaster, these households often face challenges in accessing resources for recovery, prolonging displacement and exacerbating financial instability⁶.

Socio-Economic Constraints

The broader socio-economic context also plays a role in vulnerability. Low-income and minority neighborhoods tend to have features associated with less opportunity and worse outcomes,

⁵ ClimateCheck. (2024). *Climate risk data for Murfreesboro, TN*. Retrieved from <https://climatecheck.com/tennessee/murfreesboro>

⁶ National Housing Preservation Database. (2021). *Taking Stock: Natural Hazards and Federally Assisted Housing*. Retrieved from <https://preservationdatabase.org/wp-content/uploads/2021/06/Taking-Stock.pdf>

many of which were areas isolated by past housing policies⁷. These factors can limit access to resources necessary for disaster preparedness and recovery, further increasing vulnerability.

Local Initiatives and Support

Recognizing these challenges, the City of Murfreesboro's Community Development Department focuses on benefiting low- and moderate-income residents by partnering with local, federal, and state agencies to provide decent housing and a suitable living environment. Programs such as the Affordable Housing Assistance Program and the Housing Rehabilitation Program aim to address some of these vulnerabilities by assisting with homeownership and improving substandard living conditions⁸.

Addressing the vulnerability of low- and moderate-income households to natural hazards in Murfreesboro requires a multifaceted approach. Enhancing the resilience of affordable housing, improving access to resources for mitigation and recovery, and addressing underlying socio-economic disparities are crucial steps toward reducing these risks.

⁷ Sycamore Institute. (2024). *Why Housing Matters: The Link Between Housing and Opportunity in Tennessee*. Retrieved from <https://sycamoretn.org/why-housing-matters/>

⁸ City of Murfreesboro. (2024). *Community Development Programs*. Retrieved from <https://www.murfreesborotn.gov/112/Community-Development>

Strategic Plan

SP-05 Overview

Strategic Plan Overview

The strategic plan is a five-year strategy of the Consolidated Plan that sets general priorities for allocating investment within the jurisdiction and details priority needs. It describes the basis for assigning the priority given to each category of need. It also identifies any obstacles to meeting underserved populations. The strategic plan outlines accomplishments that the City of Murfreesboro expects to achieve over the next five years, FY 2025-2029

- **Geographic Priorities:** Program resources are allocated Citywide based on low-mod areas often coinciding with areas of minority concentration. The general priorities and needs are affordable housing and public services that meet the needs of the City's very low-, low- and moderate-income residents.
- **Priority Needs:** The City has identified affordable housing and support for homeless and special needs populations as priority needs for the next five years.
- **Influence of Market Conditions:** Cost burden (paying more than 30 percent of household income for housing) is the major housing problem faced by most of the city's low and moderate-income renters.

SP-10 Geographic Priorities – 91.215 (a)(1)

Geographic Area

Area Name:	CDBG Eligible Area
Area Type:	Citywide
Other Target Area Description:	
HUD Approval Date:	
% of Low/ Mod:	51%
Revital Type:	N/A
Other Revital Description:	N/A
Identify the neighborhood boundaries for this target area.	Citywide
Include specific housing and commercial characteristics of this target area.	N/A
How did your consultation and citizen participation process help you to identify this neighborhood as a target area?	N/A
Identify the needs in this target area.	Affordable Housing, Homeless Services, Transportation
What are the opportunities for improvement in this target area?	N/A

Table 46 - Geographic Priority Areas

General Allocation Priorities

Describe the basis for allocating investments geographically within the jurisdiction (or within the EMSA for HOPWA)

The City plans to allocate most of its CDBG and HOME funds city-wide to address the needs of low-to-moderate-income populations and promote fair housing choices. Activities such as public services, fair housing activities, housing rehabilitation, public facility improvements, affordable rental housing activities funded by CDBG and HOME funds. The City will focus on census blocks where at least 51% of residents earn 80% or below the Area Median Income (AMI), aligning with HUD's income guidelines.

SP-25 Priority Needs - 91.215(a)(2)

Priority Needs

1	Priority Need Name	Preservation of Existing Homes
	Priority Level	High
	Population	Extremely Low Income Low-Income Moderate Income
	Geographic Areas Affected	Citywide
	Associated Goals	Housing Rehabilitation
	Description	Preservation of existing homes through rehabilitation activities.
	Basis for Relative Priority	Analysis of survey data and public engagement forums
2	Priority Need Name	Increased Homeownership Opportunities
	Priority Level	High
	Population	Low Income Households Moderate Income Households Large Families Families with Children Elderly Public Housing Residents Victims of Domestic Violence
	Geographic Areas Affected	Citywide
	Associated Goals	Homeownership Assistance
	Description	The need for more homeownership opportunities for generational wealth building and neighborhood stabilization.
	Basis for Relative Priority	Analysis of survey data and public engagement forums

3	Priority Need Name	Public Facilities and Improvements
	Priority Level	Low
	Population	Extremely Low-Income Low-Income Moderate-Income Disabled (Physical, Mental, Behavioral Health) Elderly and Frail Elderly Children and Youth Homeless and At-Risk Populations
	Geographic Areas Affected	Citywide
	Associated Goals	Public Facilities and Improvements
	Description	The need for acquisition, expansion and renovation of public facilities consistent with 570.201c. infrastructure in low- and moderate-income areas.
	Basis for Relative Priority	Analysis of survey data and public engagement forums
4	Priority Need Name	Affordable Housing
	Priority Level	High
	Population	Extremely Low-Income Low-Income Moderate-Income Disabled (Physical, Mental, Behavioral Health) Elderly and Frail Elderly Children and Youth Homeless and At-Risk Populations

	Geographic Areas Affected	Citywide
	Associated Goals	Affordable Housing
	Description	The City will invest HOME funds to help preserve, maintain, and increase the number of units of rental housing.
	Basis for Relative Priority	Analysis of survey data and public engagement forums
5	Priority Need Name	Improving Public Services
	Priority Level	High
	Population	Families with Children Elderly Public Housing Residents Victims of Domestic Violence Unaccompanied Youth Elderly & Frail Elderly Persons with Mental, Physical, & Developmental Disabilities Persons with Alcohol or Other Addictions Victims of Domestic Violence Non-Housing Community Development
	Geographic Areas Affected	Citywide
	Associated Goals	Improving Public Services
	Description	The City will utilize CDBG funds to provide financial assistance to local nonprofits serving low- and moderate-income households for the following services medical and dental services, mental health and substance abuse services, services to persons with disabilities, senior services, youth services, housing counseling, legal services, services for victims of domestic violence, employment training, and other allowable public services not listed here.
	Basis for Relative Priority	Analysis of survey data and public engagement forums

6	Priority Need Name	Fair Housing
	Priority Level	High
	Population	All
	Geographic Areas Affected	Citywide
	Associated Goals	Affordable Housing Public Services
	Description	Support targeted fair housing activities such as fair housing education, complaint handling services, and enforcement.
	Basis for Relative Priority	Analysis of survey data and public engagement forums
7	Priority Need Name	Program Administration and Planning
	Priority Level	High
	Population	All
	Geographic Areas Affected	Citywide
	Associated Goals	Program Administration and Planning
	Description	Performance of administrative and planning requirements of CDBG and HOME programs.
	Basis for Relative Priority	Consultation with City staff

Table 47 – Priority Needs Summary

Narrative (Optional)

Priority needs were identified by reviewing an in-depth data analysis from the Needs Assessment Workshops, one-on-one stakeholder consultations, and conducting a Housing and Community Development Needs Survey.

SP-30 Influence of Market Conditions – 91.215 (b)

Influence of Market Conditions

Affordable Housing Type	Market Characteristics that will influence
Tenant Based Rental Assistance (TBRA)	The cost of housing is increasing at a faster rate than income, which contributes to unaffordable rent for people with low-income. Also, the demand for rental housing across all income levels limits the availability of housing at levels that is affordable for low-income families. Couple these issues with property owners seeking to forego renters with subsidies for renters who can pay higher amounts and short-term rentals, which influences increased revenues. TBRA is an important tool for families to maintain affordable housing. Severe cost burden is the greatest predictor of homelessness risk, with populations paying more than 50% of their income towards housing costs or having incomes at or below 50% AMI at greatest risk of becoming homeless.
TBRA for Non-Homeless Special Needs	Lack of units with supportive services influences this program. Based upon consultations with homeless housing and social service agencies, a need for supportive housing has been identified as a priority. The special needs households include those with disabilities as well as dysfunctional households facing a variety of issues. Market characteristics impacting this priority relate to the shortage of privately-owned housing units which are available to provide supportive housing programs. This problem is intensified by the lack of public funds.
New Unit Production	The increasing demand for affordable housing, coupled with the increasing demand for market rate housing, places pressure on property owners to sell to purchasers that will develop higher end (through demolition/rehabilitation) rather than affordable units. This continues to put pressure on the two primary problems affecting the housing market, cost burden and overcrowding. Rents will not financially support the cost of new unit production. A shortage of affordable, decent housing units is an identified need. The market characteristics influencing this priority include the age and condition of the existing housing stock without the rent levels to support rehabilitation. New construction faces the same market conditions. The HOME program can provide some resources to address this issue.

Affordable Housing Type	Market Characteristics that will influence the use of funds available for housing type
Rehabilitation	There is high demand in the rental market, which further drives up the cost burden for housing. The aging housing stock in the City make the rehabilitation of existing housing stock a priority. Rents will not financially support the cost of major rehabilitation projects similar to the new unit production priority discussed above, the achievable rents and income levels in the City often result in rehabilitation in the private marketplace to be financially infeasible.
Acquisition, including preservation	There are opportunities to improve the conditions and affordability of housing by the acquisition of vacant, deteriorating structures. These structures are for the most part multi-unit in nature or previously nonresidential buildings appropriate for conversion. The cost and complexity of acquisition and rehabilitation of these structures usually requires implementations by an experienced housing development entity and financial assistance. When structures are of historic or architectural value, the cost can be increased. Similar to the new unit production, the HOME program can provide the resources for this type of development.

SP-35 Anticipated Resources - 91.215(a)(4), 91.220(c)(1,2)

Introduction

The City of Murfreesboro uses multiple resources to carry out activities that benefit low and moderate-income persons. Murfreesboro receives Community Development Block Grant and HOME Investment Partnerships funding. The Community Development Division administers the funding on behalf of the City. HUD has allocated a total of \$1,002,524.00 in CDBG funding and \$422,443.73 in HOME funding for the 2025 Fiscal Year. The City is not a direct Emergency Solutions Grant (ESG) or Housing Opportunities for People with AIDS (HOPWA) recipient. Additionally, the City does not anticipate receiving any program income.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of Con Plan	Narrative Description
			Annual Allocation:	Program Income:	Prior Year Resources:	Total:		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	\$1,002,524.00	\$0	\$0	\$1,002,524.00	\$4,010,096.00	Community Development Block Grant 2024-2025 program year allocation; Estimated Program Income and Prior Year Resources.
HOME	public - federal	Affordable Housing; Administration	\$422,443.73	\$0	\$0	\$422,443.73	\$1,689,774.92	HOME funds will leverage other federal, local, and private funds. Subrecipient or developers supply 25% match of HOME funds.

Table 48 - Anticipated Resources

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The City of Murfreesboro will utilize a combination of public and private funding to implement the activities outlined in this plan. Throughout the 2025-2029 Consolidated Plan period, the City will explore opportunities to secure additional funding sources that align with the plan's objectives. Murfreesboro will continue to leverage financial resources, including state and local funds, while also identifying new funding opportunities that support its strategic goals. The City will collaborate with community partners and nonprofit organizations to maximize available funding sources and enhance capacity-building efforts.

First-time home buyer loans require a 1% contribution from the new homeowner and leverage the value of the mortgage. Public service subrecipients are required to provide a dollar-for-dollar match. Habitat matches the value of the donated lot with the value of the house constructed on the lot. Nonprofits participating in the property-purchase phase of the acquisition program match 25% of the value of the house, through additional equity, the value of rehab work done by the agency on the house or other means acceptable to the City. ESG subrecipients are required to provide a dollar-for-dollar match.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

The City will not use any federal funding to address publicly owned land or property located within the City.

Discussion

The City expects to continue funding its core housing programs single-family, owner-occupied housing rehabilitation and assistance with down payments and closing costs for first-time homebuyers. Additionally, the City plans to expand its property acquisition program, continuing to purchase and donate a vacant building lot which is then donated to Rutherford County Habitat for Humanity, but adding funding to purchase vacant houses which will then be sold to eligible nonprofit agencies to be used as affordable rental units. The City expects to continue allocating 15% of its eligible funds for public service grants. Funds allocated to the Public Housing Capital Fund are administered by Murfreesboro Housing Authority. MHA is considered a unit of state government. One member of MHA's Board of Directors is appointed by the Mayor of Murfreesboro. Continuum of Care funds are awarded directly to participating agencies by HUD. Applications for the

Continuum of Care funds are reviewed and ranked by a working group of the Murfreesboro/Rutherford County Homeless Task Force.

SP-40 Institutional Delivery Structure – 91.215(k)

Explain the institutional structure through which the jurisdiction will carry out its consolidated plan including private industry, non-profit organizations, and public institutions.

Responsible Entity	Responsible Entity Type	Role	Geographic Area Served
City of Murfreesboro	Government	Program Administration	Jurisdiction
Murfreesboro Housing Authority	PHA	Public Housing	Jurisdiction
Big Brothers Big Sisters of Middle Tennessee	Nonprofit organization	Public Services	Jurisdiction
Domestic Violence Program Inc	Nonprofit organization	Homelessness public services	Jurisdiction
Child Advocacy Center of Rutherford County, Inc.	Nonprofit organization	Youth Services	Jurisdiction
Exchange Club Family Center	Nonprofit organization	Public Services	Jurisdiction
Interfaith Dental Clinic of Rutherford County	Nonprofit organization	Public Services	Jurisdiction
The Journey Home, Inc.	Nonprofit organization	Homelessness Public Services	Jurisdiction
Kymari House, Inc.	Nonprofit organization	Public Services	Jurisdiction
Read to Succeed	Nonprofit organization	Public Services	Jurisdiction
Primary Care and Hope Clinic	Nonprofit organization	Non-homeless Public Services	Jurisdiction
Room in The Inn	Community/ Faith-based organization	Homelessness	Jurisdiction
Salvation Army	Nonprofit organization	Homelessness	Jurisdiction
Nourish Food Bank	Community Organization	Food Services	Jurisdiction
Doors of Hope, Inc.	Community/ Faith-based organization	Homelessness public services	Jurisdiction
Greenhouse Ministries	Nonprofit organization	Homelessness public services	Jurisdiction
Mid-Cumberland Human Resource Agency-Youth CAN	Regional organization	Homelessness public services	Region

Rutherford County Habitat for Humanity	Nonprofit organization	Ownership	Jurisdiction
Murfreesboro/Rutherford County Homeless Task Force	Continuum of care	Homelessness	Jurisdiction
United Way of South Central Tennessee	Community/ Faith- based organization	Public Service	Jurisdiction
Christy-Houston Foundation	Philanthropic organization	Public Service	Jurisdiction
Tennessee Housing Development Agency	Government	Homelessness	State
Tennessee Fair Housing Council	Non-profit organizations	Fair Housing	State
Tennessee Affordable Housing Coalition	Other	Housing	State
Housing Equality Alliance of Tennessee	Other	Housing	State
A City of Grace Community Development Corporation	Community Faith Based Organization	Housing	Jurisdiction

Table 49 - Institutional Delivery Structure

Assess of Strengths and Gaps in the Institutional Delivery System

The list above includes many entities that are anticipated to help in carrying out the City's 2025-2029 Strategic Plan. It is anticipated that additional organizations and agencies not listed above will also help in achieving goals and strategies identified in this Strategic Plan. The Community Development Department plays a pivotal role in executing the 2025-2029 Consolidated Plan by collaborating with various city departments, including Building & Codes, Finance, Planning, Parks & Recreation, Police, Transportation, Communications, and Legal. This interdepartmental teamwork enhances program administration, ensuring efficient and effective implementation while reducing the likelihood of errors.

Key strengths in the City of Murfreesboro institutional structure continue to be the existence of a broad range of service providers in the community. A significant challenge for the City in its institutional delivery system is the limited financial capacity of its nonprofit partners. The continually decrease in annual CDBG and HOME funding only provides a small resource of funding to local organizations.

Availability of services targeted to homeless persons and persons with HIV and mainstream services

Homelessness Prevention Services	Available in the Community	Targeted to Homeless	Targeted to People with HIV
Homelessness Prevention Services			
Counseling/Advocacy	X	X	X
Legal Assistance	X	X	
Mortgage Assistance	X		
Rental Assistance	X	X	
Utilities Assistance	X	X	
Street Outreach Services			
Law Enforcement	X		
Mobile Clinics	X	X	
Other Street Outreach Services	X	X	
Supportive Services			
Alcohol & Drug Abuse	X	X	
Child Care	X	X	
Education	X	X	
Employment and Employment Training	X	X	
Healthcare	X	X	
HIV/AIDS	X	X	
Life Skills	X	X	X
Mental Health Counseling	X	X	
Transportation	X	X	
Other			
Other			

Table 50 - Homeless Prevention Services Summary

Describe how the service delivery system including, but not limited to, the services listed above meet the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth)

The city's network of agencies effectively addresses the needs of homeless individuals and other populations through coordinated services that span various life domains. Organizations provide tailored linkages for specific needs, including civil law and specialized employment services, ensuring streamlined access. Comprehensive youth services encompass prevention, outreach, advocacy, and navigation assistance, aiming to facilitate education, employment, mental health and substance abuse treatment, and stable housing. Additionally, veteran services agencies work collaboratively to meet

veterans' unique needs and facilitate referrals to broader community resources, enhancing overall service delivery and support.

Describe the strengths and gaps of the service delivery system for special needs population and persons experiencing homelessness, including, but not limited to, the services listed above

The service delivery system for the special needs population benefits from diverse providers that collaborate to improve access, efficiency, and outcomes. However, the system faces a significant challenge: insufficient funding to adequately address the existing demand for services.

Provide a summary of the strategy for overcoming gaps in the institutional structure and service delivery system for carrying out a strategy to address priority needs

The city is actively seeking to improve efficiency and service levels while facing a significant funding shortage. Their primary strategy involves ongoing communication with policy leaders and community stakeholders to highlight the community's increasing needs and advocate for additional resources. This approach underscores a commitment to resourcefulness and collaboration in addressing financial constraints.

SP-45 Goals Summary – 91.215(a)(4)

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Administration & Planning	2025	2029	Community Development/ Affordable Housing	Citywide	Provide Administration & Planning	CDBG: \$1,002,520 HOME: \$211,221.90	Other: Planning & Administration
2	Fair Housing	2025	2029	Community Development	Citywide	Affirmatively Furthering Fair Housing Choice	CDBG: \$12,500.00	Affirmatively Furthering Fair Housing Activities
3	Provide Public Services	2025	2029	Community Development	Citywide	Improving Public Services	CDBG: \$625,000.00	Number of low-income persons served
4	Public Facilities/Infrastructure	2025	2029	Community Development	Citywide	Public Facilities and Improvements	CDBG: \$375,000.00	Number of low-income persons served in area
5	Owner-Occupied Housing Rehabilitation	2025	2029	Community Development	Citywide	Housing Affordability	CDBG: \$1,872,600.00	Housing units rehabbed
6	Affordable Housing Incentives	2025	2029	Community Development	Citywide	Increased homeownership opportunities	CDBG: \$1,125,000 HOME: \$375,000	Down Payment Assistance
7	New Construction/Rehab Rental Housing	2025	2029	Affordable Housing	Citywide	Affordable Housing	HOME: \$1,103,553.00	New Construction or rehabilitation of rental housing units
8	CHDO	2025	2029	Affordable Housing	Citywide	Affordable Housing	HOME: \$422,443.80	New Construction or rehabilitation of rental housing units

Table 51 – Goals Summary

Goal Descriptions

Goal Name: Planning and administration
Goal Descriptions: Administrative and planning costs to operate the CDBG program successfully
Goal Name: Fair Housing
Goal Description: Support targeted fair housing activities such as fair housing education services to low-and moderate-income households
Goal Name: Provide public services
Goal Description: Provision of public services for projects that provide supportive services to low and moderate-income households and persons
Goal Name: Public Facility/Improvements
Goal Description: Facility renovations in low- and moderate-income areas
Goal Name: Owner-Occupied Housing Rehabilitation
Goal Description: Provide housing rehabilitation loans to low- and moderate-income homeowners with incomes at or below 80% of the area median income to help them stay in their homes and to help maintain the current housing stock.
Goal Name: Economic Development
Goal Description: Support economic development activities in low-income areas
Goal Name: Affordable Housing Incentives
Goal Description:
Goal Name: New Construction of Rental Housing
Goal Description: Preserve, maintain, increase, and provide accessibility improvements for rental units that are affordable to households with incomes at or below 60% of the area median income
Goal Name: CHDO Set Aside
Goal Description: Preserve, maintain, increase, and provide accessibility improvements for rental units that are affordable to households with incomes at or below 60% of the area median income

Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.315(b)(2)

SP-50 Public Housing Accessibility and Involvement – 91.215(c)

1. Need to Increase the Number of Accessible Units (if Required by a Section 504 Voluntary Compliance Agreement)

The Murfreesboro Housing Authority is not under a Section 504 Voluntary Compliance Agreement.

2. Activities to Increase Resident Involvements

The Murfreesboro Housing Authority offers various opportunities for public housing residents to engage actively. Each adult family member residing in public housing can take part in monthly meetings to discuss concerns, policy updates, and upcoming programs. MHA motivates its residents to engage in initiatives that foster economic stability, potentially paving the way for homeownership and attend local government meetings and advocacy efforts related to housing.

3. Is the public housing agency designated as troubled under 24 CFR part 902?

No, the Murfreesboro Housing Authority (MHA) is not designated as troubled under 24 CFR part 902.

Plan to remove the 'troubled' designation

The Murfreesboro Public Housing Authority is not deemed troubled, therefore no plan to remove this designation has been defined.

SP-55 Barriers to affordable housing – 91.215(h)

Barriers to Affordable Housing

The barriers preventing individuals from protected classes from accessing safe, affordable, and quality housing reflect complex systemic issues, including discrimination based on race, ethnicity, gender, and disability. Economic disparities exacerbate these challenges, as lower-income individuals often have fewer housing options. Compounding these issues are limited affordable housing developments and persistent patterns of segregation that isolate marginalized communities, ultimately hindering equal access to housing opportunities and perpetuating inequality in housing access and quality.

As part of the development of the Analysis of Impediments to Fair Housing Choice (AI) for the City of Murfreesboro, a comprehensive analysis of housing, zoning, and land use regulations was conducted. This section is fully contained in the AI.

Key findings included:

1. Discriminatory rental practices which pose an impediment to fair housing opportunity was evidenced by the complaints filed concerning race, disability, familial status, and other protected characteristics.
2. Limited awareness of rights and responsibilities under the Fair Housing Act among both landlords and tenants.
3. Inadequate Supply of Affordable and Accessible Housing.
4. Complaint data indicated that renters who requested accommodations or reported violations experienced threats, coercion, or other forms of retaliation from landlords.

Strategy to Remove or Ameliorate the Barriers to Affordable Housing

Discriminatory Rental Practices

- Strengthen Local Enforcement of Disability Protections in Housing
- Increase Public Awareness of Disability Rights in Housing
- Expand Education on Disability Rights and Fair Housing Laws
- Increase Accessibility in Housing Development
- Establish a Clear Process for Requesting Accommodations and Modifications

Limited Knowledge of Fair Housing Laws

- Offer ongoing training for landlords, property managers, real estate agents, and tenant advocates on reasonable accommodations, advertising rules, and best practices for inclusive tenant screening.

- Collaborate with local nonprofits to create easy-to-understand resources about fair housing rights.
- Ensure residents are aware of how to file fair housing complaints and that complaint processes are transparent and accessible (including language accessibility).
- Publicize successful enforcement actions to deter discriminatory practices and encourage compliance.

Inadequate Supply of Affordable and Accessible Housing

- Promote or incentivize new construction or rehabilitation projects that include ADA-compliant units and cater to a range of income levels.
- Work with developers and nonprofits to ensure housing is distributed throughout the city, rather than concentrated in specific neighborhoods.

Retaliation Concerns

- Track retaliation-related complaints to identify patterns and develop targeted outreach in high-incidence areas.
- Provide legal resources and support to tenants who fear retaliation, ensuring they understand their rights and protections under the law.

SP-60 Homelessness Strategy – 91.215(d)

1. Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The City of Murfreesboro has a comprehensive Homeless Engagement Plan to address and mitigate homelessness within the community. The Murfreesboro Police Department's H.O.S.T. unit engages with unsheltered individuals, building trust and providing assistance with shelter referrals, rehabilitation programs, housing options, medical and behavioral health services, and transportation. They also aid in obtaining essential personal documentation and collaborate with local businesses to manage and clean up homeless encampments. The city also collaborates with local nonprofits aim to expand services and implement a coordinated entry system to streamline access to housing and supportive services. Through these coordinated efforts, Murfreesboro strives to provide comprehensive support to its homeless population, addressing immediate needs and facilitating long-term stability and self-sufficiency.

2. Addressing the emergency and transitional housing needs of homeless persons

The city remains committed to assisting organizations that tackle the urgent shelter and transitional housing requirements of the homeless population, aiming to create a more comprehensive social service framework. Murfreesboro partners with the Homeless Outreach Team from the Police Department, which offers resources to individuals experiencing homelessness who need support.

3. Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again.

While the City is not a recipient of ESG funds, the City does support and collaborate with the agencies that provide services social services for chronically homeless individuals and families residing in Murfreesboro. At-risk households with a history of housing instability will receive case management to address barriers & link to mainstream resources such as SNAP, TANF, SSI and mainstream rental assistance programs. Homeless providers assist participants to develop independent living skills, increase income & access services to reduce returns to

homelessness. Those existing homeless persons who are unable to maintain housing on their own are linked Permanent Supportive Housing, subsidized housing, or family/friends with whom they can live. Homelessness prevention assistance including financial assistance & case management is provided to those who are at risk of returning to homelessness. Program participants with multiple service needs & significant housing instability participate in an intensive integrated teaming that brings to together the participant with service providers to identify needed supports.

4. Help low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families who are likely to become homeless after being discharged from a publicly funded institution or system of care, or who are receiving assistance from public and private agencies that address housing, health, social services, employment, education or youth needs

The primary objective is to connect individuals and families with available housing options as swiftly as possible while providing assistance in accessing subsidies and enhancing their income to ensure long-term housing stability. Local nonprofit service providers collaborate with hospitals, courts, and other organizations to facilitate the discharge planning for individuals facing homelessness. Furthermore, the city will support agencies that deliver primary care, behavioral health, vocational, and other essential services for those experiencing homelessness. During the next plan period, the city will focus on the following initiatives:

- Enhance collaboration among mental health, physical health, and criminal justice systems to identify individuals at risk of homelessness and connect them with resources to prevent literal homelessness following discharge.
- Partner with the local and state Department of Children Services to aid in their efforts to expand services for youth currently in foster care.
- Assist in identifying available prevention programs and developing a gap analysis to formulate a comprehensive homeless prevention strategy in the upcoming years.

SP-65 Lead based paint Hazards – 91.215(i)

Actions to address LBP hazards and increase access to housing without LBP hazards

The city actively works to eliminate lead-based paint hazards in housing units through rehabilitation programs. The city ensures lead-safe conditions after rehabilitation and utilizes licensed professionals for lead hazard evaluations. They also provide education and training for contractors and enforce licensing requirements for lead abatement services, consistently improving housing conditions and educating the public about lead hazards.

How are the actions listed above related to the extent of lead poisoning and hazards?

The city's initiatives to address lead hazards through rehabilitation and demolition programs are vital for enhancing safety in low-income neighborhoods, significantly lowering the risk of lead poisoning by removing lead-based paint hazards from homes and improving the overall living conditions for residents.

How are the actions listed above integrated into housing policies and procedures?

The City prioritizes lead safety during home rehabilitation, mandating lead-safe completion for all projects. They adhere to EPA RRP regulations, ensuring contractor compliance and requiring a lead risk assessment and final clearance before contractor payment for any projects with potential lead hazards.

SP-70 Anti-Poverty Strategy – 91.215(j)

Jurisdiction Goals, Programs and Policies for reducing the number of Poverty-Level Families

The City actively combats poverty through its affordable housing plan, funding projects that offer social services aimed at helping individuals and families achieve self-sufficiency. These include rental assistance programs supported by CDBG and HOME programs as well as permanent housing initiatives that integrate self-sufficiency and other essential social services from the outset. Furthermore, the City collaborates with the Continuum of Care to coordinate social services, job training, and housing programs.

How are the Jurisdiction poverty reducing goals, programs, and policies coordinated with this affordable housing plan

The City of Murfreesboro actively supports homeownership for Section 8 participants through collaboration with housing authorities and agencies, offering financial assistance to very-low-income first-time homebuyers in the form of grants and no-interest loans. Additionally, the City incorporates Section 3 language into its housing rehabilitation programs, ensuring that contractors are informed about resources for hiring low-income workers.

SP-80 Monitoring – 91.230

Describe the standards and procedures that the jurisdiction will use to monitor activities carried out in furtherance of the plan and will use to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

The City of Murfreesboro's Community Development Department diligently monitors CDBG and HOME sub-recipient organizations annually. This includes providing comprehensive training on federal and local regulations, defining measurable performance objectives, and ongoing project monitoring. Staff actively participates in preconstruction conferences, reviews program requirements with potential subrecipients, including conflict of interest protocols, and scrutinizes reimbursement requests for compliance, ensuring program integrity and accountability.

Program performance and compliance are meticulously monitored across the programs, tailoring activities to each program's specific funding activities. This involves continuous communication, technical support, and risk assessments for grantees, agencies, and municipalities throughout project lifecycles. On-site monitoring encompasses comprehensive reviews of grant activities, records, and policies, while remote monitoring includes desk reviews of invoices and performance reports to ensure budgetary compliance and eligible expenditures. These measures ensure adherence to grant requirements, covering areas like eligibility, environmental regulations, procurement, construction, and labor standards.

Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

The City of Murfreesboro uses multiple resources to carry out activities that benefit low and moderate-income persons. Murfreesboro receives Community Development Block Grant and HOME Investment Partnerships funding. The Community Development Division administers the funding on behalf of the City. HUD has allocated a total of \$1,002,524.00 in CDBG funding and \$422,443.73 in HOME funding for the 2025 Fiscal Year. The City is not a direct Emergency Solutions Grant (ESG) or Housing Opportunities for People with AIDS (HOPWA) recipient. Additionally, the City does not anticipate receiving any program income.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of Con Plan	Narrative Description
			Annual Allocation:	Program Income:	Prior Year Resources:	Total:		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	\$1,002,524.00	\$0	\$0	\$1,002,524.00	\$4,010,096.00	Community Development Block Grant 2024-2025 program year allocation; Estimated Program Income and Prior Year Resources.
HOME	public - federal	Affordable Housing; Administration	\$422,443.73	\$0	\$0	\$422,443.73	\$1,689,774.92	HOME funds will leverage other federal, local, and private funds. Subrecipient or developers supply 25% match of HOME funds.

Table 52 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The in-kind value of office space, utilities and administrative support from the City's general fund help leverage CDBG funds. Both federal mandates and local policy requires some level of leveraging in most of the entitlement programs offered by the City. As an example, the City's Affordable Housing Assistance Program for first-time home buyers requires a 1% contribution from the purchaser. Public Services grant subrecipients are required to provide a dollar-for-dollar match for CDBG funds. Matching funds can come from agency funds, in-kind contributions of goods and services, volunteer hours and/or value of donated buildings or fair value of rental/lease.

The HOME program requires a 25% match of the total HOME funds expended for project costs. This match requirement will be met by requiring subrecipients to provide 25% match on projects, through sponsorships from local businesses, waived City fees, donated land or improvements, volunteer hours, donated materials, or other eligible methods outlined in the HOME regulations.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

The City does not anticipate using any publicly owned land or property located in Murfreesboro to address the needs identified in this plan.

Discussion

The City of Murfreesboro receives CDBG funding directly from U.S. Department of Housing and Urban Development (HUD) and is a Participating Jurisdiction under the HOME program. The City receives a share of the state's Emergency Solutions Grant (ESG) allocation through the City Set-Aside program from Tennessee Housing Development Agency (THDA).

The Housing Opportunity for Persons with AIDS (HOPWA) grantee for the Nashville-Davidson-Murfreesboro-Franklin MSA is Metropolitan Housing and Development Agency (MDHA) in Nashville, TN. The City consults with MDHA regarding HOPWA allocations. The City is not a direct recipient of any funds covered in §91.2(b).

The United Way of South Central Tennessee is the Collaborative Applicant for Continuum of Care TN-510 (Murfreesboro and Rutherford County). On February 26, 2024, HUD announced the 2023 awards to TN-510 agencies totaling \$769,680 in its Continuum of Care (CoC) housing competition.

Public housing is the responsibility of Murfreesboro Housing Authority. A copy of MHA's most recent 5-Year and Annual Plan is available for review at its main office: 415 North Maple Street, Murfreesboro.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Administration & Planning	2025	2026	Community Development/ Affordable Housing	Citywide	Provide Administration & Planning	CDBG: \$200,504 HOME: \$42,244.37	Other: Planning & Administration
2	Fair Housing	2025	2026	Community Development	Citywide	Affirmatively Furthering Fair Housing Choice	CDBG: \$2,500.00	Affirmatively Furthering Fair Housing Activities
3	Provide Public Services	2025	2026	Community Development	Citywide	Improving Public Services	CDBG: \$125,000.00	Number of low-income persons served
4	Public Facilities/Infrastructure	2025	2026	Community Development	Citywide	Public Facilities and Improvements	CDBG: \$75,000.00	Number of low-income persons served in area
5	Owner-Occupied Housing Rehabilitation	2025	2026	Community Development	Citywide	Housing Affordability	CDBG: \$374,520.00	Housing units rehabbed
6	Affordable Housing Incentives	2025	2026	Community Development	Citywide	Increased homeownership opportunities	CDBG: \$225,000.00 HOME: \$75,000.00	Down Payment Assistance
7	New Construction/Rehab Rental Housing	2025	2026	Affordable Housing	Citywide	Affordable Housing	HOME: \$220,710.61	New Construction or rehabilitation of rental housing units
8	CHDO	2025	2026	Affordable Housing	Citywide	Affordable Housing	HOME: \$84,488.75	New Construction or rehabilitation of rental housing units

Table 53 – Goals Summary

Goal Descriptions

Goal Name: Planning and administration
Goal Descriptions: Administrative and planning costs to operate the CDBG program successfully
Goal Name: Fair Housing
Goal Description: Support targeted fair housing activities such as fair housing education services to low-and moderate-income households
Goal Name: Provide public services
Goal Description: Provision of public services for projects that provide supportive services to low and moderate-income households and persons
Goal Name: Public Facility/Improvements
Goal Description: Facility renovations in low- and moderate-income areas
Goal Name: Owner-Occupied Housing Rehabilitation
Goal Description: Provide housing rehabilitation loans to low- and moderate-income homeowners with incomes at or below 80% of the area median income to help them stay in their homes and to help maintain the current housing stock.
Goal Name: Affordable Housing Incentives
Goal Description:
Goal Name: New Construction of Rental Housing
Goal Description: Preserve, maintain, increase, and provide accessibility improvements for rental units that are affordable to households with incomes at or below 60% of the area median income
Goal Name: CHDO Set Aside
Goal Description: Preserve, maintain, increase, and provide accessibility improvements for rental units that are affordable to households with incomes at or below 60% of the area median income

Projects

AP-35 Projects – 91.220(d)

Introduction

The City has planned the following projects for the upcoming year and identified in the table below with additional details provided in Section AP-38.

Projects

#	Project Name
1	CDBG Admin & Planning
2	Fair Housing Activities
3	Public Service
4	Single Family Housing Rehab
5	Public Facility/Infrastructure
6	Homebuyer Assistance – CDBG
7	HOME Admin & Planning
8	CHDO 15%
9	Affordable Housing – New Construction
10	Affordable Housing – Down Payment Assistance

Table 54 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The projects were selected to meet identified needs in the community with the resources provided. Limited financial resources are the greatest obstacle to meeting the City's underserved needs. Murfreesboro will continue to estimate allocations for this Consolidated Plan period based on the final allocation amount and the priorities identified in the PY2020-2024 Consolidated Plan, community input, qualified requests for funding, and Community Development Department, and City Council. The City recognizes there are multiple needs for low and moderate-income persons in the City that are met through the use of CDBG and HOME funds. These needs include access to affordable housing for low and moderate-income persons, services for homeless and at-risk populations, increased capacity for public services and addressing community development needs. The City prioritizes grant allocations by ensuring that all proposed projects will:

- Directly benefit low and moderate-income persons or households as defined by HUD's Income Limit Guidelines based on the Nashville-Davidson-Murfreesboro-Franklin Metropolitan Statistical Area (MSA); or
- Take place in an area where more than 51% of the population is lower income according to HUD Income Limits.

AP-38 Project Summary

Project Summary Information

1	Project Name	CDBG Admin & Planning
	Target Area	Citywide
	Goals Supported	Administration & Planning
	Needs Addressed	Provide Administration & Planning
	Funding	\$200,504.00
	Description	Provide financial assistance for CDBG indirect costs and program management activities to ensure compliance.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	1-Other
	Location Description	Citywide
	Planned Activities	Funding for CDBG indirect costs and program management activities to ensure compliance.
2	Project Name	Fair Housing Activities
	Target Area	Citywide
	Goals Supported	Fair Housing
	Needs Addressed	Affirmatively Furthering Fair Housing Choice
	Funding	\$2,500.00
	Description	Provide financial assistance for program management activities related to affirmatively furthering fair housing.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	50 LMI Households
	Location Description	Citywide
	Planned Activities	The City will use CDBG funding for program management activities related to affirmatively furthering fair housing.
3	Project Name	Public Service
	Target Area	Citywide
	Goals Supported	Improving Public Services

	Needs Addressed	Improving Public Services
	Funding	\$125,000.00
	Description	Provide financial assistance to nonprofit organizations and/or government agencies to carry out activities to benefit LMI persons.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	50 LMI Households
	Location Description	Citywide
	Planned Activities	The City will use CDBG funds to allocate to local nonprofits identified through the applications process. The activities carried out will benefit LMI persons carried out by nonprofit and/or government agency subrecipients.
4	Project Name	Single Family Housing Rehab
	Target Area	Citywide
	Goals Supported	Owner-Occupied Housing Rehabilitation
	Needs Addressed	Housing Affordability
	Funding	\$374,520.00
	Description	Provide financial assistance for LMI homeowners with critical home repairs to stabilize homeowners within their primary unit of residence.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	15 LMI Households
	Location Description	Citywide
	Planned Activities	The City will use CDBG funds to assist LMI homeowners with home repairs to 1) Stabilize homeowners within their primary unit of residence, assisting with the goal of sustaining affordable homeownership, and 2) Assist with critical repairs for existing affordable housing units to maintain and sustain these units as affordable housing stock within the City.
5	Project Name	Public Facility/Infrastructure Projects
	Target Area	Citywide
	Goals Supported	Public Facilities/Infrastructure
	Needs Addressed	Public Facilities and Improvements
	Funding	\$75,000.00

	Description	Provide financial assistance to for CDBG eligible public infrastructure projects, including but not limited to parks, bus shelters, sidewalks, street paving, and/or storm water sewer drainage projects.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	50 LMI Households
	Location Description	Citywide
	Planned Activities	The City will use CDBG funding for eligible public infrastructure projects, including but not limited to parks, bus shelters, sidewalks, street paving, and/or storm water sewer drainage projects.
6	Project Name	Homebuyer Assistance – CDBG
	Target Area	Citywide
	Goals Supported	Affordable Housing Incentives
	Needs Addressed	Increased Homeownership Opportunities
	Funding	\$225,000.00
	Description	Provide financial assistance for income-eligible homebuyers to purchase a home.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	5 LMI Households
	Location Description	Citywide
	Planned Activities	The City will use CDBG funds to provide principal reduction assistance for first time homebuyers.
7	Project Name	HOME Admin & Planning
	Target Area	Citywide
	Goals Supported	Administration & Planning
	Needs Addressed	Provide Administration & Planning
	Funding	\$42,244.37
	Description	Provide financial assistance for HOME indirect costs and program management activities to ensure compliance.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	1-Other
	Location Description	Citywide

	Planned Activities	Funding for HOME indirect costs and program management activities to ensure compliance.
8	Project Name	CHDO 15%
	Target Area	Citywide
	Goals Supported	Affordable Housing Incentives
	Needs Addressed	Increased Homeownership Opportunities
	Funding	\$84,488.75
	Description	Provide financial assistance for Community Development Housing Organizations to construct or rehabilitate housing.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	1 LMI Household
	Location Description	Citywide
	Planned Activities	The City will use HOME funds to support the acquisition, disposition/holding costs, rehabilitation and/or demolition/clearance of real property with an end goal of using the real property for affordable housing development by CHDOs.
9	Project Name	Affordable Housing – New Construction/Rehab Rental Housing
	Target Area	Citywide
	Goals Supported	Affordable Housing Incentives
	Needs Addressed	Increased Homeownership Opportunities
	Funding	\$220,710.61
	Description	Provide financial assistance for developers (nonprofit and for-profit) to construct or rehabilitate housing.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	2 LMI Households
	Location Description	Citywide
	Planned Activities	The City will use HOME funds to support the acquisition, disposition/holding costs, rehabilitation and/or demolition/clearance of real property with an end goal of using the real property for affordable housing development.
10	Project Name	Homebuyer Assistance – HOME
	Target Area	Citywide

	Goals Supported	Affordable Housing Incentives
	Needs Addressed	Increased Homeownership Opportunities
	Funding	\$75,000.00
	Description	Provide financial assistance for income-eligible homebuyers to purchase a home.
	Target Date	06/30/2026
	Estimate the number and type of families that will benefit from the proposed activities	5 LMI Households
	Location Description	Citywide
	Planned Activities	The City will use HOME funds to provide down-payment assistance for first time homebuyers.

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

Murfreesboro is an urban area that relies on widely accepted data such as American Community Survey (ACS), HUD low and moderate-income summary data, and Federal Financial Institutions Examinations Council (FFIEC) data to determine areas throughout the community with concentrations of low and moderate-income communities. Program resources are allocated city-wide based on low-mod areas, which often coincide with areas of minority concentration. Over the next five years, the City intends to utilize CDBG funds in areas where 51% or more of residents have low or moderate household incomes).

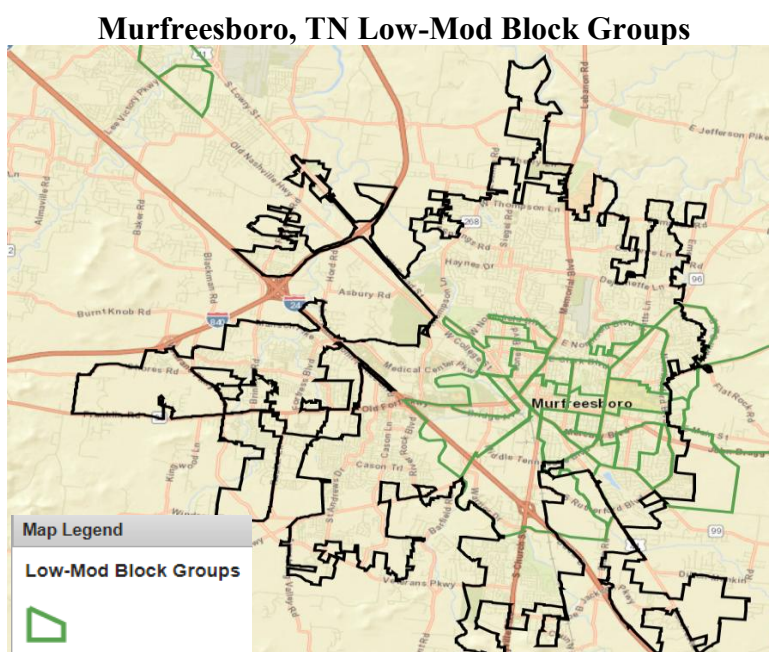
Geographic Distribution

Target Area	Percentage of Funds
Citywide	80%

Table 55 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

The City will allocate resources to the low- and moderate-income block groups within the City. The areas outlined in green on the map will generally be prioritized for allocation of resources, however, individual low- and moderate-income persons residing anywhere in the City may be eligible beneficiaries of CDBG funds.



Source: HUD Con Plan Mapping Tool. <https://egis.hud.gov/cpdmaps/>

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

The City of Murfreesboro with its nonprofit partners will provide affordable rental and homeowner housing, including assistance to people with disabilities and homeless individuals and families. The special needs population will be served through grants to local service providers. The homeless population will be served through assistance grants to local service providers. To address these needs, the City will use CDBG and THDA ESG funds to support the rehabilitation of existing units and providing homeless services.

One Year Goals for the Number of Households to be Supported	
Homeless	125
Non-Homeless	75
Special-Needs	0
Total	200

Table 56 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	0
The Production of New Units	3
Rehab of Existing Units	15
Acquisition of Existing Units	10
Total	28

Table 57 - One Year Goals for Affordable Housing by Support Type

Discussion

AP-60 Public Housing – 91.220(h)

Introduction

The Murfreesboro Housing Authority (MHA) is committed to ensuring that eligible families have access to safe, decent, and affordable housing. The organization's mission focuses on enhancing serviceability, economic viability, efficiency, and stability within its housing developments, while also striving to maximize both social and economic opportunities for its residents. MHA oversees a variety of affordable housing options, including the newly renovated Oakland Court, which comprises a combination of single-family homes, duplexes, and triplexes that are designed to harmonize with the architectural character of the surrounding community. The Housing Choice Voucher Program (Section 8) is another initiative aimed at aiding low-income families in finding rental housing within the private market; however, it is important to note that the waiting list for this program is currently closed.

1. Actions planned during the next year to address the needs to public housing

The MHA has received approval for the RAD conversion of the Parkside and Mercury Court properties. This multi-year initiative aims to replace the existing 76 homes at Oakland Court with new residences, ultimately increasing the total number of homes to 150, thereby nearly doubling the availability for eligible families. Furthermore, the MHA has commenced the process of relocating residents from Mercury Court to Oakland Court.

2. Actions to encourage public housing residents to become more involved in management and participate in homeownership

Murfreesboro emphasizes the importance of encouraging public housing residents to actively participate in management and transition towards homeownership. Achieving this goal necessitates a multifaceted approach that includes education, incentives, community engagement, and supportive policies. To empower residents in property management, it is essential to provide workshops focused on leadership skills, financial literacy, and housing policy. Regular meetings are organized to keep residents updated on decisions made by the housing authority, thereby promoting their involvement. MHA collaborates with local financial institutions and housing nonprofits to facilitate access to down payment assistance and low-interest loans. Additionally, engaging residents in beautification and community development initiatives can cultivate a sense of ownership. By integrating these strategies, public housing authorities can enhance resident participation in management while guiding them towards long-term financial stability and homeownership.

3. If the PHA is designated as troubled, describe the manner in which financial

assistance will be provided or other assistance

PHAs that attain scores of 90 or above are categorized as "high performing," while those with scores ranging from 60 to 89 fall into the "standard" or "substandard" classifications. Conversely, Public Housing Authorities (PHAs) that receive a score of 59 or below on a scale of 100 are labeled as "troubled."

The Murfreesboro Housing Authority (MHA) has not been classified as troubled and is recognized as a standard performer with the most recent score of 67.

Discussion

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

Murfreesboro's 2020-2024 Consolidated Plan prioritizes expanding housing options for individuals experiencing homelessness and those at risk of homelessness. Key long-term objectives include supporting emergency housing, enhancing supportive services, and strengthening the coordinated entry system to improve access to housing resources.

The 2024 Emergency Solutions Grant (ESG) allocation from the state will fund emergency shelter, rapid rehousing, and homelessness prevention services, providing critical assistance to individuals and families who lack the resources to secure stable housing on their own. These initiatives focus on connecting clients with essential services to facilitate their transition from emergency shelter to transitional or permanent housing, ensuring long-term stability and reducing the risk of recurring homelessness.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

The City of Murfreesboro will utilize Emergency Solutions Grant funding provided through the State of Tennessee for Emergency Shelter, Homelessness Prevention, Rapid Re-Housing, and ESG program administration. Funding for these programs are projected to benefit homeless persons and those at risk of homelessness. Projects selected for funding are designed to help shorten the client's homelessness, improve their ability to secure stable housing, and prevent recurrent homeless episodes.

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The City of Murfreesboro has a comprehensive Homeless Engagement Plan to address and mitigate homelessness within the community. The Murfreesboro Police Department's H.O.S.T. unit engages with unsheltered individuals, building trust and providing assistance with shelter referrals, rehabilitation programs, housing options, medical and behavioral health services, and transportation. They also aid in obtaining essential personal documentation and collaborate with local businesses to manage and clean up homeless encampments. The city also collaborates with local nonprofits aim to expand services and implement a coordinated entry system to streamline access to housing and supportive services. Through these coordinated efforts, Murfreesboro strives to provide comprehensive support to its homeless population, addressing immediate needs and facilitating long-term stability and self-sufficiency.

Addressing the emergency shelter and transitional housing needs of homeless

persons

The city remains committed to assisting organizations that tackle the urgent shelter and transitional housing requirements of the homeless population, aiming to create a more comprehensive social service framework. Murfreesboro partners with the Homeless Outreach Team from the Police Department, which offers resources to individuals experiencing homelessness who need support.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

While the City is not a recipient of ESG funds, the City does support and collaborate with the agencies that provide services social services for chronically homeless individuals and families residing in Murfreesboro. At-risk households with a history of housing instability will receive case management to address barriers & link to mainstream resources such as SNAP, TANF, SSI and mainstream rental assistance programs. Homeless providers assist participants to develop independent living skills, increase income & access services to reduce returns to homelessness. Those existing homeless persons who are unable to maintain housing on their own are linked Permanent Supportive Housing, subsidized housing, or family/friends with whom they can live. Homelessness prevention assistance including financial assistance & case management is provided to those who are at risk of returning to homelessness. Program participants with multiple service needs & significant housing instability participate in an intensive integrated teaming that brings to together the participant with service providers to identify needed supports.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The primary objective is to connect individuals and families with available housing options as swiftly as possible while providing assistance in accessing subsidies and enhancing their income to ensure long-term housing stability. Local nonprofit service providers collaborate with hospitals, courts, and other organizations to facilitate the discharge planning for individuals facing homelessness. Furthermore, the city will

support agencies that deliver primary care, behavioral health, vocational, and other essential services for those experiencing homelessness. During the next plan period, the city will focus on the following initiatives:

- Enhance collaboration among mental health, physical health, and criminal justice systems to identify individuals at risk of homelessness and connect them with resources to prevent literal homelessness following discharge.
- Partner with the local and state Department of Children Services to aid in their efforts to expand services for youth currently in foster care.
- Assist in identifying available prevention programs and developing a gap analysis to formulate a comprehensive homeless prevention strategy in the upcoming years.

AP-75 Barriers to affordable housing – 91.220(j)

Introduction:

The City of Murfreesboro continues to work to address barriers to the development of affordable housing be it through its land use policies or improving city procedures to expedite affordable housing production. As identified in the City's 2025 Analysis of Impediments to Fair Housing Choice, the City has experienced the following local barriers to affordable housing:

1. Discriminatory rental practices
2. Limited awareness of rights and responsibilities
3. Inadequate Supply of Affordable and Accessible Housing
4. Housing Complaint Retaliation

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment.

The City will continue its efforts to exploring ways to incentivize development and other strategies to expand housing affordability. Additionally, the City's AI provides the list of recommended actions along with measurable objectives for the City to pursue.

Discussion:

As one of the most fastest growing cities in the United States, the need for affordable housing is more acute today than in previous years. Consequently, the need to remove barriers to the production or preservation of affordable housing has become an even more important priority of the City of Murfreesboro. The City's Community Development Department will also continue to work with other City departments to implement measures to expedite the production of affordable housing units.

AP-85 Other Actions – 91.220(k)

Introduction:

This section describes the City of Murfreesboro's planned actions to carry out the following strategies outlined in the Strategic Plan.

Actions planned to address obstacles to meeting underserved needs

Murfreesboro aims to enhance service delivery to underserved populations by collaborating with community leaders, stakeholders, and local non-profits to identify and address obstacles. The City will coordinate social service efforts, share information, and develop community-wide solutions while reviewing departmental activities to promote collaboration among similar programs. Additionally, staff will ensure that fair housing education materials are updated and compliant to support equitable access to resources.

Actions planned to foster and maintain affordable housing

Murfreesboro is committed to tackling the need for more affordable housing by strategically investing in existing housing programs. They will continue to use funds like CDBG and HOME for initiatives such as down-payment assistance and property rehabilitation, ensuring that affordable housing options are preserved. Simultaneously, the city will promote fair housing practices by supporting fair housing rights, educating residents on the Fair Housing Act of 1968, and providing funding for related outreach programs.

Actions planned to reduce lead-based paint hazards

The City of Murfreesboro mandates compliance with lead-based paint regulations for CDBG-funded projects involving pre-1978 structures. If a project receives funding and lead-based paint hazards are identified, the City will ensure adherence to federal requirements for hazard reduction.

Actions planned to reduce the number of poverty-level families

In order to help reduce the number of poverty-level families, the City will continue the various activities outlined in Section SP-70 of the Strategic Plan.

Actions planned to develop institutional structure

The primary challenge in addressing underserved needs is insufficient funding, compounded by ongoing cuts in financial support from various government levels. To overcome this, the City will continue to engage in collaborative partnerships aimed at supporting low-income individuals, the homeless, and those with special needs.

Actions planned to enhance coordination between public and private housing and

social service agencies

Discussion:

The City aims to improve collaboration among social service organizations, subcontractors, and public/private entities by sharing resources, information, and news. This will include subrecipient meetings for affordable housing developers and social service agencies, promoting community-based solutions and regional partnerships, and supporting the CoC.

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

Introduction:

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	100,000
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan.	0
5. The amount of income from float-funded activities	0
Total Program Income	100,000

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	80

HOME Investment Partnership Program (HOME)

Reference 24 CFR 91.220(l)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:

Not applicable. The City of Murfreesboro does not intend to use HOME funds for forms of investment other than those described in 24 CFR 92.205 during the 2025 program year.

2. A description of the guidelines that will be used for resale or recapture of HOME funds when

used for homebuyer activities as required in 92.254, is as follows:

The HOME rule at §92.254(a)(5) establishes the resale and recapture requirements HOME grantees must use for all homebuyer activities. These provisions are imposed for the duration of the period of affordability on all HOME-assisted homebuyer projects through a written agreement with the homebuyer, and enforced via lien, deed restrictions, or covenants running with the land. The resale or recapture provisions are triggered by any transfer of title, either voluntary or involuntary, during the established HOME period of affordability.

When undertaking HOME-assisted homebuyer activities, including projects funded with HOME program income, the City will establish resale or recapture provisions that comply with HOME statutory and regulatory requirements and set forth the provisions in its Consolidated Plan. HUD must determine that the provisions are appropriate. The written resale/recapture provisions that the City submits in its Annual Action Plan must clearly describe the terms of the resale/recapture provisions, the specific circumstances under which these provisions will be used, and how the City will enforce the provisions.

Note: City of Murfreesboro's complete Resale and Recapture provisions are included as an appendix. Below is a summary of applicable portions of the provisions.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

The City's resale and recapture provisions ensure the affordability of units acquired with home funds in several ways.

The HOME rule at §92.254(a)(4) establishes the period of affordability for all homebuyer housing. The City's calculation for the period of affordability is based upon the amount of HOME assistance in each unit and the applicable period of affordability under resale or recapture provisions.

a. Period of Affordability Under Resale Provisions

Under resale, §92.254(a) (5) (i) the HOME rule states that the period of affordability is based on the total amount of HOME funds invested in the housing. In other words, the total HOME funds expended for the unit determines the applicable affordability period. Any HOME program income used to assist the project is included when determining the period of affordability under a resale provision.

b. Period of Affordability Under Recapture Provisions

For HOME-assisted homebuyer units under the recapture option, the period of affordability is based upon the HOME-funded direct subsidy provided to the homebuyer that enabled the homebuyer to purchase the unit. Any HOME program

income used to provide direct assistance to the homebuyer is included when determining the period of affordability.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

The City does not anticipate refinancing any existing debt with its HOME funds during this Consolidated Plan period.

5. If applicable to a planned HOME TBRA activity, a description of the preference for persons with special needs or disabilities. (See 24 CFR 92.209(c)(2)(i) and CFR 91.220(l)(2)(vii)).

Not applicable. The City does not intend to develop a HOME TBRA program specifically for persons with special needs or disabilities.

6. If applicable to a planned HOME TBRA activity, a description of how the preference for a specific category of individuals with disabilities (e.g. persons with HIV/AIDS or chronic mental illness) will narrow the gap in benefits and the preference is needed to narrow the gap in benefits and services received by such persons. (See 24 CFR 92.209(c)(2)(ii) and 91.220(l)(2)(vii)).

Not applicable. The City does not intend to develop a HOME TBRA program specifically for persons with special needs or disabilities.

7. If applicable, a description of any preference or limitation for rental housing projects. (See 24 CFR 92.253(d)(3) and CFR 91.220(l)(2)(vii)). Note: Preferences cannot be administered in a manner that limits the opportunities of persons on any basis prohibited by the laws listed under 24 CFR 5.105(a).

The City will collaborate with the Murfreesboro Housing Authority to ensure rental housing activities are specifically set aside for low and moderate income households.

Appendix - Alternate/Local Data Sources

1	Data Source Name 2020-2023 ACS 5-Year Estimates
	List the name of the organization or individual who originated the data set. U.S. Census Bureau
	Provide a brief summary of the data set. 5-Year Estimates
	What was the purpose for developing this data set? Statutory
	How comprehensive is the coverage of this administrative data? Is data collection concentrated in one geographic area or among a certain population? Estimates
	What time period (provide the year, and optionally month, or month and day) is covered by this data set? 2020-2023
	What is the status of the data set (complete, in progress, or planned)? Complete
2	Data Source Name 2024 HOME Program Rents
	List the name of the organization or individual who originated the data set. HUD
	Provide a brief summary of the data set. HUD 2024 HOME Program Rents - Effective May 1, 2024
	What was the purpose for developing this data set? HOME regulations
	How comprehensive is the coverage of this administrative data? Is data collection concentrated in one geographic area or among a certain population? National
	What time period (provide the year, and optionally month, or month and day) is covered by this data set? 2024-2025
	What is the status of the data set (complete, in progress, or planned)? Complete

3	Data Source Name
	2024 Longitudinal Employer-Household Dynamics (Job
	List the name of the organization or individual who originated the data set.
	U.S. Census Bureau
	Provide a brief summary of the data set.
	Analysis of workers-job ratios by business sector
	What was the purpose for developing this data set?
	Economic analysis
4	Data Source Name
	2025 HUD Housing Inventory Count
	List the name of the organization or individual who originated the data set.
	U.S. Department of Housing and Urban Development and Murfreesboro/Rutherford County Continuum of Care
	Provide a brief summary of the data set.
	Market analysis
	What was the purpose for developing this data set?
	Market analysis
4	Provide the year (and optionally month, or month and day) for when the data was collected.
	2025
	Briefly describe the methodology for the data collection.
	Not known
	Describe the total population from which the sample was taken.
	National
	Describe the demographics of the respondents or characteristics of the unit of measure, and the number of respondents or units surveyed.
	Not known

5	Data Source Name 2020 Census
	List the name of the organization or individual who originated the data set. U.S. Census Bureau
	Provide a brief summary of the data set. Decennial Census Data
	What was the purpose for developing this data set? Statutory
	How comprehensive is the coverage of this administrative data? Is data collection concentrated in one geographic area or among a certain population? National
	What time period (provide the year, and optionally month, or month and day) is covered by this data set? 2020
	What is the status of the data set (complete, in progress, or planned)? Complete
6	Data Source Name PHA 5-Year Plan
	List the name of the organization or individual who originated the data set. Murfreesboro Housing Authority
	Provide a brief summary of the data set. Murfreesboro Housing Authority Inventory
	What was the purpose for developing this data set? PHA 5-Year and Annual Plan
	How comprehensive is the coverage of this administrative data? Is data collection concentrated in one geographic area or among a certain population? Count of voucher and housing units
	What time period (provide the year, and optionally month, or month and day) is covered by this data set? Inventory as of 2024
	What is the status of the data set (complete, in progress, or planned)? Complete
7	Data Source Name 2016-2020 CHAS Tables

	<p>List the name of the organization or individual who originated the data set.</p> <p>U.S. Census Bureau</p>
	<p>Provide a brief summary of the data set.</p> <p>Housing Numbers</p>
	<p>What was the purpose for developing this data set?</p> <p>To assess housing needs in the jurisdiction</p>
	<p>Provide the year (and optionally month, or month and day) for when the data was collected.</p> <p>2016-2020</p>
	<p>Briefly describe the methodology for the data collection.</p> <p>2016-2020 American Community Survey</p>
	<p>Describe the total population from which the sample was taken.</p> <p>See Census Bureau notes to ACS</p>
	<p>Describe the demographics of the respondents or characteristics of the unit of measure, and the number of respondents or units surveyed.</p> <p>See Census Bureau notes to ACS</p>
8	<p>Data Source Name</p> <p>January 2025 Point in Time Count</p>
	<p>List the name of the organization or individual who originated the data set.</p> <p>Murfreesboro/Rutherford County Homeless Task Force of behalf of Murfreesboro/Rutherford County Continuum of Care (TN-510)</p>
	<p>Provide a brief summary of the data set.</p> <p>Annual Point in Time Count conducted by Murfreesboro/Rutherford County Continuum of Care</p>
	<p>What was the purpose for developing this data set?</p> <p>Collect data on sheltered and unsheltered homeless person</p>
	<p>How comprehensive is the coverage of this administrative data? Is data collection concentrated in one geographic area or among a certain population?</p> <p>Confidence level in sheltered count is high; confidence in unsheltered count is moderately high. Data was collected throughout Murfreesboro and Rutherford County</p>
	<p>What time period (provide the year, and optionally month, or month and day) is covered by this data set?</p> <p>January 28, 2025</p>
	<p>What is the status of the data set (complete, in progress, or planned)?</p> <p>Complete</p>

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Thompson Ln Widening-Easement Offers

Department: Water Resources

Presented by: Valerie Smith

Requested Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider approval of purchasing utility and temporary construction easements in conjunction with the Thompson Lane widening project.

Staff Recommendation

Approve easement offers with 10% contingencies for voluntary conveyance along with authorization to use eminent domain if the property owners do not voluntarily convey the necessary easement(s). The Water Resources Board recommended approval of this matter at their June 24, 2025, meeting.

Background Information

ELI has now provided all permanent and temporary construction water and sewer easement descriptions and exhibits to the Department. This information is what is used by the Legal Department to prepare the easement document for signatures. Permanent easements remain in perpetuity, however, temporary construction easements are voided and vacated after construction. Temporary easements are necessary to give the contractor ample room to construct the new mains outside of the permanent easement.

The easement offers were created using tax assessors' land values as the basis using the size of the easements. Permanent easements are offered at 50% of the land value and temporary construction easements are offered at 20%, assuming a 2-year construction period. Staff has also programmed a \$1000 minimum as well as a 10% increase in the offer for voluntary conveyance. If the property owner does not agree voluntarily to the easement, and the Department has to condemn the property for the easement, then the 10% will be removed. Use of eminent domain requires a property appraisal which will increase costs should condemnation be necessary.

Staff requests approval of the easement offers since time is of the essence in acquiring them prior to TDOT bidding the project.

Council Priorities Served

Responsible budgeting

Funding for this project has been set aside and shown in the Working Capital Reserves dashboard since November of 2020.

Fiscal Impact

Easement acquisition costs, estimated at \$662,252, will be funded from Working Capital Reserves; however, staff requests approval of \$700,000 for easement acquisitions.

Attachments

Easement Spreadsheet of Offers

UTILITY EASEMENT ACQUISITION TABLE

TRACT NO.	PROPERTY OWNERS	STREET ADDRESS	PERMANENT EASEMENT PRICE	PERMANENT EASEMENT PRICE +10%	PERMANENT EASEMENT SQUARE FOOTAGE	TEMPORARY EASEMENT PRICE (2-Yr)	TEMPORARY EASEMENT PRICE +10%	PERMANENT +TEMP EASEMENT (10% & \$1000 MIN)	TEMPORARY EASEMENT SQUARE FOOTAGE	PRICE PER SQUARE FOOT	TOTAL LAND AREA (ACRES)	TOTAL LAND VALUE
6	SOUTHERN CORNERSTONE, INC., c/o SILVER OAK AD	1942 NW BROAD ST	\$581.01	\$639.11	105	\$4,285.08	\$4,713.59	\$5,352.70	1,936	\$11.07	2.80	\$1,349,800
7	MACSNEWCO LLC	2010 NW BROAD ST	\$7,465.34	\$8,211.87	896	\$2,676.19	\$2,943.81	\$11,155.68	803	\$16.66	1.55	\$1,125,100
9	MARTHA ELLEN CREEL, EXECUTRIX	2038 N THOMPSON LN	\$9,871.36	\$10,858.49	2,525	\$3,646.73	\$4,011.41	\$14,869.90	2,332	\$7.82	2.03	\$691,400
10	SWANSON DEVELOPMENT, LP	N THOMPSON LN (Unnumbered)	\$173,702.03	\$191,072.23	34,227	\$28,854.42	\$31,739.86	\$222,812.09	14,214	\$10.15	19.78	\$2,359,000
11	MARTHA ELLEN CREEL,	2048 N THOMPSON LN	\$18,421.23	\$20,263.35	3,962	\$4,582.53	\$5,040.78	\$25,304.13	2,464	\$9.30	1.60	\$648,100
13	2114 N THOMPSON LANE, LLC	2114 N THOMPSON LN	\$2,482.45	\$2,730.70	482	\$2,099.27	\$2,309.20	\$5,039.89	1,019	\$10.30	0.69	\$309,600
14	MICHAEL H. WILLIAMSON	2118 N. THOMPSON LN	\$4,142.78	\$4,557.06	776	\$3,252.30	\$3,577.53	\$8,134.59	1,523	\$10.68	0.98	\$455,800
15	DANIEL T. AND MARY C. WALLACE FAMILY LIMITED P,	2122 N THOMPSON LN	\$2,948.29	\$3,243.11	586	\$3,598.32	\$3,958.15	\$7,201.26	1,788	\$10.06	1.13	\$495,300
16	KISS HOLDINGS, LLC	2126 N THOMPSON LN	\$8,358.84	\$9,194.72	988	\$4,352.01	\$4,787.21	\$13,981.93	1,286	\$16.92	0.75	\$552,800
17	SAMI ABUZAHA	2130 N THOMPSON LN	\$2,113.16	\$2,324.47	416	\$1,820.57	\$2,002.62	\$4,327.10	896	\$10.16	1.14	\$504,500
21	BJC FAMILY TRUST, ETC	2144 N THOMPSON LN	\$1,122.92	\$1,235.21	234	\$1,468.44	\$1,615.28	\$2,850.49	765	\$9.60	1.66	\$694,000
26	STONES RIVER BUSINESS CENTER OWNERS' ASSOCIATION, INC.	2159 N THOMPSON LN	\$2,805.14	\$3,085.65	628	\$1,574.09	\$1,731.50	\$4,817.15	881	\$8.93	2.46	\$957,298
33	LISA A LORENZEN	2315 RIVERVIEW DR	\$0.00	\$0.00	0	\$336.07	\$369.68	\$1,000.00	1,407	\$1.19	1.73	\$90,000
34	DAVID L HUDSON ETUX CAROL ANN K HUDSON	2319 RIVERVIEW DR	\$0.00	\$0.00	0	\$662.78	\$729.06	\$1,000.00	3,272	\$1.01	2.04	\$90,000
35	HAROLD D and SHARON WHITESIDE	2403 RIVERVIEW DR	\$0.00	\$0.00	0	\$582.23	\$640.45	\$1,000.00	3,272	\$0.89	2.09	\$81,000
37	GARY KEITH PETTIGREW AND DIANE FRANK PETTIGREW, TRUSTEES OF THE GARY K. PETTIGREW AND DIANE FRANK PETTIGREW REVOCABLE LIVING TRUST	1911 ROYAL DR	\$3,052.54	\$3,357.80	4,255	\$1,110.54	\$1,221.59	\$4,579.39	3,870	\$1.43	0.96	\$60,000
41	HAJI T. MOHAMMED ETUX NARIMAN ISMAIL	1910 ROYAL DR	\$2,990.95	\$3,290.04	3,040	\$730.03	\$803.03	\$4,093.07	1,855	\$1.97	0.70	\$60,000
42	DONALD L. BRUCE TRUSTEE of the DONALD L. BRUCE REVOCABLE LIVING TRUST AGREEMENT	1911 HAYNES DR	\$1,544.84	\$1,699.32	1,301	\$825.97	\$908.57	\$2,607.89	1,739	\$2.37	0.58	\$60,000
63	DARREN NOBLE ETUX TAMMY NOBEL	1911 HIXON CT	\$1,873.92	\$2,061.31	1,170	\$0.00	\$0.00	\$2,061.31	0	\$3.20	0.43	\$60,000
64	GIBSON, TRUSTEES, of the JOSEPH CHESSOR GIBSON and SANDRA LYN GIBSON REVOCABLE LIVING TRUST	2415 COLFAX DR	\$542.98	\$597.27	438	\$0.00	\$0.00	\$1,000.00	0	\$2.48	0.75	\$81,000
70	DEBORAH JANE YORK MARTIN AND JOHN WILLIAM M	2507 COLFAX DR	\$473.03	\$520.33	261	\$651.01	\$716.11	\$1,236.44	898	\$3.62	0.38	\$60,000
76	GARY L. MASSEY AND WIFE, KATHY D. MASSEY	2002 HAMPTON DR	\$1,155.07	\$1,270.58	494	\$593.90	\$653.29	\$1,923.87	635	\$4.68	0.27	\$55,000
77	MIGUEL NADAL AND WIFE, MEGAN NADAL	2511 COLFAX DR	\$1,261.31	\$1,387.45	641	\$751.67	\$826.84	\$2,214.29	955	\$3.94	0.35	\$60,000
78	CHANT P. VONGSWADY AND WIFE, PRANEE VONGSWADY	2515 COLFAX DR	\$793.24	\$872.56	645	\$794.47	\$873.92	\$1,746.48	1,615	\$2.46	0.56	\$60,000
83	RANDY W. MOODY AND WIFE CHNTHIA H. MOODY	1907 ANDREW CT	\$1,429.06	\$1,571.97	664	\$988.29	\$1,087.12	\$2,659.09	1,148	\$4.30	0.32	\$60,000
86	BROOK A. CHALFANT AND CHARLES CHALFANT WIFE AND HUSBAND	1911 ANDREW CT	\$650.99	\$716.09	397	\$1,340.68	\$1,474.75	\$2,190.84	2,044	\$3.28	0.42	\$60,000
88	MICHAEL WHITE	1910 ANDREW CT	\$0.00	\$0.00	0	\$262.91	\$289.20	\$1,000.00	439	\$2.99	0.46	\$60,000
92	JOSHUA K. SMITH AND REBECCA J. SMITH, HUSBAND AND WIFE	1919 WILTSHIRE DR	\$1,717.17	\$1,888.89	1,122	\$1,021.12	\$1,123.23	\$3,012.12	1,668	\$3.06	0.45	\$60,000
93	VAN A. BROWN, SR. AND WIFE, ELLEN G. BROWN	1918 WILTSHIRE DR	\$324.68	\$357.14	231	\$901.78	\$991.96	\$1,349.10	1,604	\$2.81	0.49	\$60,000
101	TIA FALLS and LAQUANTAY FALLS	1919 SOMERSET DR	\$0.00	\$0.00	0	\$703.26	\$773.58	\$1,000.00	1,353	\$2.60	0.53	\$60,000
102	VASANA RATTANARATH	1918 SOMERSET DR	\$705.17	\$775.69	942	\$400.65	\$440.71	\$1,216.40	1,338	\$1.50	0.92	\$60,000
103	MIA PROPERTIES LLC	2725 N THOMPSON LN	\$0.00	\$0.00	0	\$993.01	\$1,092.31	\$1,092.31	7,529	\$0.66	11.38	\$326,900
105	DANIEL W FRANCESON	1831 WATERFORD ROAD	\$1,754.97	\$1,930.47	3,400	\$1,273.28	\$1,400.61	\$3,331.08	6,167	\$1.03	1.59	\$71,500
106	PAUL M BOOKNER ETUX REBECCA JANE BOOKNER	N THOMPSON LN (Unnumbered)	\$0.00	\$0.00	0	\$270.88	\$297.97	\$1,000.00	2,109	\$0.64	4.64	\$129,800

108	PAUL M. BOOKNER AND WIFE, REBECCA JANE BOOKNER	2811 N THOMPSON LN	\$1,327.37	\$1,460.11	3,898	\$319.28	\$351.21	\$1,811.31	2,344	\$0.68	4.20	\$124,600
115	MONTY R. SELLERS and/or MARLENE K. SELLERS, TRUSTEES of the MONTY AND MARLENE SELLERS	2839 N THOMPSON LN	\$2,321.13	\$2,553.25	2,107	\$743.38	\$817.72	\$3,370.97	1,687	\$2.20	0.77	\$73,900
117	K&B INVESTMENT PARTNERS LLC	3225 SULPHUR SPRINGS RD	\$494.34	\$543.78	1,272	\$209.55	\$230.51	\$1,000.00	1,348	\$0.78	7.31	\$247,500
123	MICHAEL RAY BARRETT AND WIFE, TWYLA ANISE BARETT	2916 N THOMPSON LN	\$2,448.22	\$2,693.04	2,078	\$1,549.99	\$1,704.99	\$4,398.03	3,289	\$2.36	1.06	\$108,800
124	ABEDALAZEEF ABUZHARA	3256 SULPHUR SPRINGS RD	\$39.63	\$43.59	123	\$75.27	\$82.79	\$1,000.00	584	\$0.64	5.13	\$144,000
126	TERRY R. KNOWLES	2936 N THOMPSON LN	\$2,803.67	\$3,084.04	1,969	\$1,280.38	\$1,408.41	\$4,492.45	2,248	\$2.85	0.79	\$98,000
127	ANTHONY JAMES THOMAS	2965 N THOMPSON LN	\$2,134.27	\$2,347.70	7,312	\$738.94	\$812.83	\$3,160.53	6,329	\$0.58	5.36	\$136,300
128A	MARK D. MILLER and JESSE L. KENNEDY	2956 N THOMPSON LN	\$2,322.17	\$2,554.39	2,578	\$997.33	\$1,097.06	\$3,651.45	2,768	\$1.80	1.77	\$138,900
128B	GARY JACKSON and WIFE REBA JACKSON	2960 N THOMPSON LN	\$1,845.98	\$2,030.58	1,766	\$856.72	\$942.39	\$2,972.97	2,049	\$2.09	1.22	\$111,100
129	CLAUD L. VICK ETUX PHYLLIS J. VICK	2968 N THOMPSON LN	\$2,442.91	\$2,687.20	3,661	\$1,264.63	\$1,391.09	\$4,078.29	4,738	\$1.33	3.00	\$174,400
130	LUTHER H. HENDRIX and wife NANCY HENDRIX	2996 N THOMPSON LN	\$1,214.64	\$1,336.11	2,555	\$732.49	\$805.74	\$2,141.85	3,852	\$0.95	4.80	\$198,800
133	HOUSTON	3018 TWISTED OAK DR	\$0.00	\$0.00	0	\$1,557.53	\$1,713.29	\$1,713.29	1,890	\$4.12	0.39	\$70,000
135	MICHAEL S. WILLIEM	3018 N THOMPSON LN	\$1,173.29	\$1,290.62	1,899	\$949.26	\$1,044.19	\$2,334.81	3,841	\$1.24	3.58	\$192,700
137	AH4R TN-3 LLC	1711 IRONWOOD CT	\$0.00	\$0.00	0	\$1,639.12	\$1,803.03	\$1,803.03	1,683	\$4.87	0.33	\$70,000
138	MARY P. KYLE	3028 N THOMPSON LN	\$869.66	\$956.63	1,284	\$1,109.43	\$1,220.37	\$2,177.00	4,095	\$1.35	2.92	\$172,300
139	SARAH E. VAN DYKE AND CALEB D. VAN DYKE WIFE AND HUSBAND	1709 IRONWOOD CT	\$831.15	\$914.27	631	\$1,458.40	\$1,604.24	\$2,518.50	2,768	\$2.63	0.61	\$70,000
141	MARY P. KYLE	3038 N. THOMPSON LN	\$1,805.57	\$1,986.13	2,763	\$2,151.79	\$2,366.97	\$4,353.10	8,232	\$1.31	2.77	\$157,700
146	JOHN P. PERUZZI ETUX JANET J. PERUZZI	3048 N THOMPSON LN	\$303.43	\$333.77	1,164	\$295.82	\$325.40	\$1,000.00	2,837	\$0.52	7.49	\$170,100
153	DONALD C. STEELE AND WIFE, KATHERINE F. STEELE	3058 N THOMPSON LN	\$806.00	\$886.60	2,923	\$393.32	\$432.65	\$1,319.25	3,566	\$0.55	5.27	\$126,600
154	LIGHTHOUSE BAPTIST CHURCH OF RUTHERFORD COUNTY	3145 N THOMPSON LN	\$81.46	\$89.61	1,629	\$72.51	\$79.76	\$1,000.00	3,625	\$0.10	16.48	\$71,800
155	RANDY S. DICKERSON AND WIFE, LESLIE L. DICKERSON	3108 N THOMPSON LN	\$271.40	\$298.54	771	\$648.67	\$713.54	\$1,012.08	4,607	\$0.70	3.45	\$105,800
156	KIMBERLY F. BAKER	3128 N THOMPSON LN	\$444.05	\$488.46	614	\$705.28	\$775.80	\$1,264.26	2,438	\$1.45	1.63	\$102,700
159	MARK JOSEPH THORNELL JR ETAL JILL A THORNELL	3206 ROB CIR	\$134.68	\$148.15	88	\$0.00	\$0.00	\$1,000.00	0	\$3.06	0.45	\$60,000
161	STEVE MEADOWS	N THOMPSON LN (Unnumbered)	\$5,457.36	\$6,003.10	26,152	\$804.83	\$885.31	\$6,888.41	9,642	\$0.42	5.22	\$94,900
163	SHANE FOGLE	3187 N THOMPSON LN	\$83.64	\$92.00	228	\$83.20	\$91.52	\$1,000.00	567	\$0.73	3.32	\$106,100
164	KATE E and NATALIE K PERUZZI	SIEGEL RD (Unnumbered)	\$190.26	\$209.29	7,456	\$33.94	\$37.33	\$1,000.00	3,325	\$0.05	24.38	\$54,200
167	DORIS L. COURTNEY	827 W THOMPSON LN	\$1,026.77	\$1,129.45	867	\$641.88	\$706.07	\$1,835.52	1,355	\$2.37	0.63	\$65,000
168	MICHAEL CHEWNING and wife CAROLYN CHEWNING	823 W THOMPSON LN	\$880.72	\$968.79	543	\$834.33	\$917.76	\$1,886.56	1,286	\$3.24	0.46	\$65,000
169	WILLIAM MARK CAGLE	819 W THOMPSON LN	\$651.14	\$716.25	384	\$839.02	\$922.92	\$1,639.18	1,237	\$3.39	0.44	\$65,000
170	LEANNA PINES MOBILE HOME PARK LLC	3417 LEANNA RD	\$6,802.64	\$7,482.90	5,648	\$1,359.56	\$1,495.52	\$8,978.42	2,822	\$2.41	6.45	\$676,800
173	JOHNNY M. SULLIVAN	W THOMPSON LN (Unnumbered)	\$2,113.04	\$2,324.34	1,779	\$2,206.40	\$2,427.04	\$4,751.38	4,644	\$2.38	0.92	\$95,200
175	CARLOS D. GUPTON	815 W THOMPSON LN	\$98.35	\$108.18	58	\$0.00	\$0.00	\$1,000.00	0	\$3.39	0.44	\$65,000
184	BIBLE PATHWAY MINISTRIES	810 W THOMPSON LN	\$952.52	\$1,047.77	1,929	\$770.11	\$847.12	\$1,894.89	3,899	\$0.99	2.12	\$91,200
185	TUSCANY PARTNERS, LLC	3404-3531 W CORTONA WAY	\$2,475.08	\$2,722.59	4,900	\$1,513.34	\$1,664.67	\$4,387.26	7,490	\$1.01	6.74	\$296,600
187	BNA HOMES LLC	JOHN RICHARDS DR (Unnumbered)	\$20.84	\$22.93	1,135	\$20.20	\$22.22	\$1,000.00	2,750	\$0.04	0.25	\$400
188	BNA HOMES LLC	JOHN RICHARDS DR (Unnumbered)	\$13.40	\$14.74	1,109	\$11.28	\$12.41	\$1,000.00	2,334	\$0.02	0.38	\$400
189	GILBERT W MCCARTER II	678-688 W THOMPSON LN	\$878.49	\$966.34	1,363	\$638.34	\$702.18	\$1,668.52	2,476	\$1.29	6.34	\$356,000
190	BLACK DIAMOND CONSTRUCTION, LLC	674 W THOMPSON LN	\$3,407.28	\$3,748.01	1,580	\$2,394.59	\$2,634.05	\$6,382.06	2,776	\$4.31	2.40	\$450,900
191A	KINGS LANDING VILLAS HOMEOWNERS ASSOCIATION INC	WINTERFELL DR (Unnumbered)	\$50.74	\$55.82	746	\$34.58	\$38.04	\$1,000.00	1,271	\$0.14	0.27	\$1,600
191B	KINGS LANDING VILLAS HOMEOWNERS ASSOCIATION INC	WINTERFELL DR (Unnumbered)	\$14.39	\$15.82	282	\$7.16	\$7.88	\$1,000.00	351	\$0.10	0.36	\$1,600
192	PAMELA R. BROWN	614 W THOMPSON LN	\$1,666.89	\$1,833.58	916	\$802.15	\$882.36	\$2,715.94	1,102	\$3.64	0.41	\$65,000
193	MARY ELIZABETH DEMASKEY ETVIR MIKLE KURT DE	610 W THOMPSON LN	\$1,229.63	\$1,352.59	857	\$664.60	\$731.06	\$2,083.65	1,158	\$2.87	0.52	\$65,000
194	RUSSEL O. CAUGHRON	606 W THOMPSON LN	\$3,735.15	\$4,108.66	2,403	\$703.82	\$774.20	\$4,882.87	1,132	\$3.11	0.48	\$65,000

199	KATHERINE MURRIE AND HUSBAND, JASON MURRIE	602 W THOMPSON LN	\$5,838.65	\$6,422.51	3,365	\$777.33	\$855.06	\$7,277.57	1,120	\$3.47	0.43	\$65,000
201	GENERAL'S LANDING HOME OWNERS ASSOCIATION	W THOMPSON LN (Unnumbered)	\$1,784.21	\$1,962.63	3,886	\$924.33	\$1,016.77	\$2,979.39	5,033	\$0.92	15.35	\$614,000
204	RUTHERFORD COUNTY	355 and 435 W THOMPSON LN	\$3,240.26	\$3,564.29	5,882	\$1,074.87	\$1,182.36	\$4,746.65	4,878	\$1.10	103.61	\$4,972,500
205	CAROLINE FARMS HOMEOWNERS ASSOCIATION, INC	CAROLINE FARMS DR (Unnumbered)	\$121.79	\$133.97	1,089	\$50.73	\$55.80	\$1,000.00	1,134	\$0.22	0.39	\$3,800
206	KENNETH M. RICKS, JR. ETUX JENNIFER R. RICKS	414 W THOMPSON LN	\$1,035.73	\$1,139.31	763	\$577.73	\$635.50	\$1,774.81	1,064	\$2.71	0.46	\$54,400
207	KENNETH M. RICKS, JR. ETUX JENNIFER R. RICKS	404 W THOMPSON LN	\$1,046.26	\$1,150.89	754	\$586.13	\$644.74	\$1,795.63	1,056	\$2.78	0.45	\$54,400
208	TENNESSEE MILLER COLISEUM CORPORATION	304-314 W THOMPSON	\$5,615.71	\$6,177.28	19,570	\$1,528.09	\$1,680.90	\$7,858.18	13,313	\$0.57	104.99	\$2,624,700
209	MIDDLE TENNESSEE STATE UNIVERSITY FOUNDATION, A TENNESSEE CORPORATION	324 W THOMPSON LN	\$750.45	\$825.49	3,107	\$232.84	\$256.12	\$1,081.62	2,410	\$0.48	7.29	\$153,400
210	FIRST UNITED METHODIST CHURCH of MURFREESBORO TENNESSEE	265 W THOMPSON LN	\$83.03	\$91.33	454	\$0.00	\$0.00	\$1,000.00	0	\$0.37	20.01	\$318,800
211	NIZAR I. ALDABET	276 W THOMPSON LN	\$2,101.59	\$2,311.75	2,933	\$323.01	\$355.31	\$2,667.06	1,127	\$1.43	0.33	\$20,600
213	NIZAR I. ALDABET	270 W THOMPSON LN	\$2,128.30	\$2,341.13	2,357	\$419.34	\$461.27	\$2,802.40	1,161	\$1.81	0.30	\$23,600
214	NIZAR I. ALDABET	264 W THOMPSON LN	\$1,410.19	\$1,551.21	1,884	\$283.24	\$311.56	\$1,862.77	946	\$1.50	1.19	\$77,600
215	BEVERLY H. WALLACE AND JULIET W. WALKER, THEIR HEIRS, AND ASSIGNS	254 W THOMPSON LN	\$1,804.46	\$1,984.90	2,545	\$332.96	\$366.25	\$2,351.16	1,174	\$1.42	1.13	\$69,800
216	BRIAN HARRELL, HIS HEIRS, AND ASSIGNS	244 W THOMPSON LN	\$3,811.33	\$4,192.46	2,113	\$771.28	\$848.41	\$5,040.87	1,069	\$3.61	0.35	\$55,000
217	BRENDA L. MCKENZIE	236 W THOMPSON LN	\$4,576.06	\$5,033.67	2,392	\$872.36	\$959.60	\$5,993.27	1,140	\$3.83	0.33	\$55,000
218	STANLEY P. VAUGHT ETAL JOHN HIGGINS	224 W THOMPSON LN	\$5,007.01	\$5,507.72	3,569	\$877.67	\$965.43	\$6,473.15	1,564	\$2.81	0.45	\$55,000
219	F. CLYDE WILSON AND WIFE, GAYLA Y. WILSON	214 W THOMPSON LN	\$5,729.17	\$6,302.08	3,993	\$936.64	\$1,030.30	\$7,332.39	1,632	\$2.87	0.44	\$55,000
229	FIRST TENNESSEE BANK NATIONAL ASSOCIATION	123 W THOMPSON LN	\$17,692.93	\$19,462.22	2,197	\$8,304.48	\$9,134.93	\$28,597.15	2,578	\$16.11	1.19	\$834,900
230	3343 MEMORIAL LLC.	3343 MEMORIAL BLVD	\$1,691.35	\$1,860.48	842	\$1,170.68	\$1,287.75	\$3,148.23	1,457	\$4.02	12.70	\$2,222,500
241	ANTIOCH SHOPPING CENTER	3389 MEMORIAL BLVD	\$61,229.24	\$67,352.16	4,949	\$16,717.10	\$18,388.81	\$85,740.98	3,378	\$24.74	1.49	\$1,606,000
256	GENERALS LANDING HOMEOWNERS ASSOCIATION INC	PERSHING DR (Unnumbered)	\$32.87	\$36.16	179	\$7.71	\$8.48	\$1,000.00	105	\$0.37	0.15	\$2,400
257	CAROLINE FARMS HOMEOWNERS ASSOCIATION, INC	424 W THOMPSON LN	\$197.73	\$217.51	1,632	\$56.27	\$61.89	\$1,000.00	1,161	\$0.24	0.36	\$3,800
	TOTAL EASEMENT		\$439,076.14	\$482,983.76		\$148,341.66	\$163,175.82	\$662,251.67				

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Approval of State Maintenance Contract for FY 2025-2027

Department: Street Department

Presented by: Raymond Hillis, Executive Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider TDOT Maintenance Contract for Fiscal Year 2025-2027.

Staff Recommendation

Approve the TDOT Maintenance Contract.

Background Information

The proposed agreement allows the city to perform routine maintenance and improvements of state routes located within the city limits. TDOT will reimburse the city for all costs associated with improvements and maintenance of state routes located within the city limits.

Council Priorities Served

Maintain Public Safety

This contract allows the City to have more control over the selection and performance of all contracted related maintenance work.

Fiscal Impact

TDOT reimbursement not to exceed \$739,209.

Attachments

State of Tennessee Department of Transportation Contract

STATE OF TENNESSEE

DEPARTMENT OF TRANSPORTATION

CONTRACT – CITY OF MURFREESBORO

PROJECT NO. TBD

CONTRACT NO. – CMA 2655

FISCAL YEAR – 2025-2027



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
COMMISSIONER'S OFFICE
SUITE 700, JAMES K. POLK BUILDING
505 DEADERICK ST
NASHVILLE, TN 37243-1402
(615) 741-2545**

BUTCH ELEY
DEPUTY GOVERNOR &
COMMISSIONER OF TRANSPORTATION

BILL LEE
GOVERNOR

**To: City of Murfreesboro
Attn: Raymond Hillis, Superintendent
Engineering Dept.- Street Division
620 West Main Street
Murfreesboro, TN 37130**

Date: May 20th, 2025

Re: City of Murfreesboro Maintenance Contract for 2025-2027

Enclosed, you will find the new contract for Fiscal Year 2025-2027.

Please read the contract, sign in the appropriate places and return to our office. After you have signed the new contract and returned it to us, we will forward the contract to our office in Nashville for signatures. Once the Commissioner and our attorney have signed the contract, we will return a signed copy to you for your records.

If you have any questions, please feel free to contact me at 931.270.5030.

Thank you,

Matthew Eakes TDOT Team Lead District 39 East

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TRANSPORTATION
AND
CITY OF MURFREESBORO**

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and City of Murfreesboro, hereinafter referred to as the "Contractor," is for the provision of the routine maintenance of state routes, as further defined in the "SCOPE OF SERVICES."

Contractor Edison Registration ID #0000004110
Contract #: CMA 2655

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2. Tenn. Code Ann. § 54-5-201 provides that the State is authorized to enter into contracts with municipalities regarding the improvement and maintenance of streets over which traffic on state highways is routed.
- A.3. Tenn. Code Ann. § 54-5-202 provides that streets constructed, reconstructed, improved and maintained by the State shall be of a width and type that the State deems proper, but the width so constructed, reconstructed, improved and maintained shall not be less than eighteen feet (18'); and, in the case of resurfacing and maintenance, from curb to curb where curbs exist, or the full width of the roadway where no curbs exist.
- A.4. Tenn. Code Ann. § 54-5-203 provides that the State is authorized to enter into contracts with municipalities that are organized to care for streets to reimburse, subject to the approval of the State, for improvements and maintenance.
- A.5. Tenn. Code Ann. § 54-16-106 provides that the highway authorities of the state, counties, cities, and town are authorized to enter into agreements with each other respecting the improvement and maintenance of controlled-access facilities, defined by Tenn. Code Ann. § 54-16-101 as a highway or street specially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement of access from abutting properties.
- A.6. Tenn. Code Ann. § 54-5-139 provides that the State may enter into a contract with a qualified county to perform maintenance activities upon the rights-of-way of state highways located outside of municipalities and metropolitan governments; and, that the reimbursement shall be on an actual cost basis.
- A.7. The State is hereby contracting with the Contractor for the improvements and maintenance specified in Attachment "Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities," attached and incorporated hereto as part of this Contract.

B. TERM OF CONTRACT:

This Contract shall be effective on July 1, 2025 ("Effective Date"), and extend for a period of twenty-four (24) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed Seven Hundred and Thirty-Nine Thousand, Two Hundred and Eight Dollars and Twenty-Two Cents (\$739,208.22). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm.** The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

- C.3. Payment Methodology.** The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)
Either "Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities"	See Exhibit A
If included herein "Exhibit B" containing the maximum allowable labor and equipment rates.	See Exhibit B

- C.4. Travel Compensation.** The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

- C.5. Invoice Requirements.** The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

TN Department of Transportation
2099 Fayetteville Highway
Belfast, TN 37019

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
 - (1) Invoice Number (assigned by the Contractor)
 - (2) Invoice Date

- (3) Contract Number (assigned by the State)
- (4) Customer Account Name: Tennessee Department of Transportation
- (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
- (6) Contractor Name
- (7) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
- (9) Contractor Remittance Address
- (10) Description of Delivered Service
- (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
 - iv. Amount Due by Service
 - v. Total Amount Due for the invoice period

b. The Contractor understands and agrees that an invoice under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) only be submitted for completed service and shall not include any charge for future work;
- (3) not include sales tax or shipping charges; and
- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the

Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. **Required Approvals.** The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. **Modification and Amendment.** This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. **Termination for Convenience.** The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. **Termination for Cause.** If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. **Subcontracting.** The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. **Conflicts of Interest.** The Contractor warrants that no part of the total 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 Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. **Nondiscrimination.** The Contractor 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 Contract or in the employment practices of the Contractor 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 Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. **Records.** The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon

reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.9. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create a employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.
- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

- D.19. **Severability.** If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. **Headings.** Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. **Conflicting Terms and Conditions.** Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. **Communications and Contacts.** All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Matthew Eakes, TDOT Team Lead District 39 East
State of Tennessee, Department of Transportation
2099 Fayetteville Highway
Matthew.eakes@tn.gov
Telephone # (931)-270-5030
FAX # (931)-276-2333

The Contractor:

Raymond Hillis, Director, Street Division
City of Murfreesboro
620 West Main Street
Murfreesboro, TN 37130
rhillis@murfreesborotn.gov
Telephone # (615)-893-4380

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

- E.3. **Subject to Funds Availability.** The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. **MUTCD.** In accordance with Tenn. Code Ann. 54-5-108, the Contractor shall conform to and act in accordance with the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by rules of the State. Particularly, the Contractor shall sign work-zones associated with this Contract in accordance with the aforesaid MUTCD.

- E. 5. Maintenance. Nothing contained in this Contract shall change the maintenance obligations governed by the laws of the State of Tennessee, it being the intent of this Contract not to enlarge the present maintenance obligations of the State.

IN WITNESS WHEREOF,

CITY OF MURFREESBORO:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

APPROVED AS TO FORM AND LEGALITY

Signed by:

Adam F. Tucker

6/11/2025

CONTRACTOR ATTORNEY SIGNATURE

DATE

Adam F. Tucker, City Attorney

City Attorney

PRINTED NAME AND TITLE OF CONTRACTOR ATTORNEY SIGNATORY (above)

STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION:

HOWARD H. ELEY, COMMISSIONER

DATE

APPROVED AS TO FORM AND LEGALITY

LESLIE SOUTH, GENERAL COUNSEL

DATE

Rev. 03-11-2025

"EXHIBIT A"

Page 1 of 12

**GUIDELINES COVERING MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES**

The following items, where applicable, are eligible for reimbursement by the State to the Contractor under the Standard Maintenance Agreement:

Activity	Maintenance Work Type	Unit Of Measure
401	Manual Spot Patching	Tons
402	Crack Repair	Pounds
404	Mechanical Continuous Patching	Tons
405	Milling	Square Yards
406	Surface Replacement	Tons
411	Concrete Pavement Repair	Cubic Yards
412	Concrete Joint Repair	Linear Feet
425	Grading Unpaved Surface (Shoulder)**	Linear Miles
427	Patching Unpaved Surface (Shoulder)**	Tons
435	Machine Mowing**	Acres
438	Debris Removal**	Man Hours
441	Litter Removal**	Roadway Miles
446	Mechanical Sweeping and Street Flushing	Miles
447	Manual Roadway Sweeping	Man Hours
460	Plowing Snow	Lane Miles
461	De-icing Salt and/or Sand for Snow & Ice Removal	Tons
463	Anti-icing (Salt Brine)	Gallons
470	Pavement Markings	Line Miles
471	Specialty Markings	Each

**** Work must be inside the area eligible for reimbursements as detailed in "CITY MAINTENANCE ROADWAY TYPICAL SECTIONS".**

The following items are the responsibility of the Contractor and are not eligible for reimbursement by the State:

1. Mowing right-of-way back of curbs or beyond edge of paved surface on roadway segments which are not access controlled.
2. Litter from right-of-way back of curbs or beyond edge of paved surface on roadway segments which are not access controlled.
3. Storm drainage
4. Traffic control signs and signals and any other traffic control or monitoring devices.
5. Street lighting
6. Street name signs
7. Tree removal and vegetation control on right-of-way back of curbs or beyond edge of paved surface on roadway segments which are not access controlled.
8. Sidewalks

NOTE:

1. Major resurfacing when generally required will be performed by the State as a construction project, in accordance with a program developed after consultation with the Contractor.
2. The State will furnish and maintain route markers through the Municipalities.

ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the current **total roadway surface area to be maintained in a 12-Month period** to the nearest whole square yard. For a 24-Month contract, the following quantities will be doubled. Routes listed below shall be routinely maintained, swept, or flushed by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for street maintenance, excluding machine mowing and litter removal, not to exceed the calculated maximum reimbursement below.

City of Murfreesboro- Roadway Surface

Approved Maximum Reimbursement Per Square Yard:	\$ 0.17
Total Roadway Surface Area (YD^2):	1974983
Calculated Maximum Annual Reimbursement (Roadway Surface):	\$335,747.11
Total Maximum Reimbursement (Roadway Surface):	\$671,494.22

Roadway Surface Inventory Worksheet												
Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 1	Broad St./M'Boro Rd.	BEGIN	Murfreesboro City Limits to N. of Medical Center Pkwy to B	1G	No	9.717	15.77	31959.84	100	28	99430.61	255678.72
SR 1	Median cross-overs		Between LM9.78&LM15.77		No			6866	30		0	22220.00
SR 1	Broad St.	CHANGE	N. of Medical Center Pkwy to B	1D	No	15.77	16.34	3009.6	84		0	28089.60
SR 1	Broad St.	CHANGE	Broadmor Blvd. To W.Lytle St.	1D	No	16.34	16.59	1320	96		0	14080.00
SR 1	Broad St.	CHANGE	W.Lytle St. to S. of Maney Ave.	1D	No	16.59	17.47	4646.4	84		0	43366.40
SR 1	Broad St./Mercury Blvd.	CHANGE	S. Maney Ave. to Mercury Blvd.	1D	No	17.47	17.64	897.6	42		0	4188.80
SR 1	Mercury Blvd	CHANGE	E. of SR 2 (US 41) Broad St.	1D	No	17.64	17.78	739.2	71		0	5831.47
SR 1	Mercury Blvd- Eastbound	CHANGE		1G	No	17.78	19.14	7180.8	82	26	20744.5333	44680.53
SR 1	Mercury Blvd- Eastbound	CHANGE		2A	Yes	19.14	19.6	2428.8	102	26	7016.53333	20509.87
SR 1	Mercury Blvd- Eastbound	CHANGE		2A	Yes	19.6	19.72	633.6	102	16	1126.4	6054.40
SR 1	John Bragg Hwy- Eastbo	END	East City Limits	2A	Yes	19.72	20.07	1848	100	22	4517.33333	16016.00
SR 1	Median cross-overs			1C	No			2375	20		0	5277.78

ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the current **total roadway surface area to be maintained in a 12-Month period** to the nearest whole square yard. For a 24-Month contract, the following quantities will be doubled. Routes listed below shall be routinely maintained, swept, or flushed by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for street maintenance, excluding machine mowing and litter removal, not to exceed the calculated maximum reimbursement below.

City of Murfreesboro- Roadway (Cont.)

Roadway Surface Inventory Worksheet												
Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 2	Broad St.	BEGIN	S. of SR 1 (US 70) Mercury Blvd	1C	No	0	2.24	11827.2	46		0	60450.13
SR 2	Manchester Pike	CHANGE	S. of Rutherford Blvd	1C	No	2.24	3.23	5227.2	42		0	24393.60
SR 2	Manchester Pike	CHANGE	Ramsey Road	1C	No	3.23	5	9345.6	42		0	43612.80
SR 2	Manchester Pike	END	N. of Mount Tabor Rd/City Limit	1C	No	5	6	5280	42		0	24640.00

ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the current **total roadway surface area to be maintained in a 12-Month period** to the nearest whole square yard. For a 24-Month contract, the following quantities will be doubled. Routes listed below shall be routinely maintained, swept, or flushed by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for street maintenance, excluding machine mowing and litter removal, not to exceed the calculated maximum reimbursement below.

City of Murfreesboro- Roadway (Cont.)

Roadway Surface Inventory Worksheet												
Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 10	Shelbyville Hwy	BEGIN	City Limits - Murfreesboro	1G	No	8.689	8.689	3637.92	124	36	14551.68	35570.77
SR 10	Shelbyville Hwy	CHANGE	City Limits - Murfreesboro	1C	No	8.689	9.065	1985.28	80		0	17646.93
SR 10	Shelbyville Hwy	CHANGE	Joe B. Jackson Pkwy	1C	No	9.065	9.336	1430.88	84		0	13354.88
SR 10	S Church St.	CHANGE	Barfield Crescent Rd/Veterans Pkwy	1D	No	9.336	11.034	8965.44	84		0	83677.44
SR 10	S Church St.	CHANGE	Westgate Blvd(I-24 Int.)	1D	No	11.034	11.366	1752.96	100		0	19477.33
SR 10	S Church St.	CHANGE	I-24 W Ramp Intersection	1D	No	11.366	12.197	4387.68	84		0	40951.68
SR 10	S Church St.	CHANGE	Rutherford Blvd.	1D	No	12.197	13.47	6721.44	60		0	44809.60
SR 10	Broad St.	SHIFT	Turn left onto Broad St. 0.669 MI	1D	No	13.47						
SR 10	Memorial Blvd	SHIFT	Turn Right onto Memorial Blvd.	1D	No	13.47	14.05	3062.4	80		0	27221.33
SR 10	Memorial Blvd	CHANGE		1D	No	14.05	14.375	1716	80		0	15253.33
SR 10	Memorial Blvd	CHANGE	Clark Blvd.	1D	No	14.375	14.506	691.68	80		0	6148.27
SR 10	Memorial Blvd	CHANGE		1D	No	14.506	14.91	2133.12	86		0	20383.15
SR 10	Memorial Blvd	CHANGE	Northfield Blvd.	1D	No	14.91	15.975	5623.2	60		0	37488.00
SR 10	Memorial Blvd	CHANGE		1D	No	15.975	16.57	3141.6	84		0	29321.60
SR 10	Memorial Blvd	CHANGE		1D	No	16.57	17.987	7481.76	60		0	49878.40
SR 10	Memorial Blvd	CHANGE		1C	No	17.987	18.6	3236.64	60		0	21577.60
SR 10	Memorial Blvd	END	City Limits - Murfreesboro	1C	No	18.6	18.894	1552.32	48		0	8279.04

ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the current **total roadway surface area to be maintained in a 12-Month period** to the nearest whole square yard. For a 24-Month contract, the following quantities will be doubled. Routes listed below shall be routinely maintained, swept, or flushed by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for street maintenance, excluding machine mowing and litter removal, not to exceed the calculated maximum reimbursement below.

City of Murfreesboro- Roadway (Cont.)

Roadway Surface Inventory Worksheet												
Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 96	Franklin Hwy	BEGIN	Veterans Pkwy	1D	No	6.023	8.98	15612.96	84		0	145720.96
SR 96	Old Fort Pkwy	CHANGE	W of I-24	1D	No	8.98	9.182	1066.56	91		0	10784.11
SR 96	Old Fort Pkwy	CHANGE	At I-24	1C	No	9.182	9.445	1388.64	88		0	13577.81
SR 96	Old Fort Pkwy	CHANGE	E of I-24	1C	No	9.445	9.66	1135.2	96		0	12108.80
SR 96	Old Fort Pkwy	CHANGE	W of Market Pl.	1G	No	9.66	9.858	1045.44	130	32	3717.12	11383.68
SR 96	Old Fort Pkwy	CHANGE	E of Market Pl.	1C	No	9.858	10.089	1219.68	108		0	14636.16
SR 96	Old Fort Pkwy	CHANGE	E of Bridge Ave	1G	No	10.089	10.17	427.68	126	32	1520.64	4466.88
SR 96	Old Fort Pkwy	CHANGE	E of Bridge Ave	1G	No	10.17	10.35	950.4	142	32	3379.2	11616.00
SR 96	Old Fort Pkwy	CHANGE	W of Stones River Mall Blvd	1G	No	10.35	10.478	675.84	124	32	2402.98667	6908.59
SR 96	Old Fort Pkwy	CHANGE	E of Stones River Mall Blvd	1G	No	10.478	10.96	2544.96	120	32	9048.74667	24884.05
SR 96	Old Fort Pkwy	CHANGE	E of New Salem Road	1F	No	10.96	11.121	850.08	132	32	3022.50667	9445.33
SR 96	Old Fort Pkwy	SHIFT	Bridge Over Broad St.	1E	No	11.121	11.515	2080.32	92		0	21265.49
SR 96	E Clark Blvd	SHIFT	SR 10 (US 231, Memorial Blvd)	1D	No	11.505	12.85	7101.6	60		0	47344.00
SR 96	Lascassas Pike	CHANGE	E of Clark Blvd	1C	No	12.85	13.918	5639.04	40		0	25062.40
SR 96	Lascassas Pike	CHANGE	Twin Oaks Drive	1C	No	13.918	14.657	3901.92	58		0	25145.71
SR 96	Lascassas Pike	END	North of DeJarnette Lane	1C	No	14.657	15.45	4187.04	48		0	22330.88

ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the current **total roadway surface area to be maintained in a 12-Month period** to the nearest whole square yard. For a 24-Month contract, the following quantities will be doubled. Routes listed below shall be routinely maintained, swept, or flushed by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for street maintenance, excluding machine mowing and litter removal, not to exceed the calculated maximum reimbursement below.

City of Murfreesboro- Roadway (Cont.)

Roadway Surface Inventory Worksheet												
Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 99	Salem Pike	BEGIN	W of Clearidge Drive	1C	No	12.69	14.575	9952.8	42		0	46446.40
SR 99	Salem Pike	CHANGE	E of Armstrong Valley	1C	No	14.575	15.011	2302.08	52		0	13300.91
SR 99	New Salem Road	CHANGE	E of St. Andrews Dr.	1C	No	15.011	15.503	2597.76	64		0	18472.96
SR 99	New Salem Road	CHANGE	Cason Ln	1C	No	15.503	15.97	2465.76	42		0	11506.88
SR 99	New Salem Road	CHANGE	Cason Ln to Middle Tn Blvd	1C	No	15.97	18.58	13780.8	84		0	128620.80
SR 99	New Salem Road	CHANGE	Middle Tennessee Blvd	1C	No	18.58	19.19	3220.8	44		0	15746.13
SR 99	New Salem Road	SHIFT	Bridge Ave.	1C	No	19.19	19.47	1478.4	45		0	7392.00
SR 99	Bradyville Pike	SHIFT	N of New Salem Rd.	1B	No	19.47	19.98	2692.8	22		0	6582.40
SR 99	Bradyville Pike	CHANGE	S of Middle Tn Blvd	1B	No	19.98	20.148	887.04	30		0	2956.80
SR 99	Bradyville Pike	CHANGE	E of Toddington Drive	1C	No	20.148	20.228	422.4	32		0	1501.87
SR 99	Bradyville Pike	CHANGE	W of Lakeshore Dr	1C	No	20.228	20.664	2302.08	34		0	8696.75
SR 99	Bradyville Pike	CHANGE	E of lakeshore Dr.	1C	No	20.664	20.759	501.6	32		0	1783.47
SR 99	Bradyville Pike	CHANGE	Crossing Minerva Dr.	1C	No	20.759	21.03	1430.88	40		0	6359.47
SR 99	Bradyville Pike	CHANGE	E of Rogers St.	1C	No	21.03	21.163	702.24	32		0	2496.85
SR 99	Bradyville Pike	CHANGE	NW of and crossing Rutherford Blvd	1B	No	21.163	21.73	2993.76	40		0	13305.60
SR 99	Bradyville Pike	CHANGE	S of Medford Campbell Blvd	1B	No	21.73	21.855	660	32		0	2346.67
SR 99	Bradyville Pike	END	N of Millwood Dr.	1B	No	21.855	22.184	1737.12	24		0	4632.32

ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the current **total roadway surface area to be maintained in a 12-Month period** to the nearest whole square yard. For a 24-Month contract, the following quantities will be doubled. Routes listed below shall be routinely maintained, swept, or flushed by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for street maintenance, excluding machine mowing and litter removal, not to exceed the calculated maximum reimbursement below.

City of Murfreesboro- Roadway (Cont.)

Roadway Surface Inventory Worksheet												
Route	Street Name	Action	Crossing Boundary Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 268	N Thompson Ln	BEGIN	NE of SR 2 (Broad St)	1C	No	0	0.105	554.4	106		0	6529.60
SR 268	N Thompson Ln	CHANGE	NE of SR 2 (Broad St)	1C	No	0.105	0.278	913.44	70		0	7104.53
SR 268	N Thompson Ln	CHANGE	NE of SR 2 (Broad St)	1C	No	0.278	0.403	660	45		0	3300.00
SR 268	N Thompson Ln	CHANGE	NE of SR 2 (Broad St)	1C	No	0.403	0.513	580.8	57		0	3678.40
SR 268	N Thompson Ln	CHANGE	N of Royal Dr	1B	No	0.513	1.12	3204.96	45		0	16024.80
SR 268	N Thompson Ln	CHANGE	S of Haynes Dr	1C	No	1.12	1.206	454.08	67		0	3380.37
SR 268	N Thompson Ln	CHANGE	N of Haynes Dr	1C	No	1.206	1.311	554.4	57		0	3511.20
SR 268	N Thompson Ln	CHANGE	N of Riverbend Dr	1C	No	1.311	2.235	4878.72	41		0	22225.28
SR 268	N Thompson Ln	CHANGE	NE of E Primm Lane	1C	No	2.235	2.523	1520.64	43		0	7265.28
SR 268	N Thompson Ln	CHANGE	W of Northboro Ct	1C	No	2.523	3.097	3030.72	45		0	15153.60
SR 268	N Thompson Ln	CHANGE	E of Northboro Ct	1C	No	3.097	3.549	2386.56	56		0	14849.71
SR 268	N Thompson Ln	CHANGE	E of Northboro Ct	1C	No	3.549	3.73	955.68	60		0	6371.20
SR 268	N Thompson Ln	CHANGE	E of Northboro Ct	1C	No	3.73	3.787	300.96	71		0	2374.24
SR 268	N Thompson Ln	CHANGE	E of Northboro Ct	1C	No	3.787	4.095	1626.24	60		0	10841.60
SR 268	N Thompson Ln	CHANGE	W of Lebanon Pike	1D	No	4.095	4.347	1330.56	50		0	7392.00
SR 268	Compton Rd	CHANGE	E of Lebanon Pike	1C	No	4.347	5.079	3864.96	38		0	16318.72
SR 268	Compton Rd	CHANGE	E of Compton Grove	1C	No	5.079	5.228	786.72	52		0	4545.49
SR 268	Compton Rd	END	E of Westbrook Drive	1C	No	5.228	6.59	7191.36	44		0	35157.76
Total Length (mi.):								54.480	Total Roadway Surface:		1974983	

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INVENTORY OF ELIGIBLE MACHINE MOWING FOR THE MAINTENANCE OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the eligible mowing area in acres to be maintained in a 12-Month period. For a 24-Month contract, the following quantities will be doubled. All eligible mowing areas shall be maintained by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for machine mowing, not to exceed the number of cycles and the price per acre as detailed below.

City of Murfreesboro- Mowing

Approved Mowing Reimbursement Per Acre:	\$ 50.00
Calculated Maximum Annual Reimbursement (Mowing):	\$23,950.00
Total Maximum Reimbursement (Mowing):	\$47,900.00

Mowing Inventory Worksheet								
Route Number	Roadway Type	Begin Termini (LM)	End Termini(LM)	Median Area (acres)	Controlled Access Area (acres)	Segment Total Area (acres)	Number of Mowing Cycles	Contract Segment Total Area (acres)
SR 1	1G	9.65	15.33	19.5		19.5	6	117
SR 1	1G	15.395	15.748	1.28		1.28	6	7.68
SR 1	1G	17.77	19.69	6.22	9.7	15.92	6	95.52
SR 1	1G	19.71	20	0.79	5.27	6.06	6	36.36
SR 10	1G	8	9.23	4.741	4.171	8.912	6	53.472
SR 10	1E	11.28	11.55	1.1		1.1	6	6.6
SR 96	1G	9.17	11.15	7.71	19.23	26.94	6	161.64
Total Contract Area (acres):								479

EXHIBIT A

INVENTORY OF ELIGIBLE LITTER REMOVAL FOR THE MAINTENANCE OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the eligible **length of litter removal in linear miles to be maintained in a 12-Month period** to the nearest whole square yard. For a 24-Month contract, the following quantities will be doubled. The Contractor shall maintain all eligible linear miles under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for litter removal, not to exceed the number of cycles and the price per linear mile as detailed below.

City of Murfreesboro- Litter

Approved Litter Reimbursement Per Mile:	\$ 60.00
Calculated Maximum Annual Reimbursement (Litter):	\$ 9,907.20
Total Maximum Reimbursement (Litter):	\$ 19,814.40

Litter Inventory Worksheet											
Route Number	Roadway Type	Beginning Termini (LM)	Ending Termini (LM)	Segment Length (mi.)	Litter Pass Miles Per Segment	Segment Total Litter (mi.)	Price per Litter Mile	Number of Litter Cycles	Contract Segment Total Litter (mi.)	Contract Segment Total Litter (\$)	
SR 1	1G	9.65	15.77	6.12	1	6.12	\$60.00	12	73.44	4406.4	
SR 1	1G	17.77	19.14	1.37	1	1.37	\$60.00	12	16.44	986.4	
SR 1	2A	19.14	20.01	0.87	1	0.87	\$60.00	12	10.44	626.4	
SR 10	1G	8	9.23	1.23	1	1.23	\$60.00	12	14.76	885.6	
SR 10	1E	11.28	11.55	0.27	1	0.27	\$60.00	12	3.24	194.4	
SR 96	1G	9.17	9.33	0.16	1	0.16	\$60.00	12	1.92	115.2	
SR 96	1G	9.41	10.55	1.14	1	1.14	\$60.00	12	13.68	820.8	
SR 96	1G	12.85	15.45	2.6	1	2.6	\$60.00	12	31.2	1872	
Total Contract Litter (mi.):									165.12	\$9,907.20	

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CITY MAINTENANCE ROADWAY TYPICAL SECTIONS

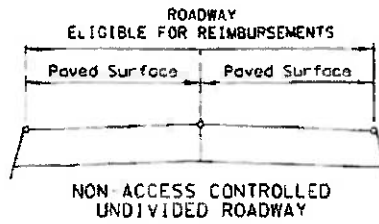


FIGURE 1A

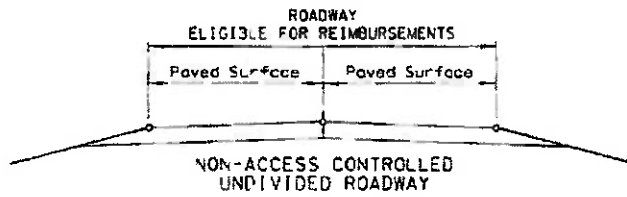


FIGURE 1B

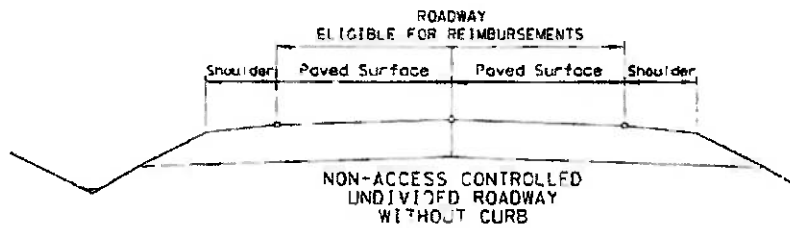


FIGURE 1C

NOTE: IN FIGURES 1A, 1B, AND 1C FOR NON-CONTROLLED ROUTES THE PAVED SURFACE WILL INCLUDE PAVED SHOULDERS.

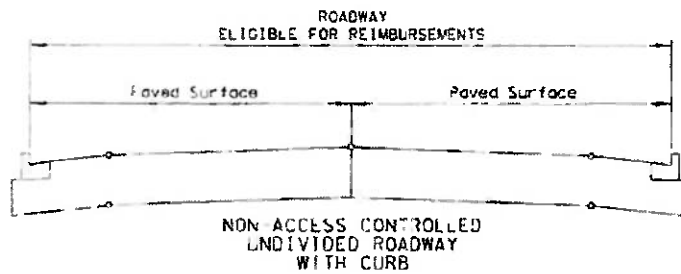


FIGURE 1D

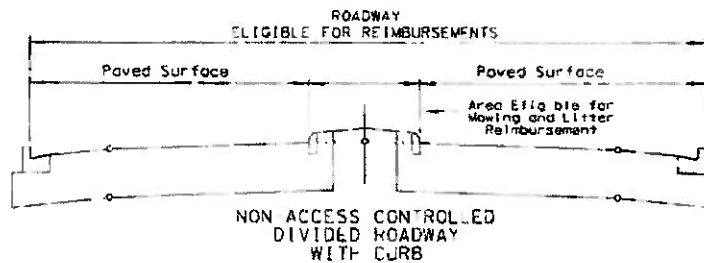


FIGURE 1E

EXHIBIT A

Rev. 03-11-2025

CITY MAINTENANCE
ROADWAY TYPICAL SECTIONS

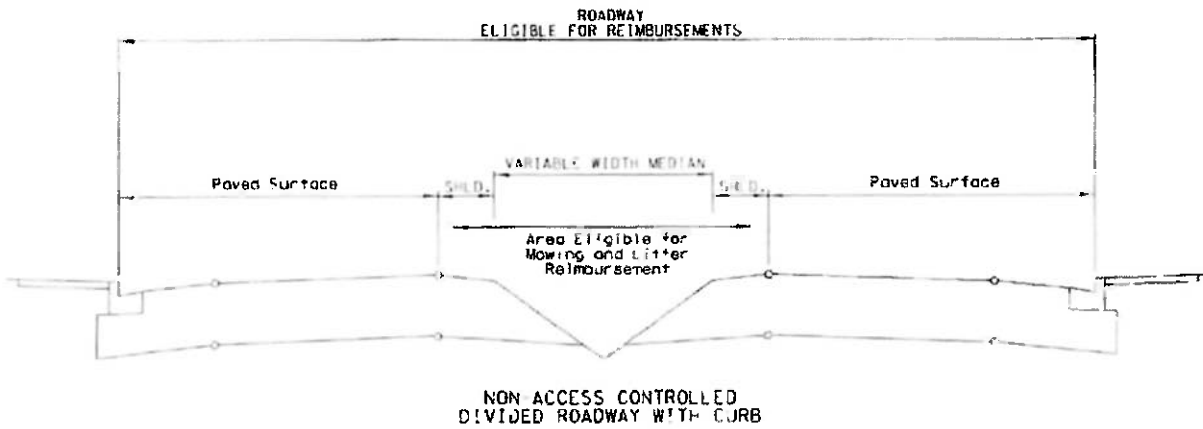


FIGURE 1F

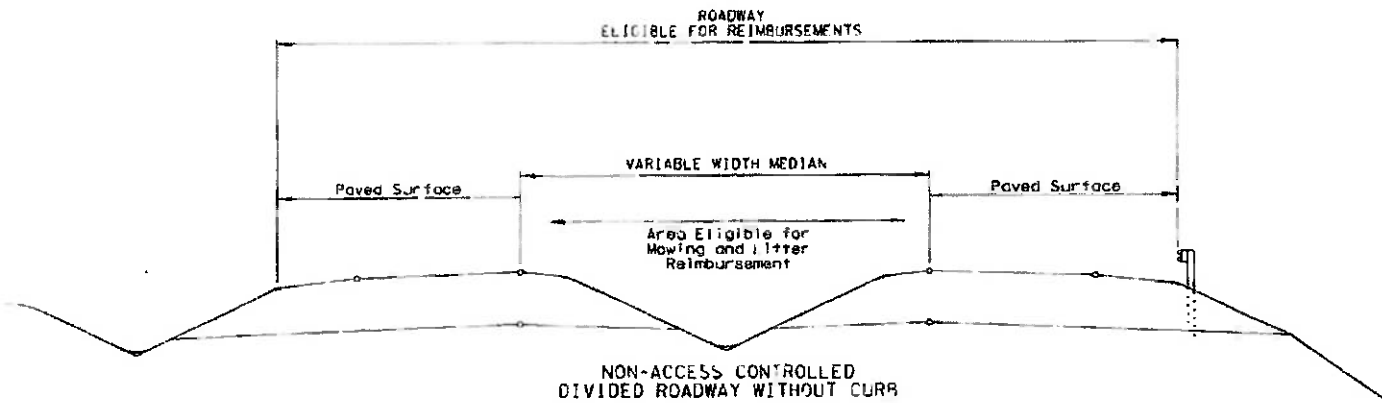


FIGURE 1G

NOTE:
IF FIGURES 1F AND 1G FOR NON-ACCESS CONTROLLED ROUTES
THE PAVED SURFACE WILL INCLUDE PAVED SHOULDERS.

Rev. 03-11-2025

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CITY MAINTENANCE
ROADWAY TYPICAL SECTIONS

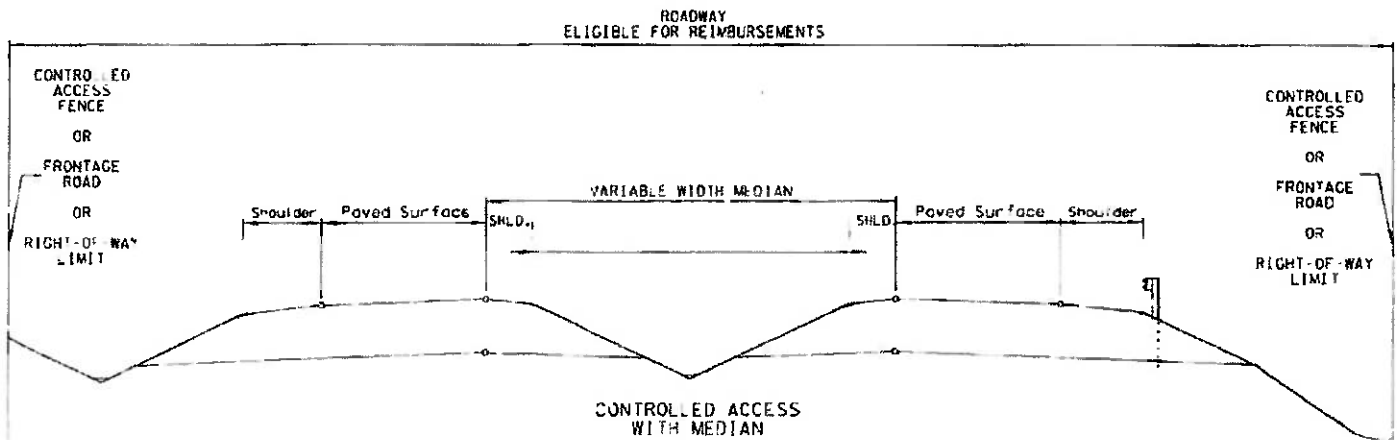


FIGURE 2A

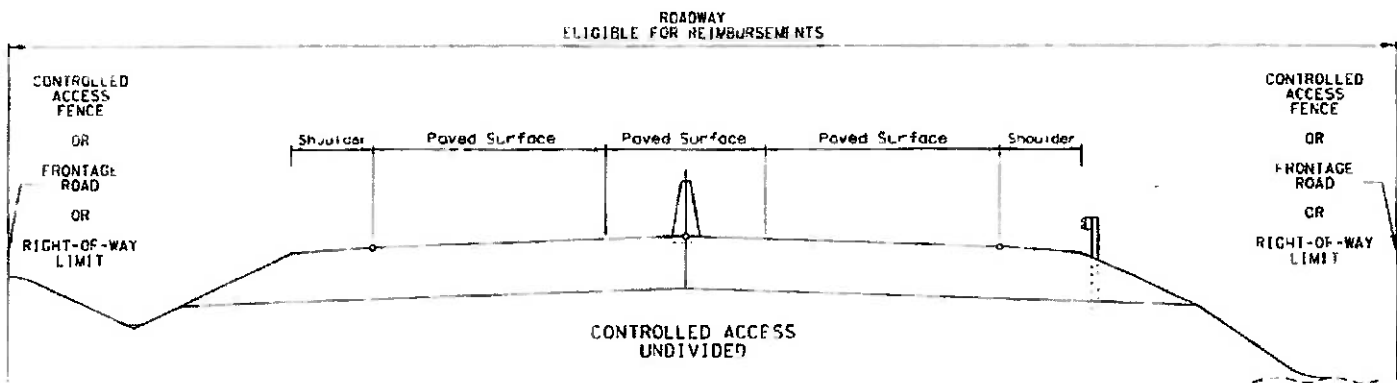


FIGURE 2B

EXHIBIT A

"EXHIBIT B"
MAXIMUM ALLOWABLE EQUIPMENT RATES
2025-2027 FISCAL YEAR

ITEM NO.	DESCRIPTION OF EQUIPMENT	RATE	UNIT
1	SEDAN, POLICE OR FULL SIZE	12.00	HR
2	TRUCK, PICKUP	11.00	HR
3	TRUCK, ¾ TO 1 TON LIGHT DUTY	12.00	HR
4	TRUCK, ¾ TO 1 TON 4X4	13.00	HR
5	TRUCK, UTILITY/SERVICE BODY	14.00	HR
6	TRUCK, DUMP UP TO 15,000 GVWR	24.65	HR
7	TRUCK, DUMP OVER 15,000 UP TO 20,000 GVWR	28.12	HR
8	TRUCK, DUMP OVER 20,000 UP TO 40,000 GVWR	42.35	HR
9	TRUCK, DUMP TANDEM AXLE OVER 40,000 GVWR	68.00	HR
10	TRUCK, STAKE OR FLATBED UP TO 10,000 GVWR	17.45	HR
11	TRUCK, STAKE OR FLATBED OVER 10,000 UP TO 20,000 GVWR	26.10	HR
12	TRUCK, STAKE OR FLATBED OVER 20,000	42.00	HR
13	TRUCK, FLATBED OVER 32,500 GVWR	54.00	HR
14	TRUCK, TRACTOR SINGLE AXLE	37.00	HR
15	TRUCK, TRACTOR TANDEM AXLE	40.15	HR
16	TRUCK, SEWER/CULVERT/CATCH BASIN/ CLEANER (VAC-ALL)	82.20	HR
17	SWEeper, TRUCK MOUNTED	55.89	HR
18	SWEeper, SELF-PROPELLED	43.71	HR
19	TRUCK, W/STREET FLUSHER	70.16	HR
20	TRUCK, CRANE	28.28	HR
21	TRUCK, EXCAVATOR	64.73	HR
22	TRUCK, REFUSE COLLECTION	30.50	HR
23	TRACTOR, W/SWEeper	32.68	HR
24	TRACTOR, W/DITCHER	62.12	HR
25	TRACTOR, WHEEL	48.22	HR
26	CHIPPER, BRUSH	36.81	HR
27	TRAILER, TILT	8.04	HR
28	TRAILER, PLATFORM OR GENERAL	10.12	HR
29	TRAILER, LOW BOY TANDEM	20.78	HR
30	JOINT & CRACK SEALING MACHINE	28.55	HR
31	ASPHALT RECLAIMER/RECYCLER MACHINE	135.78	HR
32	PAVER, ASPHALT SELF-PROPELLED	154.53	HR
33	PAVER, ASPHALT PULL TYPE	7.45	HR
34	DISTRIBUTOR, ASPHALT, PULL TYPE	27.37	HR
35	CHIP SPREADER MACHINE	57.42	HR
36	EXCAVATOR, TRACK TYPE (TRACKHOE)	87.31	HR

"EXHIBIT B"
MAXIMUM ALLOWABLE EQUIPMENT RATES
2025-2027 FISCAL YEAR

	DESCRIPTION OF EQUIPMENT	RATE	UNIT
37	DRAGLINES AND CRANES	75.99	HR
38	TRACTOR, CRAWLER (DOZER)	98.18	HR
39	MOTOR GRADER	65.30	HR
40	BACKHOE	37.90	HR
41	LOADER, FT END RUBBER TIRED (ARTICULATED) UP TO 1 CU. YD.	32.13	HR
42	LOADER, FT END RUBBER TIRED (ARTICULATED) OVER 1 UP TO 1.5 CY	47.50	HR
43	LOADER, FT END RUBBER TIRED (ARTICULATED) OVER 1.5 CU. YD.	59.71	HR
44	LOADER, FRONT END TRACK TYPE	71.50	HR
45	LOADER, SKID-STEER	58.46	HR
46	PROFILER, MILLING MACHINE	305.76	HR
47	ROLLER, WALK BEHIND	4.27	HR
48	ROLLER, STEEL WHEEL, 1 TO 5 TONS	88.84	HR
49	ROLLER, STEEL WHEEL, OVER 5 TONS	41.93	HR
50	GENERATOR, PORTABLE	8.30	HR
51	AIR COMPRESSOR, PORTABLE OR PULL TYPE	36.40	HR
52	WELDER, PORTABLE OR PULL TYPE	5.76	HR
53	CONCRETE MIXER, PORTABLE OR PULL TYPE	32.07	HR
54	CURBING MACHINE	65.74	HR
55	PAINT MACHINE, WALK BEHIND	31.57	HR
56	PAINT MACHINE, TRUCK MOUNTED (LARGE)	84.61	HR
57	THERMOPLASTIC MARKING MACHINE, WALK BEHIND	23.24	HR
58	TRAFFIC LINE REMOVER (WATER BLASTER)	43.68	HR
59	ARROW BOARD, TRAILER OR TRUCK MOUNTED	4.15	HR
60	MESSAGE SIGN, TRAILER MOUNTED	1.14	HR
61	LIGHT TOWER, TRAILER MOUNTED	24.18	HR
62	TRUCK MOUNTED ATTENUATOR	10.00	HR

"EXHIBIT B"
CITY OF MURFREESBORO MAXIMUM ALLOWABLE LABOR RATES
July 1, 2025 - June 30, 2026

Last Name	First Name	Job Class Long Description	LOW RATE	HIGH RATE
HILLIS	RAYMOND	EXECUTIVE DIRECTOR - PUBLIC WORKS	\$130.10	\$195.15
BROWN	TRACY	ASSISTANT DIRECTOR - STREET	\$74.02	\$111.03
SMITH-DUMAS	ANGELA	BUDGET ANALYST	\$45.96	\$68.94
MANGRUM	LISA	ADMINISTRATIVE ASSISTANT II	\$50.63	\$75.95
BARRETT	JEREMY	PUBLIC WORKS FOREMAN	\$52.34	\$78.51
ADAMS	CHRIS	PUBLIC WORKS CREW LEADER	\$55.22	\$82.83
CARNEY	ANDREW	PUBLIC WORKS CREW LEADER	\$62.85	\$94.28
ELDER	CARSON	PUBLIC WORKS CREW LEADER/ARBORIST	\$50.99	\$76.49
NANCE	ROBERT	PUBLIC WORKS FOREMAN	\$61.94	\$92.91
TODD	JEFFREY	PUBLIC WORKS CREW LEADER	\$63.60	\$95.40
WALDEN	JAMES	PUBLIC WORKS FOREMAN	\$57.78	\$86.67
CHRISTOPHER	BUFORD	HEAVY EQUIPMENT OPERATOR	\$42.83	\$64.25
WILLIS	LANE	HEAVY EQUIPMENT OPERATOR	\$39.86	\$59.79
DAVIS	BRIAN	CCTV TECHNICIAN	\$43.17	\$64.76
COLLINS	NICK	CCTV TECHNICIAN	\$40.87	\$61.31
BELCHER	DONALD	LANDSCAPER/GREENKEEP FOREMAN	\$47.73	\$71.60
ADAMS	CURTIS	EQUIPMENT OPERATOR	\$41.09	\$61.64
BAILEY	NATHANIEL	EQUIPMENT OPERATOR	\$39.07	\$58.61
BLANKENSHIP	DREW	EQUIPMENT OPERATOR	\$39.03	\$58.55
CHAPMAN	TOBY	EQUIPMENT OPERATOR	\$35.25	\$52.88
COULTER	ANDREW	EQUIPMENT OPERATOR	\$37.07	\$55.61
DAILEY	COLE	EQUIPMENT OPERATOR	\$36.04	\$54.06
FERRELL	TRENTON	EQUIPMENT OPERATOR	\$42.18	\$63.27
FIVEASH	PAUL	EQUIPMENT OPERATOR	\$50.80	\$76.20
HAYES	JAMES	EQUIPMENT OPERATOR	\$41.09	\$61.64
HORSLEY	ALEX	EQUIPMENT OPERATOR	\$35.21	\$52.82
JOHNSON	DARREN	EQUIPMENT OPERATOR	\$42.07	\$63.11
JONES	CAMERON	EQUIPMENT OPERATOR	\$45.61	\$68.42
LASSITER	CALEB	EQUIPMENT OPERATOR	\$42.18	\$63.27
MCCARDLE	ALEX	EQUIPMENT OPERATOR	\$36.04	\$54.06
MEEKS	CHRISTOPHER	EQUIPMENT OPERATOR	\$39.03	\$58.55
MONTROSE	JOHN	EQUIPMENT OPERATOR	\$35.17	\$52.76
MYERS	TAMARA	EQUIPMENT OPERATOR	\$45.69	\$68.54
PRUITT	DILLON	EQUIPMENT OPERATOR	\$40.04	\$60.06
ROLAND	BOBBY	EQUIPMENT OPERATOR / CIVIC PLAZA	\$42.22	\$63.33
SMITTY	MICHAEL	EQUIPMENT OPERATOR	\$41.05	\$61.58
STANISLAWSKI	ANTONI	EQUIPMENT OPERATOR	\$38.98	\$58.47
STANLEY	LUCAS	EQUIPMENT OPERATOR	\$38.81	\$58.22
WILLIAMS	CHASE	EQUIPMENT OPERATOR	\$35.21	\$52.82
WILLIAMS	DANIEL	EQUIPMENT OPERATOR	\$42.91	\$64.37
WILLIS	TERRY	EQUIPMENT OPERATOR	\$36.04	\$54.06
JOHNSON	RONNIE	PUBLIC WORKS TECHNICIAN II	\$44.22	\$66.33
HILL	ALEX	PUBLIC WORKS TECHNICIAN II	\$31.12	\$46.68
MORALES	MIGUEL	PUBLIC WORKS TECHNICIAN II	\$31.12	\$46.68
SANDERS	COLE	PUBLIC WORKS TECHNICIAN II	\$31.12	\$46.68
SHIELDS	JAYMZ	PUBLIC WORKS TECHNICIAN II	\$31.12	\$46.68
WILLIS	LANE	PUBLIC WORKS TECHNICIAN II	\$30.27	\$45.41
BALFOUR	PAUL	PUBLIC WORKS TECHNICIAN I	\$28.23	\$42.35
BEVAN	CAIDEN	PUBLIC WORKS TECHNICIAN I	\$28.23	\$42.35
DAVIS	HUNTER	PUBLIC WORKS TECHNICIAN I	\$28.23	\$42.35
DORELAS	STANLEY	PUBLIC WORKS TECHNICIAN I	\$28.23	\$42.35
ELLIOTT	WILL	PUBLIC WORKS TECHNICIAN I	\$29.75	\$44.63
GLASER	SHAWN	PUBLIC WORKS TECHNICIAN I	\$28.23	\$42.35
MAYNARD	JESSE	PUBLIC WORKS TECHNICIAN I	\$28.23	\$42.35
MCCLURE	DEVIN	PUBLIC WORKS TECHNICIAN I	\$29.75	\$44.63
SUMMEROUR	JONATHAN	PUBLIC WORKS TECHNICIAN I	\$28.94	\$43.41
TEAGUE	RICKY	PUBLIC WORKS TECHNICIAN I	\$29.66	\$44.49

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Agreement for body shop services for city vehicles

Department: Fleet Services

Presented by: Tommy Miller, Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider agreement for body shop services for city vehicles.

Staff Recommendation

Approve the agreement with Hatton Automotive LLC and Alliance Auto Body Inc.

Background Information

ITB28-2025 for body shop services for city vehicles was issued March 11, 2025.

Hatton Automotive LLC and Alliance Auto Body Inc. were the lowest responsive and responsible bidders. These contracts provide body shop services for city vehicles.

Council Priorities Served

Responsible budgeting

By utilizing these contracted services, the department has solicited the lowest cost service providers with the most efficient turnaround for body shop repairs.

Fiscal Impact

The FY26 budgeted expense for outside body shop repairs and services is \$325,000

Attachments

Agreements for body shop services for city vehicles.

Agreement for Vehicle and Autobody Repair Services

This Agreement is entered into and effective as of _____ (the "Effective Date") by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Hatton Automotive, LLC**, a limited liability company of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-28-2025- Vehicle and Autobody Repair Services, issued March 11, 2025, revised March 25, 2025 (the "Solicitation");
- Contractor's Proposal, dated April 15, 2025 ("Contractor's Proposal");
- Contractor's Price Proposal, dated April 15, 2025 (the "Price Proposal"); and
- Any properly executed amendments to this Agreement.

In the event of conflicting provisions, all documents will be construed according to the following priorities:

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority);
- Second, this Agreement;
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

a. Scope of Work. Contractor is engaged to perform services as described in ITB specifications.

b. Supervision of Work.

1. Contractor will supervise and direct the work efficiently and with Contractor's best skill and attention. Contractor will be solely responsible for the means, methods, techniques, sequences and procedures of providing the services, as described in the ITB specifications. Contractor will be responsible to see that the finished work complies accurately with the Contract documents.
2. Contractor will observe the work at all times during work progress.

c. Labor, Materials, and Equipment.

1. Contractor will provide competent, suitably qualified personnel to perform the work as set forth in Contractor's Proposals. The Contractor will at all times maintain good discipline and order while work is performed.
2. Contractor will furnish all materials, equipment, labor, transportation, equipment and machinery, tools, appliances, fuel, and all other incidentals necessary for the execution, testing, initial operation and completion of the work.
3. All materials will be new, except as otherwise provided in the Contract documents. If required by the City, Contractor will furnish satisfactory evidence as to the kind and quality of materials and equipment.
4. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise provided in the Contract documents.

d. Warranty and Guarantee. The Contractor warrants to the City that:

1. Unless otherwise provided for, all materials, machinery, and equipment used on the work shall be new, of the best quality in their kind and grade, and of the most efficient and effective design and type available for the purposes for which they are intended;
2. All materials, machinery, and equipment conform in every respect with the specifications, drawings, approved samples, and other requirements of the Contract documents;
3. Only such materials, machinery, and equipment shall be used on the work as have been produced or manufactured in accordance with the established and generally accepted standards for goods and workmanship of the type covered by the specifications and are of such a design and construction as to perform properly the function or work for which they are intended and to afford the maximum ease in upkeep and repair;
4. The finish of the exterior surface of the materials, machinery and equipment used on the work shall be in accordance with the specifications, or if there are no applicable specifications, such finish shall be consistent with commercially accepted practices for the services to be rendered by the respective materials, machinery, and equipment; and,
5. The Contractor agrees that all warranties in the Contract documents shall survive acceptance of, delivery of, and payment for, the goods, whether any defects shall be latent or patent, and agrees to indemnify and hold the City harmless from any loss, damage, or other expense, including attorneys' fees, that the City may suffer as a result of the failure of the materials, machinery, and equipment or workmanship to be as warranted. Each warranty with respect to any items other than machinery and equipment, shall expire sixty (60) months from the date of receipt by the City of such items and, with respect to machinery and equipment, twenty-four (24) months after the date of initial operation of such machinery and equipment. The Contractor agrees to correct without expense to, and to the satisfaction of, the City, any defects that may develop in material, workmanship, and design during the period of such warranty.

The warranties set forth in the preceding paragraph are cumulative and shall not exclude or affect the operation of any other warranty or guaranty provided by law or by the Contract documents.

e. Subcontractors.

1. Contractor will not employ any subcontractor to perform any of the work required under the Contract documents without first obtaining the written approval of the City's designated representative to employ the subcontractor.
2. Contractor will be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by Contractor. Nothing in the Contract documents shall create any contractual relationships between any subcontractor and the City or any obligation on the part of the City to pay or to see to the payment of any moneys due any subcontractor, except as may otherwise be required by law. The City may furnish to any subcontractor, to the

extent practicable, evidence of amounts paid to Contractor on account of specific work done in accordance with the schedule of values.

3. Contractor agrees to bind specifically every subcontractor to the applicable terms and conditions of the Contract documents for the benefit of the City.
4. All work performed for Contractor by a subcontractor shall be pursuant to an appropriate written agreement between Contractor and the subcontractor.

f. Permits

As applicable, Contractor will secure and pay for all permits and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of Contractor's bid. Contractor will also pay all public utility charges.

g. Use of Premises.

1. As applicable, Contractor will confine Contractor's equipment, the storage of materials and equipment and the operations of Contractor's workers to areas permitted by law, ordinances, permits, or the requirements of the Contract documents, and shall not unreasonably encumber the premises with materials or equipment.

h. Safety and Protection.

1. Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:
 - a. All employees on the work and other persons who may be affected thereby,
 - b. All the work and all materials or equipment to be incorporated there, whether in storage on or off the site, and

Contractor will comply with all applicable laws, ordinances, rules, regulations and order of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. Contractor will notify the City of adjacent utilities when prosecution of the work may affect them. All damage, injury, or loss to any property caused directly or indirectly, in whole or in part, by Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, will be remedied by Contractor; except damage or loss attributable to the acts or omissions of the City or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor.

2. Contractor will designate a responsible member of Contractor's organization whose duty shall be the prevention of accidents.

i. Emergencies. In emergencies affecting the safety of persons or the work or property at the site or adjacent property, Contractor, without special instruction or authorization

from the City, is obligated to act, at Contractor's discretion, to prevent threatened damage, injury or loss.

- j. Access to the Work. Representatives of the City will at all times have access to the work. Contractor will provide proper facilities for such access and observation of the work and also for any inspection or testing by others.
- k. Contractor's Continuing Obligation. Contractor's obligation to perform the work and complete the Project in accordance with the Contract documents shall be absolute. Neither any payment by the City to Contractor under the Contract documents, nor any use or occupancy of the Project or any part by the City, nor any act of acceptance by the City nor any failure to do so, nor any correction of defective work by the City shall constitute acceptance of work not in accordance with the Contract documents.

2. Term.

The term of this Agreement is one (1) year from the Effective Date listed above. The Contract may be renewed for up to four (4) additional one-year terms, for a total possible term of five (5) years, upon mutual agreement of Contractor and the City and executed Addendum to this Contract or earlier terminated as set forth herein Termination.

Contractor's services may be terminated in whole or in part:

- a. Upon 30-day prior notice, for the convenience of the City.
- b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
- c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
- d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
- e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Price; Compensation; Method of Payment.

Contractor will be compensated upon the delivery and acceptance of the goods and services specified in Contractor's bid submitted and pricing as provided in response to ITB-28-2025. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. The final payment shall be made only after Contractor has completely performed its duties under this Contract and the work has been accepted by the City. Invoices must bear the purchase order number. Final payment shall

not be made until after performance is complete. All invoices should be sent to: accountspayable@murfreesborotn.gov

4. Insurance.

During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000.00, as well as automotive and workers' compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents." Certificates of Insurance should be sent to: col@murfreesborotn.gov. Certificates of Insurance should identify the Project and reference the contract date.

5. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

6. Notices.

Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:	If to Contractor:
City Manager	Hatton Automotive LLC
City of Murfreesboro	Attn: Paul Hatton
111 West Vine Street	207 Southpark Court
Murfreesboro, TN 37130	Murfreesboro, TN 37130
	hattonp@gmail.com

7. Maintenance of Records.

Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of five (5) years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly

appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.

8. Modification.

This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.

9. Relationship of the Parties.

Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.

10. Waiver.

No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

11. Employment.

Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.

12. Non-Discrimination.

It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

13. Gratuities and Kickbacks.

It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard,

rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith; as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

14. Assignment.

The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.

15. Integration.

This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.

16. Force Majeure.

No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

17. Governing Law and Venue.

The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.

18. Severability.

Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.

19. Attorney Fees.

In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.

20. Iran Divestment Act of Tennessee. By submission of the Contractor's Bid, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.

21. Non-Boycott of Israel. By submission of the Contractor's Bid, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.

22. Effective Date.

This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of the Effective Date first listed above.

CITY OF MURFREESBORO, TENNESSEE

By: _____

Shane McFarland, Mayor

HATTON AUTOMOTIVE LLC

By: Paul Hatton
32D587C9C08047B...

Paul Hatton, Owner

Approved as to Form:

Adam F. Tucker

43A2035E51F8401...

Adam F. Tucker, City Attorney

**PURCHASING DEPARTMENT
BID FORM**

**NAME OF BID: ITB-28-2025
VEHICLE AND AUTOBODY REPAIR SERVICES**

Name of Bidder:

Date:

INSTRUCTIONS:

All prices must include all costs. Costs included in the bid prices shall include services rendered and parts, labor, accessories, freight, and any other standard equipment necessary to provide this service. The City is not subject to sales tax.

Contract will be awarded to the responsive and responsible bidder(s) offering the lowest price.

ITEM NO.	QTY	DESCRIPTION	
1	HOURLY	Body Labor Rate	\$ <u>54</u> /hour
2	HOURLY	Paint (Refinish) Labor Rate	\$ <u>54</u> /hour
3	HOURLY	Mechanical Labor Rate	\$ <u>75</u> /hour
4	HOURLY	Glass Rate	\$ <u>40</u> /hour
		What labor estimating standard reference publications do you use? (list)	CCC Info Systems
		Please provide the following: Parts and supplies furnished at Manufacturer's Retail price less Quoted percentage	<u>10</u> %

Agreement for Vehicle and Autobody Repair Services

This Agreement is entered into and effective as of _____ (the "Effective Date") by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Alliance Auto Body Inc.**, a Corporation of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-28-2025- Vehicle and Autobody Repair Services, issued March 11, 2025, revised March 25, 2025 (the "Solicitation");
- Contractor's Proposal, dated April 11, 2025 ("Contractor's Proposal");
- Contractor's Price Proposal, dated April 11, 2025 (the "Price Proposal"); and
- Any properly executed amendments to this Agreement.

In the event of conflicting provisions, all documents will be construed according to the following priorities:

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority);
- Second, this Agreement;
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

a. Scope of Work. Contractor is engaged to perform services as described in ITB specifications.

b. Supervision of Work.

1. Contractor will supervise and direct the work efficiently and with Contractor's best skill and attention. Contractor will be solely responsible for the means, methods, techniques, sequences and procedures of providing the services, as described in the ITB specifications. Contractor will be responsible to see that the finished work complies accurately with the Contract documents.
2. Contractor will observe the work at all times during work progress.

c. Labor, Materials, and Equipment.

1. Contractor will provide competent, suitably qualified personnel to perform the work as set forth in Contractor's Proposals. The Contractor will at all times maintain good discipline and order while work is performed.
2. Contractor will furnish all materials, equipment, labor, transportation, equipment and machinery, tools, appliances, fuel, and all other incidentals necessary for the execution, testing, initial operation and completion of the work.
3. All materials will be new, except as otherwise provided in the Contract documents. If required by the City, Contractor will furnish satisfactory evidence as to the kind and quality of materials and equipment.
4. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise provided in the Contract documents.

d. Warranty and Guarantee. The Contractor warrants to the City that:

1. Unless otherwise provided for, all materials, machinery, and equipment used on the work shall be new, of the best quality in their kind and grade, and of the most efficient and effective design and type available for the purposes for which they are intended;
2. All materials, machinery, and equipment conform in every respect with the specifications, drawings, approved samples, and other requirements of the Contract documents;
3. Only such materials, machinery, and equipment shall be used on the work as have been produced or manufactured in accordance with the established and generally accepted standards for goods and workmanship of the type covered by the specifications and are of such a design and construction as to perform properly the function or work for which they are intended and to afford the maximum ease in upkeep and repair;
4. The finish of the exterior surface of the materials, machinery and equipment used on the work shall be in accordance with the specifications, or if there are no applicable specifications, such finish shall be consistent with commercially accepted practices for the services to be rendered by the respective materials, machinery, and equipment; and,
5. The Contractor agrees that all warranties in the Contract documents shall survive acceptance of, delivery of, and payment for, the goods, whether any defects shall be latent or patent, and agrees to indemnify and hold the City harmless from any loss, damage, or other expense, including attorneys' fees, that the City may suffer as a result of the failure of the materials, machinery, and equipment or workmanship to be as warranted. Each warranty with respect to any items other than machinery and equipment, shall expire sixty (60) months from the date of receipt by the City of such items and, with respect to machinery and equipment, twenty-four (24) months after the date of initial operation of such machinery and equipment. The Contractor agrees to correct without expense to, and to the satisfaction of, the City, any defects that may develop in material, workmanship, and design during the period of such warranty.

The warranties set forth in the preceding paragraph are cumulative and shall not exclude or affect the operation of any other warranty or guaranty provided by law or by the Contract documents.

e. Subcontractors.

1. Contractor will not employ any subcontractor to perform any of the work required under the Contract documents without first obtaining the written approval of the City's designated representative to employ the subcontractor.
2. Contractor will be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by Contractor. Nothing in the Contract documents shall create any contractual relationships between any subcontractor and the City or any obligation on the part of the City to pay or to see to the payment of any moneys due any subcontractor, except as may otherwise be required by law. The City may furnish to any subcontractor, to the

extent practicable, evidence of amounts paid to Contractor on account of specific work done in accordance with the schedule of values.

3. Contractor agrees to bind specifically every subcontractor to the applicable terms and conditions of the Contract documents for the benefit of the City.
4. All work performed for Contractor by a subcontractor shall be pursuant to an appropriate written agreement between Contractor and the subcontractor.

f. Permits

As applicable, Contractor will secure and pay for all permits and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of Contractor's bid. Contractor will also pay all public utility charges.

g. Use of Premises.

1. As applicable, Contractor will confine Contractor's equipment, the storage of materials and equipment and the operations of Contractor's workers to areas permitted by law, ordinances, permits, or the requirements of the Contract documents, and shall not unreasonably encumber the premises with materials or equipment.

h. Safety and Protection.

1. Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:
 - a. All employees on the work and other persons who may be affected thereby,
 - b. All the work and all materials or equipment to be incorporated there, whether in storage on or off the site, and

Contractor will comply with all applicable laws, ordinances, rules, regulations and order of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. Contractor will notify the City of adjacent utilities when prosecution of the work may affect them. All damage, injury, or loss to any property caused directly or indirectly, in whole or in part, by Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, will be remedied by Contractor; except damage or loss attributable to the acts or omissions of the City or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor.

2. Contractor will designate a responsible member of Contractor's organization whose duty shall be the prevention of accidents.

i. Emergencies. In emergencies affecting the safety of persons or the work or property at the site or adjacent property, Contractor, without special instruction or authorization

from the City, is obligated to act, at Contractor's discretion, to prevent threatened damage, injury or loss.

- j. Access to the Work. Representatives of the City will at all times have access to the work. Contractor will provide proper facilities for such access and observation of the work and also for any inspection or testing by others.
- k. Contractor's Continuing Obligation. Contractor's obligation to perform the work and complete the Project in accordance with the Contract documents shall be absolute. Neither any payment by the City to Contractor under the Contract documents, nor any use or occupancy of the Project or any part by the City, nor any act of acceptance by the City nor any failure to do so, nor any correction of defective work by the City shall constitute acceptance of work not in accordance with the Contract documents.

2. Term.

The term of this Agreement is one (1) year from the Effective Date listed above. The Contract may be renewed for up to four (4) additional one-year terms, for a total possible term of five (5) years, upon mutual agreement of Contractor and the City and executed Addendum to this Contract or earlier terminated as set forth herein Termination.

Contractor's services may be terminated in whole or in part:

- a. Upon 30-day prior notice, for the convenience of the City.
- b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
- c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
- d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
- e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Price; Compensation; Method of Payment.

Contractor will be compensated upon the delivery and acceptance of the goods and services specified in Contractor's bid submitted and pricing as provided in response to ITB-28-2025. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. The final payment shall be made only after Contractor has completely performed its duties under this Contract and the work has been accepted by the City. Invoices must bear the purchase order number. Final payment shall

not be made until after performance is complete. All invoices should be sent to: accounts payable@murfreesborotn.gov

4. Insurance.

During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000.00, as well as automotive and workers' compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents." Certificates of Insurance should be sent to: coi@murfreesborotn.gov. Certificates of Insurance should identify the Project and reference the contract date.

5. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

6. Notices.

Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro: If to Contractor:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Alliance Auto Body Inc.
Attn: David Sobiek
420 Rice Street
Murfreesboro, TN 37129
shop@allianceautobodytn.com

7. Maintenance of Records.

Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of five (5) years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly

appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.

8. Modification.

This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.

9. Relationship of the Parties.

Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.

10. Waiver.

No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

11. Employment.

Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.

12. Non-Discrimination.

It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

13. Gratuities and Kickbacks.

It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard,

rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

14. Assignment.

The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.

15. Integration.

This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.

16. Force Majeure.

No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

17. Governing Law and Venue.

The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.

18. Severability.

Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.

19. Attorney Fees.

In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.

20. **Iran Divestment Act of Tennessee.** By submission of the Contractor's Bid, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.

21. **Non-Boycott of Israel.** By submission of the Contractor's Bid, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.

22. **Effective Date.**

This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of the Effective Date first listed above.

CITY OF MURFREESBORO, TENNESSEE

By: _____

Shane McFarland, Mayor

ALLIANCE AUTO BODY INC.

By David Sobiek

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David Sobiek, Manger

Approved as to Form:

Adam F. Tucker

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Adam F. Tucker, City Attorney

**PURCHASING DEPARTMENT
BID FORM**

**NAME OF BID: ITB-28-2025
VEHICLE AND AUTOBODY REPAIR SERVICES**

Name of Bidder: Alliance Auto Body

Date: 3-31-25

INSTRUCTIONS:

All prices must include all costs. Costs included in the bid prices shall include services rendered and parts, labor, accessories, freight, and any other standard equipment necessary to provide this service. The City is not subject to sales tax.

Contract will be awarded to the responsive and responsible bidder(s) offering the lowest price.

ITEM NO.	QTY	DESCRIPTION		
1	HOURLY	Body Labor Rate		\$ <u>62</u> /hour
	HOURLY	Structural Aluminum Labor Rate		\$100/hr
2	HOURLY	Paint (Refinish) Labor Rate		\$ <u>62</u> /hour
3	HOURLY	Mechanical Labor Rate		\$ <u>150</u> /hour
4	HOURLY	Glass Rate		\$ <u>Sublet</u> /hour
		What labor estimating standard reference publications do you use? (list)		<u>CCC One</u>
		Please provide the following: Parts and supplies furnished at Manufacturer's Retail price less Quoted percentage		<u>0</u> %
		Paint Materials calculated same as paint labor just at a rate of \$52/hr		
		Body Materials subject to invoice		

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Purchase of Property and Liability Insurance

Department: Human Resources Department

Presented by: Edward K. McDonald III, City Risk Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Consider approval for the purchase of insurance coverages for the City, summarized in Exhibit A, for FY2026. Including but not limited to: Auto, Cyber, Crime, and Workers' Compensation

Staff Recommendation

Approve and authorize to bind and pay premiums for FY26 insurance coverages.

Background Information

The following insurance coverages will be placed for the City for FY26:

1. General Liability, Auto Liability, Errors and Omissions Liability (including Employment Practices Liability), and Law Enforcement Liability from Public Entity Partners Risk Pool.
2. Collision and Comprehensive Vehicle Insurance for all vehicles whose value equals or exceeds \$75,000 from Public Entity Partners Risk Pool.
3. Catastrophic Vehicle Damage Insurance from Public Entity Partners Risk Pool.
4. Workers' Compensation Insurance from Public Entity Partners Risk Pool and Third-Party Administrator.
5. Commercial Package Property Insurance from Travelers, Third Party Insurer.
6. Crime Insurance (including Faithful Performance of Duty Coverage) from Travelers Third Party Insurer; and
7. Cyber Insurance from Cowbell Insurance Agency, Third Party Insurer.

All the insurance policies being recommended are renewals from the previous fiscal year.

The proposed property, crime, and cyber insurance coverages (Items 4, 5, and 6) are based on the recommendation of the City's insurance broker, Arthur J. Gallagher Risk Management Services, Inc. ("Gallagher").

The property insurance market has experienced significant rate increases over the past three years due primarily to weather-related losses across the country. In addition to these market impacts, the City has substantially increased its property portfolio value.

As a result of these market forces, as well as an increase in the replacement cost of the City's insured property, the best offer Gallagher could obtain in the market was from Travelers, the City's incumbent insurer. This offer presents an 18.67% (approx. \$114,064) increase over last year's premium. It is recommended that the City retain property insurance through Travelers as the insurer.

It is also recommended that the City continue to secure crime and cybersecurity insurance through the incumbent insurers, Travelers and Cowbell, respectively. The premiums on both these policies increased modestly in terms of the dollar amount over the previous fiscal year.

The remaining insurance coverage is recommended to be purchased directly from the incumbent risk pool, Public Entity Partners. Pursuant to state law and Section 2-10(E)(2)(f) of the City Code, the City may purchase from a government risk pool without the solicitation and consideration of competitive sealed bids. This year, the City retained its expiring self-insured retentions for the previous fiscal year. The premiums through Public Entity Partners reflect a total rate adjustment of 11.9% (approximately \$165,899).

The proposed risk management and insurance program will increase the City's total insurance premium costs by 7.95% (\$272,643). By comparison, the premium costs increased by 13.11% from FY2025 to FY2026, while the total cost of coverage increased by 11.9%. The full cost of the proposed insurance program was included in the City's FY2026 budget.

Council Priorities Served

Responsible budgeting

Securing adequate insurance coverage is essential to mitigate the City's inherent strategic, financial, and operational risks.

Fiscal Impacts

Total insurance costs, \$3,702,909, are funded by the City's FY2026 operating budget.

Attachment:

Exhibit A – Summary of Insurance Coverages

Exhibit A – Summary of Insurance Coverages

Insurance Carrier	Insurance Coverage	Actual FY25	Proposed FY26	Percentage Cost Increase
Public Entity Partners	Liability			
	Self-Insured Retention	\$800,000	\$800,000	0.0%
	Total Premiums	\$452,091	\$461,302	+2.04%
	<i>General Liability</i>	<i>\$68,524</i>	<i>\$69,769</i>	<i>+1.82%</i>
	<i>Errors & Omissions/Employment Practices</i>	<i>\$149,642</i>	<i>\$151,177</i>	<i>+1.03%</i>
	<i>Auto Liability</i>	<i>\$89,597</i>	<i>\$93,646</i>	<i>+4.53%</i>
	<i>Law Enforcement</i>	<i>\$144,328</i>	<i>\$146,710</i>	<i>+1.65%</i>
	Projected Cost of Risk	\$1,704,182	\$1,722,604	+1.08%
Travelers	Property and Building Contents			
	Premium	\$610,830	\$724,894	+18.67%
	Expiring: \$400,000,000 per occurrence limit; \$100,000 per claim deductible			
	Renewal: \$200,000,000 per occurrence limit; \$100,000 per claim deductible			
Public Entity Partners	Auto Property Damage			
	Premium	\$137,406	\$259,555	+88.83%
	Includes: 1) Auto Catastrophic (Loss from any event >\$100,000); and 2) Comprehensive/Collision for Vehicles Valued \$75,000 or more (\$5,000 per claim deductible - applied to liability retention.)			
Travelers	Crime (includes Faithful Performance of Duty Coverage)			
	Premium	\$8,108	\$8,108	0%
	\$2,000,000 coverage for most claims			

Insurance Carrier	Insurance Coverage	Actual FY24	Proposed FY25	Percentage Cost Increase
Cowbell	Cyber			
	Premium \$3,000,000 limit	\$63,888	\$56,568.16	-11.45%
Public Entity Partners	Workers' Compensation			
	Self-Insured Retention	\$550,000	\$550,000	0.0%
	Premium	\$807,943	\$843,727	+4.43%
	Maximum Expenditure for Claims Made in FY2023	\$1,357,943	\$1,393,727	2.63%
Total of All Premium Costs		\$2,080,266	\$2,352,909	+13.11%
Total Cost of Risk (Self-Insured Retentions, Premiums for liability, property, and workers' compensation)		\$3,430,266	\$3,702,909	7.95%

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: HVAC Preventive Maintenance Agreement

Department: Facilities

Presented by: Brad Hennessee, Facilities Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider approving the agreement with Johnson Controls, Inc., for preventive maintenance services for the heating, ventilation, and air conditioning (HVAC) equipment for 35 city buildings.

Staff Recommendation

Approve the agreement with Johnson Controls, Incorporated.

Background Information

The Facilities Department's goal is to become more proactive in its approach to building maintenance. Using an outside contractor for HVAC equipment servicing allows the city to identify problems before they arise and prolongs the equipment life cycle. The proposed agreement covers all the city's major buildings.

This was a competitive bid, and Johnson Controls, Inc., was the lowest responsible bidder. This agreement is renewable for up to three one-year terms after the original award if agreeable to both parties.

Council Priorities Served

Responsible Budgeting

Proactive maintenance of the city's largest asset classification is crucial to responsible budgeting and decreased CIP costs over the long term.

Fiscal Impact

The expense, \$136,806, is funded by the operating budgets of the 11 participating departments. These are the Airport, City Hall, Fleet, MPD, MFRD, Old Fort Golf, Parks & Recreation, Solid Waste, Street, the Transit Facility, and Water.

Attachments

1. Agreement with Johnson Controls, Incorporated
2. Bid Tab Sheet for HVAC Preventive Maintenance Services

HVAC Inspection and Preventative Maintenance Services for City Facilities

This Contract is entered into and effective as of _____ (the "Effective Date") by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Johnson Controls, Inc.**, a for profit Corporation of the State of Wisconsin ("Contractor").

This Contract consists of the following documents:

- This document
- ITB-44-2025- HVAC Inspection and Preventative Maintenance Services, issued May 20, 2025 (the "Solicitation");
- Contractor's Proposal, dated June 3, 2025, ("Contractor's Proposal");
- Contractor's Price Proposal, dated June 3, 2025, (the "Price Proposal"); and
- Any properly executed amendments to this Contract.

In the event of conflicting provisions, all documents will be construed according to the following priorities:

- First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority);
- Second, this Contract;
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

- a. Scope of Work. Contractor is engaged by the City to provide the equipment, machinery, material, and other items ("Goods"), as applicable, and to perform the inspection and maintenance services ("Services") as described in the Contractor's Proposal and ITB-44-2025.
- b. Supervision and Superintendence of Work.
 1. Contractor will supervise and direct the work efficiently and with Contractor's best skill and attention. Contractor will be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor will be responsible to see that the finished work complies accurately with the Contract documents.
 2. Contractor will keep on the work site at all times during work progress a competent resident superintendent. The superintendent will be Contractor's representative at the site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor.
- c. Labor, Materials, and Equipment.
 1. Contractor will furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, and all other incidentals necessary for the execution, testing, initial operation, and completion of the work.
 2. Contractor will perform the Services using personnel with the requisite skill, experience, and qualifications to complete the tasks set forth in the Scope of Work efficiently and in a professional and skillful manner in accordance with generally accepted industry standards for similar services. The Contractor will at all times maintain good discipline and order at the site.

3. All Goods identified in the Scope of Work and used to effectuate work shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise provided in the Contract documents.

d. Warranty and Guarantee.

1. Contractor warrants that the Goods purchased by the City from Contractor pursuant to this Agreement, as necessary related to maintenance, will conform to the specifications set forth in the Scope of Work; that title to the Goods will pass to the City free of and clear of all liens, claims, security interests, or other encumbrances no later than the time of the City's payment for the Goods; and that the Goods do not infringe or misappropriate any third party's patent or other intellectual property rights.
2. The Contractor warrants that the Services will be performed in accordance with generally accepted industry standards and warrants the installation of the Goods against defects in workmanship for twelve (12) months from the date of installation or the longest warranty period offered by Contractor to its customer for such work, whichever is longer.
3. The Contractor agrees that all warranties in the Contract documents shall survive acceptance of, delivery of, and payment for, the goods, whether any defects shall be latent or patent, and agrees to indemnify and hold the City harmless from any loss, damage, or other expense, including attorneys' fees, that the City may suffer as a result of the failure of the Goods or workmanship to be as warranted.
4. The warranties set forth in this section are cumulative and shall not exclude or affect the operation of any other warranty or guaranty provided by law or any greater warranty included in Contractor's Proposal.
5. The Contractor agrees to correct any defect in the Goods or workmanship that may develop during the period of such warranties at no cost to the City and to the satisfaction of the City. Upon receipt of notice from City of noncompliance with any warranty set forth in this section or any other warranty provided by law or equity, Contractor shall, at its own cost and expense, within fifteen (15) days: (i) replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to the Contractor and the delivery of repaired or replacement Goods to the City; and/or (ii) correct or re-perform the applicable installation work.

e. Subcontractors.

1. Contractor will not employ any subcontractor to perform any of the work required under the Contract documents without first obtaining the written approval of the City's designated representative to employ the subcontractor.
2. Contractor will be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by Contractor. Nothing in the Contract documents shall create any contractual relationships between any subcontractor and the City or any obligation on the part of the City to pay or to see to the payment of any moneys due any subcontractor, except as may otherwise be required by law. The City may furnish to any

subcontractor, to the extent practicable, evidence of amounts paid to Contractor on account of specific work done in accordance with the schedule of values.

3. Contractor agrees to bind specifically every subcontractor to the applicable terms and conditions of the Contract documents for the benefit of the City.
4. All work performed for Contractor by a subcontractor shall be pursuant to an appropriate written agreement between Contractor and the subcontractor.
- f. Permits. As necessary, Contractor will secure and pay for all construction permits and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of Contractor's bid. Contractor will also pay all public utility charges as applicable.
- g. Use of Premises.
 1. Contractor will confine Contractor's equipment, the storage of materials and equipment and the operations of Contractor's workers to areas permitted by law, ordinances, permits, or the requirements of the Contract documents, and shall not unreasonably encumber the premises with materials or equipment.
 2. Contractor will not load nor permit any part of the structure to be loaded with weights that will endanger the structure, nor will Contractor subject any part of the work to stresses or pressures that will endanger it.
- h. Safety and Protection.
 1. Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:
 - a. All employees on the work and other persons who may be affected thereby,
 - b. All the work and all materials or equipment to be incorporated there, whether in storage on or off the site, and
 - c. Other property at the site or adjacent property, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

Contractor will comply with all applicable laws, ordinances, rules, regulations and order of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. Contractor will notify the City of adjacent utilities when prosecution of the work may affect them. All damage, injury, or loss to any property referred to in subparagraph (2) or (3) of this section caused directly or indirectly, in whole or in part, by Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, will be remedied by Contractor; except damage or loss attributable to the fault of drawings or specifications or to the acts or omissions of the City or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor.

2. Contractor will designate a responsible member of Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by Contractor to the City.
- i. Emergencies. In emergencies affecting the safety of persons or the work or property at the site or adjacent property, Contractor, without special instruction or authorization from the City, is obligated to act, at Contractor's discretion, to prevent threatened damage, injury or loss.
- j. Cleaning Up. Contractor will keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the work, and at the completion of the work Contractor will remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the City. Contractor will restore to their original condition those portions of the site not designated for alteration by the Contract documents.
- k. Access to the Work. Representatives of the City will at all times have access to the work. Contractor will provide proper facilities for such access and observation of the work and also for any inspection or testing by others.
- l. Contractor's Continuing Obligation. Contractor's obligation to perform the work and complete the Project in accordance with the Contract documents shall be absolute. Neither any payment by the City to Contractor under the Contract documents, nor any use or occupancy of the Project or any part by the City, nor any act of acceptance by the City nor any failure to do so, nor any correction of defective work by the City shall constitute acceptance of work not in accordance with the Contract documents.
2. Term. The term of this Agreement shall be for One Year from the Effective Date listed above. The agreement may be renewed for up to three additional one-year terms upon written agreement between Contractor and the City. Contractor's services may be terminated in whole or in part:
 - a. Upon 30-day prior notice, for the convenience of the City.
 - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
 - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
 - e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Price; Compensation; Method of Payment.

- a. Contractor will be compensated upon the delivery and acceptance of the goods and services specified in Contractor's bid submitted in response to ITB-44-2025, which reflects an annual total price of One Hundred Thirty Six Thousand, Eight Hundred Six Dollars and Forty-Eight cents (\$136,806.48) ("Base Price").
- b. As applicable, the City has established an Owner's Contingency for the Scope of Work equal to five percent (5%) of the Base Price, totaling Six Thousand Eight Hundred Forty Dollars and Thirty-Two cents (\$6,840.32). The Owner's Contingency is under the exclusive control of the City, and the City retains sole discretion to determine whether to allocate funds from the Owner's Contingency to changes in the Scope of Work or such other changes for which the Contractor may be entitled to receive a change order under this Agreement. No portion of the Owner's Contingency shall be available to Contractor as compensation for any Goods or Services without the prior written approval of the City Manager.
- c. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. The final payment shall be made only after Contractor has completely performed its duties under this Contract and the work has been accepted by the City and all work has been approved by an Inspector from the Facilities Maintenance Department or City designee, if applicable. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete. City locations except Water Resources Department should be billed on a single invoice, with each location listed as a separate line item. City invoices should be sent to accountspayable@murfreesborotn.gov

The Water Resources locations should be billed separately, on a single invoice, with each location listed as a separate line item. Water Resources invoices should be sent to:

APMWRD@murfreesborotn.gov

4. **Insurance.** Contractor must maintain commercial general liability insurance for bodily injury and property damage, automobile liability insurance, and workers' compensation insurance as required by the State of Tennessee and as specified in Exhibit A hereto. Contractor must name the City and the City of Murfreesboro as an additional insured Contractor must notify the City within five days if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.
5. **Payment and Performance Bonds.** Contractor must furnish a Performance Bond and a Payment Bond each in the amounts of 100% of the Base Price covering the faithful performance and completion of the Agreement and the payment of all obligations arising there under. Bonds shall be issued on a form acceptable to the City by a surety licensed in the State of Tennessee. The Contractor must provide evidence of Bonds prior to the beginning of work. If the Performance and Payment Bonds are not furnished within 30 days of Notice of Award, the Contractor Bid Bond may be forfeited, and the Contract may be awarded to an alternate contractor. The City will require the Contractor to increase the Performance and Payment Bonds to accommodate Change Orders that individually or cumulatively exceed 10% of the original Contract Sum. The Contractor shall furnish to the City and keep in force during the term of the Contract, performance and labor and material payment bonds guaranteeing

that the Contractor will perform its obligations under the Contract and will pay for all labor and materials furnished for the Work. Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

6. Indemnification.

a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

c. Copyright, Trademark, Service Mark, or Patent Infringement.

i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

- a. Procure for the City the right to continue using the products or services.
- b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.

- c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
- iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

7. Notices.

Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro: If to Contractor:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Johnson Controls Inc
Attn: Joe DePeder
320 Premier Court South, Suite 213
Franklin, TN 37067
Joe.1.depeder@jci.com

- 8. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
- 9. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
- 10. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
- 11. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
- 12. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.

- 13. Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.
- 14. Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City.
- 15. Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.
- 16. Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.
- 17. Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
- 18. Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee

regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.

19. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
20. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
21. **Iran Divestment Act of Tennessee.** By submission of the Contractor's Bid, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.
22. **Non-Boycott of Israel.** By submission of the Contractor's Bid, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.
23. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of the Effective Date first listed above.

CITY OF MURFREESBORO, TENNESSEE

By: _____
Shane McFarland, Mayor

JOHNSON CONTROLS, INC.

Signed by:
By: Michael Emerson
Michael Emerson, Market General Manager, Eastern Tennessee

Approved as to form:

Designated by:
Kelley Blevins Baker
Kelley Blevins Baker, Deputy City Attorney
Acting City Attorney

Exhibit A

Insurance Requirements

Contractor must, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Exhibit.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Agreement requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers' compensation and employer's liability insurance, providing the following coverages, limits and endorsements:

1. Commercial General Liability Insurance.

The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU, and products and completed operations, with a combined single limit of liability of not less than \$1,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$1,000,000 applicable solely to the Work, and meeting all other requirements of this Exhibit.

The general liability insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.

Each general liability policy must be endorsed or written to:

Include the per project aggregate endorsement;

Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");

Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;

Includes a severability of interest clause; and

Waive all rights of recovery against the Additional Insureds.

2. Workers' Compensation Insurance. Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

3. Auto Liability Insurance

Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.

This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.

This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

4. Term of Coverage

The products and completed operations liability coverage required by this Agreement must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Agreement (the "Completed Operations Term").

If at any time during the Completed Operations Term Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.

Contractor will furnish certificates of insurance and other evidence that the Owner may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.

All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

5. Subcontractor and Lower-Tier Entities Insurance Requirements

Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:

Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$ 1,000,000 per occurrence, and \$ 1,000,000 as the annual aggregate limit; and

Timely furnish to the Owner proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.

The Lower Tier Entities' general liability policy must also be endorsed to provide the policy must be primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.

The Owner has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

6. Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;

Provide that attorney's fees are outside of the policy's limits and be unlimited;

Include the Project per aggregate endorsement;

Waive all rights of subrogation against the Owner;

Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the Owner; and

Be otherwise satisfactory to the Owner. The Owner agrees to consider alternatives to the requirements imposed by this Exhibit but only to the extent that the Owner is satisfied the insurance is not commercially available to the insured. In such event, the Owner has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the Owner be a loss-payee under the policy.

7. Certificates and Endorsements

Within 10 days after the execution of this Agreement, Contractor must provide the Owner with certificates and endorsements;

Upon the Owner request, Contractor must provide the Owner with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Exhibit together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of coverage potentially available to the Owner under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the Owner.

If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

8. Reduction in Coverage. Contractor must promptly inform the Owner of any reduction of coverage resulting from revised limits, claims paid, or both and must require its Subcontractors and Lower Tier Entities to promptly inform Contractor of same. The Owner has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

9. Suppliers and Materialmen Coverages

As applicable, Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.

With respect to any equipment, machinery or other goods for which the Owner or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the Owner and Contractor as loss payee as their interests appear.

10. Condition Precedent to Starting Work

Prior to, and as a condition of its right to begin performing any Work on the Site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the Owner certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the Owner that the required insurance is in place; together with the original of each bond required under this Agreement. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the Owner to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

The Owner is under no obligation or duty to make any such inquiry and the Owner is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The Owner's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.

11. Additional Proofs of Insurance. Contractor must, within 10 days after request, provide the Owner with certified copies of all policies and endorsements obtained in compliance with this Agreement.

12. Indemnity. The fact that Contractor and its Subcontractors are required by this Agreement to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the Owner and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.

13. Interpretation. In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Agreement, the terms of this Exhibit will govern.

14. Performance Bond and Payment Bond.

The Contractor shall provide surety bonds as follows:

Type	Penal Sum (\$0.00)
Performance Bond	100% of the Contract Sum
Labor and Material Payment Bond	100% of the Contract Sum

- | Bonds shall be issued by a surety licensed in the State of Tennessee and satisfactory to the Owner.
- | The Contractor must provide evidence of Bonds prior to the beginning of work. If the Performance and Payment Bonds are not furnished within ten (10) days of execution of the Agreement, the Owner, in its sole discretion, may elect to terminate the Agreement and award the Project to an alternate contractor.
- | The Owner will require the Contractor to increase the Performance and Payment Bonds to accommodate Change Orders that individually or cumulatively exceed 10% of the original Contract Sum. The Contractor shall furnish to the Owner and keep in force during the term of the Contract, performance and labor and material payment bonds guaranteeing that the Contractor will perform its obligations under the Contract and will pay for all labor and materials furnished for the Work.
- | Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

BID RESPONSE FORM

ITB-44-2025 - HVAC Inspection and Preventative Maintenance Services

Vendor: Johnson Controls

Address: 320 Premier Ct., Suite 213, Franklin, TN 37067

Pricing shall be firm through June 30, 2026, with the option to renew for up to three additional one-year terms. The City is not subject to sales tax.

In compliance with this ITB, and subject to all conditions thereof, the undersigned agrees that if this bid response is accepted within 90 days from the date of opening, to furnish the item upon which price is quoted.

	FACILITY LOCATIONS	Annual Price
1.	Airport - 1930 Memorial Boulevard	\$5,484.42
2.	Communication Department - 111 West Vine Street	\$1,706.58
3.	City Hall - 111 West Vine Street	\$6,267.95
4.	Fleet Services - 4753 Florence Road	\$1,606.58
5.	Fuel Management Building - 4753 Florence Road	\$1,206.58
6.	Fire/Parks Administration - 2140 N. Thompson Blvd.	\$4,905.95
7.	Fire Logistics - 1311 Jones Boulevard	\$1,766.31
8.	Fire Station #1 - 202 East Vine Street	\$2,345.10
9.	Fire Station #2 - 2880 Runnymede Street	\$1,591.28
10.	Fire Station #3 - 1511 Mercury Blvd	\$1,836
11.	Fire Station 4- 1321 Medical Center Blvd	\$4,255.45
12.	Fire Station #5 - 3006 Florence Road	\$1,506.56
13.	Fire Station #6 - 2302 Memorial Blvd	\$1,722.12
14.	Fire Station #7 - 2715 N. Thompson Lane	\$1,754.71
15.	Fire Station #8 - 1730 East Northfield Blvd	\$1,587.98
16.	Fire Station #9 - 802 Cason Lane	\$1,758.71
17.	Fire Station #10 - 2565 Veterans Parkway	\$1,758.71
18.	Fire Station #11-3918 Blaze Dr	\$4,674.65
19.	McKnight/Miracle Ballfields - 120 DeJarnette Ln.	\$4,320.42

20.	906 Industrial Blvd	\$ 1,849.14
21.	Old Fort Golf Clubhouse- 1028 Golf Ln.	\$ 2,604.24
22.	Police Headquarters - 1004 N. Highland Avenue	\$ 10,194.67
23.	Recreation - Sports*Com - 2310 Memorial Blvd	\$ 8,113.44
24.	Recreation- Patterson Park- 521 Martin Luther King Jr. Blvd	\$ 14,042.78
25.	Recreation - Adams Tennis - 925 Golf Lane	\$ 11,013.10
26.	Solid Waste- 4753 Florence Road	\$ 1,908.91
27.	Street Department - 620 West Main Street	\$ 1,133.90
28.	St. Clair Senior Center - 325 St Clair Street	\$ 3,128.65
29.	Training Center - 630 West Main Street	\$ 2,402.55
30.	Veterans Ballfields - 697 Veterans Parkway	\$ 2,039.12
31.	Water Administration- 316 Robert Rose	\$ 4,778.50
32.	Water Operations- 1725 Church Street	\$ 2,724.78
33.	Water Sewer Treatment Plant- 2032 Blanton Drive	\$ 7,032.35
34.	Water Treatment Plant-5228 Sam Jared Drive	\$ 5,586.88
35.	Transit Facility 324 New Salem	6,792.95
ANNUAL TOTAL for HVAC Inspection and Preventative Maintenance Services		\$ 136,806.48

Zach Maguet
 Bidder Name
Zach Maguet
 Signature

6-2-25
 Date

**Bid Tabulation Sheet For
ITB-44-2025- HVAC Inspection and Maintenance**

Contractors	Price	GC Form/ License	Iran /Israel	Non- Collusion Affidavit	Drug Free Workplace	References	Signature Sheet	Vendor Info Sheet
Interstate AC Service	\$193,040.00	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Jarrett Companies	\$237,289.00	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Johnson Controls, Inc	\$130,482.05	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lee Company	\$194,197.00	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Recommend Award to:

Amount of: \$

Bid Opened by: Megan Strode / Senior Purchasing Analyst

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Generator Preventive Maintenance Agreement

Department: Facilities

Presented by: Brad Hennessee, Facilities Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider approving the agreement with Clarke Power Services, Inc., for preventive maintenance services for the emergency generators that protect 20 buildings and the 911 communications network.

Staff Recommendation

Approve the agreement with Clarke Power Services, Incorporated.

Background Information

The Facilities Department's goal is to become more proactive in its approach to maintenance. The department proposes to contract for generator preventive maintenance to proactively identify problems and provide regular maintenance that will prolong the equipment's life cycle. Clarke Power Services has agreed to provide the services needed for \$41,900 per year for three years.

This was a competitive bid, and Clarke Power Services, Inc., was the lowest responsible bidder.

Council Priorities Served

Responsible Budgeting

Proactive maintenance of the city's largest asset classification is crucial to responsible budgeting and decreased CIP costs over the long term.

Fiscal Impact

The expense, \$125,700, is funded by the Facilities Operating Budget.

Attachments

1. Agreement with Clarke Power Services, Incorporated
2. Bid Tab Sheet for Generator Preventive Maintenance Services

Generator Maintenance Services for City Facilities

This Contract is entered into and effective as of _____ (the "Effective Date") by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Clarke Power Services, Inc.**, a For-profit corporation of the State of Ohio ("Contractor").

This Contract consists of the following documents:

- This document
- ITB-45-2025- Generator Maintenance Services, issued May 20, 2025, revised May 30, 2025 (the "Solicitation");
- Contractor's Proposal, dated June 9, 2025 ("Contractor's Proposal");
- Contractor's Price Proposal, dated June 9, 2025 (the "Price Proposal"); and
- Any properly executed amendments to this Contract.

In the event of conflicting provisions, all documents will be construed according to the following priorities:

- First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority);
- Second, this Contract;
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

- a. Scope of Work. Contractor is engaged by the City to provide the equipment, machinery, material, and other items ("Goods"), as applicable, and to perform the generator inspection and maintenance services ("Services") as described in the Contractor's Proposal and ITB-45-2025.
- b. Supervision and Superintendence of Work.
 1. Contractor will supervise and direct the work efficiently and with Contractor's best skill and attention. Contractor will be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor will be responsible to see that the finished work complies accurately with the Contract documents.
 2. Contractor will keep on the work site at all times during work progress a competent resident superintendent. The superintendent will be Contractor's representative at the site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor.
- c. Labor, Materials, and Equipment.
 1. Contractor will furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, and all other incidentals necessary for the execution, testing, initial operation, and completion of the work.
 2. Contractor will perform the Services using personnel with the requisite skill, experience, and qualifications to complete the tasks set forth in the Scope of Work efficiently and in a professional and skillful manner in accordance with generally accepted industry standards

obligation on the part of the City to pay or to see to the payment of any moneys due any subcontractor, except as may otherwise be required by law. The City may furnish to any subcontractor, to the extent practicable, evidence of amounts paid to Contractor on account of specific work done in accordance with the schedule of values.

3. Contractor agrees to bind specifically every subcontractor to the applicable terms and conditions of the Contract documents for the benefit of the City.
 4. All work performed for Contractor by a subcontractor shall be pursuant to an appropriate written agreement between Contractor and the subcontractor.
- f. Permits. As necessary, Contractor will secure and pay for all construction permits and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of Contractor's bid. Contractor will also pay all public utility charges as applicable.
- g. Use of Premises.
1. Contractor will confine Contractor's equipment, the storage of materials and equipment and the operations of Contractor's workers to areas permitted by law, ordinances, permits, or the requirements of the Contract documents, and shall not unreasonably encumber the premises with materials or equipment.
 2. Contractor will not load nor permit any part of the structure to be loaded with weights that will endanger the structure, nor will Contractor subject any part of the work to stresses or pressures that will endanger it.
- h. Safety and Protection.
1. Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:
 - a. All employees on the work and other persons who may be affected thereby,
 - b. All the work and all materials or equipment to be incorporated there, whether in storage on or off the site, and
 - c. Other property at the site or adjacent property, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

Contractor will comply with all applicable laws, ordinances, rules, regulations and order of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. Contractor will notify the City of adjacent utilities when prosecution of the work may affect them. All damage, injury, or loss to any property referred to in subparagraph (2) or (3) of this section caused directly or indirectly, in whole or in part, by Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, will be remedied by Contractor; except damage or loss attributable to the fault of drawings or specifications or to the acts or omissions of the City or anyone employed by either of them or anyone for whose acts either of them may

- e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Price; Compensation; Method of Payment.

- a. Contractor will be compensated upon the delivery and acceptance of the goods and services specified in Contractor's bid submitted in response to ITB-45-2025, which reflects a total price of \$125,700.00.
- b. As applicable, the City has established an Owner's Contingency for the Scope of Work equal to five percent (5%) of the Base Price, totaling \$6,285.00. The Owner's Contingency is under the exclusive control of the City, and the City retains sole discretion to determine whether to allocate funds from the Owner's Contingency to changes in the Scope of Work or such other changes for which the Contractor may be entitled to receive a change order under this Agreement. No portion of the Owner's Contingency shall be available to Contractor as compensation for any Goods or Services without the prior written approval of the City Manager.
- c. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. The final payment shall be made only after Contractor has completely performed its duties under this Contract and the work has been accepted by the City and all work has been approved by an inspector from the Facilities Maintenance Department or City designee, if applicable. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete. City locations except Water Resources Department should be billed on a single invoice, with each location listed as a separate line item. City invoices should be sent to accountspayable@murfreesborotn.gov.

The Water Resources Locations should be billed separately, on a single invoice, with each location listed as a separate line item. Water Resources invoices should be sent to:
APMWRD@murfreesborotn.gov

- 4. **Insurance.** Contractor must maintain commercial general liability insurance for bodily injury and property damage, automobile liability insurance, and workers' compensation insurance as required by the State of Tennessee and as specified in Exhibit A hereto. Contractor must name the City and the City of Murfreesboro as an additional insured Contractor must notify the City within five days if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.
- 5. **Payment and Performance Bonds.** Contractor must furnish a Performance Bond and a Payment Bond each in the amounts of 100% of the Base Price covering the faithful performance and completion of the Agreement and the payment of all obligations arising there under. Bonds shall be issued on a form acceptable to the City by a surety licensed in the State of Tennessee. The Contractor must provide evidence of Bonds prior to the beginning of work. If the Performance and Payment Bonds are not furnished within 30 days of Notice of Award, the Contractor Bid Bond may be forfeited, and the Contract may be awarded to an alternate contractor. The City will require the Contractor to increase the Performance and Payment Bonds to accommodate Change Orders that individually or cumulatively exceed 10%

- b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 - c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
- iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

7. Notices.

Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro: If to Contractor:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Clarke Power Services
Attn: John Moore
8510 Farrington Road
Colfax, NC 27235
jmoore@clarkepsi.com

- 8. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
- 9. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
- 10. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
- 11. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
- 12. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to

strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

18. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
19. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
20. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
21. **Iran Divestment Act of Tennessee.** By submission of the Contractor's Bid, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.
22. **Non-Boycott of Israel.** By submission of the Contractor's Bid, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.
23. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of the Effective Date first listed above.

CITY OF MURFREESBORO, TENNESSEE

CLARKE POWER SERVICES, INC

By: _____
Shane McFarland, Mayor

By: _____
Adrienne Custer, Chief Legal and Compliance Officer

Approved as to form:

Adam F. Tucker, City Attorney

3. Auto Liability Insurance

Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.

This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.

This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

4. Term of Coverage

The products and completed operations liability coverage required by this Agreement must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Agreement (the "Completed Operations Term").

If at any time during the Completed Operations Term Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.

Contractor will furnish certificates of insurance and other evidence that the Owner may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.

All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

5. Subcontractor and Lower-Tier Entities Insurance Requirements

Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:

Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, EXCEPT THAT the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$ 1,000,000 per occurrence, and \$ 1,000,000 as the annual aggregate limit; and

Timely furnish to the Owner proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.

The Lower Tier Entities' general liability policy must also be endorsed to provide the policy must be primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.

9. Suppliers and Materialmen Coverages

As applicable, Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.

With respect to any equipment, machinery or other goods for which the Owner or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the Owner and Contractor as loss payee as their interests appear.

10. Condition Precedent to Starting Work

Prior to, and as a condition of its right to begin performing any Work on the Site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the Owner certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the Owner that the required insurance is in place; together with the original of each bond required under this Agreement. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the Owner to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

The Owner is under no obligation or duty to make any such inquiry and the Owner is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The Owner's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.

11. Additional Proofs of Insurance. Contractor must, within 10 days after request, provide the Owner with certified copies of all policies and endorsements obtained in compliance with this Agreement.

12. Indemnity. The fact that Contractor and its Subcontractors are required by this Agreement to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the Owner and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.

13. Interpretation. In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Agreement, the terms of this Exhibit will govern.

14. Performance Bond and Payment Bond.

I The Contractor shall provide surety bonds as follows:

Type	Penal Sum (\$0.00)
Performance Bond	100% of the Contract Sum
Labor and Material Payment Bond	100% of the Contract Sum

Murfreesboro
Current Generator Inventory

GEN Make	GEN Mod	GEN Mod #	Voltage	GEN Serial No.	GEN Location	Address	
Onan	200KW	DGFC-5602089		C030483598	Streets/ TC	630 W Main	1
Onan	60KW	DGCB-5602088		C030483599	Fleet	4765 Florence Rd	2
Onan	30KW	RS 30000		A070012366	Airport	1930 Memorial Blvd	3
Kohler	750KW	750REOZJE	277/480		New PD	1004 N Highland	4
Kohler	250KW	250REOZJE	277/480		New PD	1004 N Highland	5
Kohler	125KW	125REOZJD	120/208	2288557		906 Industrial Dr	6
Baldor Die	250KW			P120524	City Hall	111 W. Vine Street	7
Genrac	125KW	13872630200	120/208	2113850	Fire Station 1	202 East Vine Street	8
Kohler	100KW	100REZGD	120/208	SGM32JK8P	Fire Station 2	2880 Runnymede Drive	9
Kohler	80KW	80REOZJB	120/208	SGM32JT6Z	Fire Station 3	1511 Dr. Martin Luther King Blvd	10
Kohler	185KW	180REZXB	120/208	SGM32MW6R	Fire Station 4	1321 Medical Center	11
Kohler	80KW	80REOZJB	120/208	SGM32JT72	Fire Station 5	3006 Florence Road	12
Kohler	80KW	80REZGD	120/208	SGM32JVLP	Fire Station 6	2302 Memorial Boulevard	13
Kohler	80KW	80REZGD	120/208	SGM32JVLS	Fire Station 7	2715 N Thompson Lane	14
Kohler	80KW	80REZGD	120/208	SGM32JVLN	Fire Station 8	1730 E Northfield Blvd	15
Kohler	80KW	80REZGD	120/208	SGM32JVLN	Fire Station 9	802 Cason Lane	16
Kohler	80KW	80REOZJB	120/208	SGM32JVLN	Fire Station 10	2563 Veterans Parkway	17
Kohler	180KW	180REOZJB	120/208	337TGMGP0002	Fire Station 11	3924 Blaze Drive	18
Kohler	80KW	D80-2S	120/240	CAT00C44CC500700	Tower Site 1	1311 Jones Boulevard	19
Kohler	80KW	D80-2S	120/240	CAT00C44VLC500679	Tower Site 2	3918 Blaze Drive	20
Kohler	80KW	D80-2S	120/240	CAT00C44CLC500681	Tower Site 3	3850 Shelbyville Pike	21
Kohler	80KW	D80-2S	120/240	E30504003	Tower Site 4	OEM Bldg-1725 S Church Street	22
Kohler	80KW	D80-2S	120/240	CAT00C44ALC500683	Tower Site 5	1420 Central Valley Road	23
Kohler	50KW	<u>FUTURE 2025</u>	120/240		Tower Site 6	3489 Halls Hill Pike	24
Kohler	180KW	180REOZIG	277/480	337RGMMH0009	Transit	324 New Salem HWY	25
Kohler	100KW	100REOZJD	120/208	2288556	Old MED	205 N Walnut	26
Generac	70KW	QT07068GNSN	120/208	5057972	Water Admin	316 Robert Rose	27
Generac	38KW	RG03824ANAX	120/240	500650753	Mill St WT	405 Mill St	28
Generac	38KW	RG03824ANAX	120/240	50065075	Jones Blvd WT	1130 Jones Blvd	29
Generac	38KW	RG03824ANAX	120/240	500650752	Halls Hill WT	2015 Dora Rucker Watkins Rd	30
Kohler	38KW	38RCLC/GM116160-GA1	120/240	34PCGMKL0106	Stoney Meadow WT	2003 Stoney Meadow Dr	31
Generac	38Kw	RG03824ANAX	120/240	500650754	Tiger Hill WT	800 County Farm Rd	32

BID RESPONSE FORM

ITB-45-2025 - Generator Maintenance Services

Vendor: Clarke Power Services Generator Group

Address: 8510 Farrington Road Cary NC 27235

Pricing shall be firm through June 30, 2028, with the option to renew for one additional three-year term. The City is not subject to sales tax.

In compliance with this ITB, and subject to all conditions thereof, the undersigned agrees that if this bid response is accepted within 90 days from the date of opening, to furnish the Item upon which price is quoted.

	FACILITY LOCATIONS	Annual Price
1.	Street Dept- 630 W Main Street	\$ 1500.00
2.	Fleet Services- 4765 Florence Road	\$ 1200.00
3.	Airport- 1930 Memorial Boulevard	\$ 1000.00
4.	Police Department- 1004 N Highland (both generators)	\$ 4000.00
5.	906 Industrial Drive	\$ 1200.00
6.	City Hall- 111 West Vine Street	\$ 1500.00
7.	Fire Station 1 – 202 East Vine Street	\$ 1200.00
8.	Fire Station 2- 2880 Runnymede Drive	\$ 1200.00
9.	Fire Station 3- 1511 Dr. Martin Luther King Blvd	\$ 1200.00
10.	Fire Station 4- 1321 Medical Center	\$ 1500.00
11.	Fire Station 5- 3006 Florence Road	\$ 1200.00
12.	Fire Station 6- 2302 Memorial Boulevard	\$ 1200.00
13.	Fire Station 7- 2715 N Thompson Lane	\$ 1200.00
14.	Fire Station 8- 1730 E Northfield Blvd	\$ 1200.00
15.	Fire Station 9 -802 Cason Lane	\$ 1200.00
16.	Fire Station 10- 2563 Veterans Parkway	\$ 1200.00
17.	Fire Station 11- 3918 Blaze Drive	\$ 1500.00

18.	Tower Site 1 - 1311 Jones Boulevard	\$ 1200.00
19.	Tower Site 2- 3918 Blaze Drive	\$ 1200.00
20.	Tower Site 3- 3850 Shelbyville Pike	\$ 1200.00
21.	Tower Site 4- 1272 S Church Street	\$ 1200.00
22.	Tower Site 5- 1420 Central Valley Road	\$ 1200.00
23.	Tower Site 6- Halls Hill Pike	\$ 1000.00
24.	Transit Center- 325 New Salem Highway	\$ 1500.00
25.	Old MED- 205 N Walnut	\$ 1200.00
26.	Water Admin- 316 Robert Rose	\$ 1500.00
27.	Water Tower- 405 Mill Street	\$ 1300.00
28.	Water Tower- 1130 Jones Blvd	\$ 1300.00
29.	Water Tower- Dora Rucker Watkins Road	\$ 1300.00
30.	Water Tower- 2003 Stoney Meadow Drive	\$ 1300.00
31.	Water Tower- 800 County Farm Road	\$ 1300.00
ANNUAL TOTAL for Generator Maintenance Services		\$ 41,900.00
TOTAL FOR THREE YEAR CONTRACT		\$ 125,700.00

Clarke Power Services Scott Elkins
Bidder Name

Signature Scott Elkins

Date 6/6/25

Bid Tabulation Sheet For ITB-45-2025- Generator Maintenance

Contractors	Price	Iran /Israel	Non-Collusion Affidavit	Drug Free Workplace	References	Signature Sheet	Vendor Info Sheet
Clarke Power Services Corporate	\$125,700.00	Yes/Yes	Yes	Yes	Yes	Yes	Yes
Cummins Inc.	\$136,336.00	Yes/Yes	Yes	Yes	Yes	Yes	Yes
Energy Systems Southeast, LLC (ESSE, LLC)	\$127,815.00	Yes/No	Yes	Yes	Yes	Yes	Yes
Madiston Powertel	DQ	DQ					
Nixon Power Services LLC	\$125,910.00	Yes/Yes	Yes	Yes	Yes	Yes	Yes
Taylor Sudden Service, Inc.	\$478,617.00	Yes/Yes	Yes	Yes	Yes	Yes	Yes
Thompson Machinery	\$189,384.00	Yes/Yes	Yes	Yes	Yes	Yes	Yes
W.W. Williams Co. LLC	\$129,191.85	Yes/Yes	Yes	Yes	Yes	Yes	Yes

Recommend Award to:

Amount of: \$

Bid Opened by: Megan Strode / Senior Purchasing Analyst

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Revised Safe Streets and Roads for All Grant Agreement with Federal Highway Administration

Department: Transportation

Presented by: Jim Kerr, Transportation Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider approval of the Revised Safe Streets and Roads for All (SS4A) Grant Agreement with the Federal Highway Administration (FHWA).

Staff Recommendation

Approve the Revised SS4A Grant Agreement between the City and FHWA.

Background Information

The Bipartisan Infrastructure Law established the SS4A program, allocating \$5 billion in appropriated funds over five years beginning in 2022. The SS4A program provides grants to regional, local, and other communities to prevent roadway fatalities and serious injuries. The program offers two types of grants: Planning and Demonstration Grants, and Implementation Grants.

In July 2023, the City applied for a Planning and Demonstration Grant under the SS4A program to develop an action plan focused on eliminating pedestrian-involved vehicular crashes that result in injuries or fatalities. The goal of the action plan is to create a data-driven, comprehensive, and actionable strategy to enhance safety across the entire transportation network and ultimately achieve long-term safety goals for all modes of travel. In October 2023, the City was awarded the grant in the amount of \$360,000, with a required local match of \$72,000.

The City Council approved the original grant agreement on January 16, 2025. Since that time, the FHWA has made minor modifications to the agreement language. City staff and the Legal Department have reviewed and concur with the revised language.

Council Priorities Served

Responsible budgeting

Improvements of roadway infrastructure with federal dollars allows local funds to be used for other community purposes.

Fiscal Impact

The grant requires a 20% match of local funds (\$72,000) to receive the Federal portion of 80%, or \$288,000. The City's local share will be funded through State Street Aid.

Attachments

Grant Agreement

- 1. Federal Award No.**
693JJ32540356
- 2. Effective Date**
See No. 16 Below
- 3. Assistance Listings No.**
20.939
- 4. Award To**
City of Murfreesboro
111 W Vine Street
Murfreesboro, TN 37130

Unique Entity Id.: CMF9NNK9Z7D6
TIN No.: 62-6000374
- 5. Sponsoring Office**
U.S. Department of Transportation
Federal Highway Administration
Office of Safety
1200 New Jersey Avenue, SE
HSSA-1, Mail Drop E71-117
Washington, DC 20590
- 6. Period of Performance**
Effective Date of Award – March
31, 2026
- 7. Total Amount**
Federal Share: \$288,000
Recipient Share: \$72,000
Other Federal Funds: \$0
Other Funds: \$0
Total: \$360,000
- 8. Type of Agreement**
Grant
- 9. Authority**
Section 24112 of the Infrastructure Investment and Jobs Act
(IIJA, Pub. L. 117–58, November 15, 2021)
- 10. Procurement Request No.**
HSA240174PR
- 11. Federal Funds Obligated**
\$288,000
- 12. Submit Payment Requests To**
See Article 5.
- 13. Accounting and Appropriations Data**
15X0173E50.0000.055SR10500.5592000000.41010.61006600
- 14. Description of the Project**
The City of Murfreesboro will complete a SS4A Action Plan for future construction of safe and functional sidewalks in the City of Murfreesboro.

RECIPIENT**15. Signature of Person Authorized to Sign**

Signature Date
Name: Shane McFarland
Title: Mayor

FEDERAL HIGHWAY ADMINISTRATION**16. Signature of Agreement Officer**

Signature Date
Name: Veronica R. Jacobson
Title: Agreement Officer

U.S. DEPARTMENT OF TRANSPORTATION

GRANT AGREEMENT UNDER THE FISCAL YEAR 2023 SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM

This agreement is between the United States Department of Transportation's (the "USDOT") Federal Highway Administration (the "FHWA") and the City of Murfreesboro, TN (the "Recipient").

This agreement reflects the selection of the Recipient to receive a Safe Streets and Roads for All ("SS4A") Safe Streets and Roads for All Funding Opportunity.

The parties therefore agree to the following:

ARTICLE 1 GENERAL TERMS AND CONDITIONS

1.1 General Terms and Conditions.

- (a) In this agreement, "General Terms and Conditions" means the content of the document titled "General Terms and Conditions Under the Fiscal Year 2023 Safe Streets and Roads for All ("SS4A") Grant Program," dated March 17, 2025, which is available at <https://www.transportation.gov/grants/ss4a/grant-agreements> under "Fiscal Year 2023." Articles 7–30 are in the General Terms and Conditions. The General Terms and Conditions are part of this agreement.
- (b) The Recipient acknowledges that it has knowledge of the General Terms and Conditions. Recipient also states that it is required to comply with all applicable Federal laws and regulations including, but not limited to, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200); National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.); and Build America, Buy America Act (IIJA, div. G §§ 70901-27).
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient's non-compliance with the General Terms and Conditions may result in remedial action, termination of the SS4A Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the FHWA the SS4A Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

ARTICLE 2 APPLICATION, PROJECT, AND AWARD

2.1 Application.

Application Title: Murfreesboro Pedestrian Safety Program

Application Date: 07/10/2023

2.2 Award Amount.

SS4A Grant Amount: \$288,000

2.3 Federal Obligation Information.

Federal Obligation Type: Single

2.4 Budget Period.

Budget Period: See Block 6 of Page 1

2.5 Grant Designation.

Designation: Planning and Demonstration

ARTICLE 3 SUMMARY PROJECT INFORMATION

3.1 Summary of Project's Statement of Work.

The City of Murfreesboro seeks to develop an Action Plan to help eliminate the pedestrian/vehicle crashes that result in injuries and fatalities and improve the connectivity throughout the city for pedestrians and multimodal users. This Action Plan will include ways that the City can better serve its pedestrians when it comes to getting them to their destinations safely and without injury. The City of Murfreesboro has created a task force with representatives from their Transportation, Transit, Engineering and Public Infrastructure Departments to evaluate their existing pedestrian and bike infrastructure and recommend constant improvements to their system.

This project will be completed in one phase.

3.2 Project's Estimated Schedule.

Action Plan Schedule

Milestone	Schedule Date
NEPA Completion Date:	July 31, 2024
Planned Draft Plan Completion Date:	January 31, 2026
Planned Final Plan Completion Date:	March 31, 2026
Planned Final Plan Adoption Date:	April 15, 2026
Planned SS4A Final Report Date:	May 15, 2026

3.3 Project's Estimated Costs.

(a) Eligible Project Costs

Eligible Project Costs	
SS4A Grant Amount:	\$288,000
Other Federal Funds:	\$0
State Funds:	\$0
Local Funds:	\$72,000
In-Kind Match:	\$0
Other Funds:	\$0
Total Eligible Project Cost:	\$360,000

(b) Reserved

(c) Indirect Costs

Indirect costs are allowable under this Agreement in accordance with 2 CFR part 200 and the Recipient's approved Budget Application. In the event the Recipient's indirect cost rate changes, the Recipient will notify FHWA of the planned adjustment and provide supporting documentation for such adjustment. This Indirect Cost provision does not operate to waive the limitations on Federal funding provided in this document. The Recipient's indirect costs are allowable only insofar as they do not cause the Recipient to exceed the total obligated funding.

ARTICLE 4

RECIPIENT INFORMATION

4.1 Recipient Contact(s).

Jim Kerr
Transportation Director
City of Murfreesboro
111 W. Vine Street, Murfreesboro, TN 37130
615-893-6441
jkerr@murfreesborotn.gov

4.2 Recipient Key Personnel.

Name	Title or Position
Jim Kerr	Transportation Director
Lexi Stacey	Project Coordinator

4.3 USDOT Project Contact(s).

Safe Streets and Roads for All Program Manager
Federal Highway Administration
Office of Safety
HSSA-1, Mail Stop: E71-117
1200 New Jersey Avenue, S.E.
Washington, DC 20590
202-366-2822
SS4A.FHWA@dot.gov

and

Agreement Officer (AO)
Federal Highway Administration
Office of Acquisition and Grants Management
HCFA-42, Mail Stop E62-310
1200 New Jersey Avenue, S.E.
Washington, DC 20590
HCFASS4A@dot.gov

and

Division Administrator - Tennessee
Agreement Officer's Representative (AOR)
404 BNA Drive, Bldg. 200, Ste 508
Nashville TN 37217
615-781-5770
Tennessee.FHWA@dot.gov

and

Jeremy Jackson
Tennessee Division Office Lead Point of Contact
Grants & Local Public Agency Program Coordinator
404 BNA Drive, Bldg. 200, Ste 508
Nashville TN 37217
615-781-5762
Jeremy.Jackson1@dot.gov

ARTICLE 5

USDOT ADMINISTRATIVE INFORMATION

5.1 Office for Subaward and Contract Authorization.

USDOT Office for Subaward and Contract Authorization: FHWA Office of Acquisition and Grants Management

SUBAWARDS AND CONTRACTS APPROVAL

Note: See 2 CFR § 200.331, Subrecipient and contractor determinations, for definitions of subrecipient (who is awarded a subaward) versus contractor (who is awarded a contract).

Note: Recipients with a procurement system deemed approved and accepted by the Government or by the Agreement Officer (the “**AO**”) are exempt from the requirements of this clause. See 2 CFR 200.317 through 200.327.

In accordance with 2 CFR 200.308(f)(6), the recipient or subrecipient shall obtain prior written approval from the USDOT agreement officer for the subaward, if the subaward activities were not proposed in the application or approved in the Federal award. This provision is in accordance with 2 CFR 200.308(f)(6) and does not apply to procurement transactions for goods and services. Approval will be issued through written notification from the AO or a formal amendment to the Agreement.

The following subawards and contracts are currently approved under the Agreement by the AO. This list does not include supplies, material, equipment, or general support services which are exempt from the pre-approval requirements of this clause.

5.2 Reimbursement Requests

- (a) The Recipient may request reimbursement of costs incurred within the budget period of this agreement if those costs do not exceed the amount of funds obligated and are allowable under the applicable cost provisions of 2 C.F.R. Part 200, Subpart E. The Recipient shall not request reimbursement more frequently than monthly.
- (b) The Recipient shall use the DELPHI iSupplier System to submit requests for reimbursement to the payment office. When requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit supporting cost detail with the SF-270 (Request for Advance or Reimbursement) or SF-271 (Outlay Report and Request for Reimbursement for Construction Programs) to clearly document all costs incurred.
- (c) The Recipient’s supporting cost detail shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, travel, etc., and the Recipient shall identify the Federal share and the Recipient’s share of costs. If the Recipient does not provide sufficient detail in a request for reimbursement, the Agreement Officer’s Representative (the “**AOR**”) may withhold processing that request until the Recipient provides sufficient detail.
- (d) The USDOT shall not reimburse costs unless the AOR reviews and approves the costs to ensure that progress on this agreement is sufficient to substantiate payment.

- (e) In the rare instance the Recipient is unable to receive electronic funds transfers (EFT), payment by EFT would impose a hardship on the Recipient because of their inability to manage an account at a financial institution, and/or the Recipient is unable to use the DELPHI iSupplier System to submit their requests for disbursement, the FHWA may waive the requirement that the Recipient use the DELPHI iSupplier System. The Recipient shall contact the Division Office Lead Point of Contact for instructions on and requirements related to pursuing a waiver.
- (f) The requirements set forth in these terms and conditions supersede previous financial invoicing requirements for Recipients.

ARTICLE 6 SPECIAL GRANT TERMS

- 6.1** SS4A funds must be expended within five years after the grant agreement is executed and DOT obligates the funds, which is the budget period end date in section 10.3 of the Terms and Conditions and section 2.4 in this agreement.
- 6.2.** The Recipient demonstrates compliance with civil rights obligations and nondiscrimination laws, including Titles VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act, and accompanying regulations. Recipients of Federal transportation funding will also be required to comply fully with regulations and guidance for the ADA, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other civil rights requirements.
- 6.3** SS4A Funds will be allocated to the Recipient and made available to the Recipient in accordance with FHWA procedures.
- 6.4** The Recipient of a Planning and Demonstration Grant acknowledges that the Action Plan will be made publicly available and agrees that it will publish the final Action Plan on a publicly available website.
- 6.5** There are no other special grant requirements.

ATTACHMENT A
PERFORMANCE MEASUREMENT INFORMATION

Study Area: City of Murfreesboro, TN

Table 1: Performance Measure Table

Measure	Category and Description	Measurement Frequency and Reporting Deadline
Costs	Project Costs: Quantification of the cost of each eligible project carried out using the grant	Within 120 days after the end of the period of performance
Lessons Learned and Recommendations	Lessons Learned and Recommendations: Description of lessons learned and any recommendations relating to future projects or strategies to prevent death and serious injury on roads and streets.	Within 120 days after the end of the period of performance

**ATTACHMENT B
CHANGES FROM APPLICATION**

Describe all material differences between the scope, schedule, and budget described in the application and the scope, schedule, and budget described in Article 3. The purpose of Attachment B is to clearly and accurately document any differences in scope, schedule, and budget to establish the parties' knowledge and acceptance of those differences. See Article 11 for the Statement of Work, Schedule, and Budget Changes. If there are no changes, please insert "N/A" in Section 3.3 of the table.

Scope: N/A.

Schedule: Application provided for a project start date of 11/01/2023 and project end date of 05/31/2024. Due to delays in development and execution of the grant agreement, the project end date has been pushed to 01/31/2026.

Budget: N/A.

The table below provides a summary comparison of the project budget.

Fund Source	Application		Section 3.3	
	\$	%	\$	%
Previously Incurred Costs (Non-Eligible Project Costs)				
Federal Funds				
Non-Federal Funds				
Total Previously Incurred Costs				
Future Eligible Project Costs				
SS4AFunds				
Other Federal Funds				
Non-Federal Funds				
Total Future Eligible Project Costs				
Total Project Costs				

ATTACHMENT C

[RESERVED]

ATTACHMENT D

[RESERVED]

ATTACHMENT E LABOR AND WORKFORCE

1. Efforts to Support Good-Paying Jobs and Strong Labor Standards

The Recipient states that rows marked with “X” in the following table align with the application:

	The Recipient or a project partner promotes robust job creation by supporting good-paying jobs directly related to the project with free and fair choice to join a union. <i>(Describe robust job creation and identify the good-paying jobs in the supporting narrative below.)</i>
	The Recipient or a project partner will invest in high-quality workforce training programs such as registered apprenticeship programs to recruit, train, and retain skilled workers, and implement policies such as targeted hiring preferences. <i>(Describe the training programs in the supporting narrative below.)</i>
	The Recipient or a project partner will partner with high-quality workforce development programs with supportive services to help train, place, and retain workers in good-paying jobs or registered apprenticeships including through the use of local and economic hiring preferences, linkage agreements with workforce programs, and proactive plans to prevent harassment. <i>(Describe the supportive services provided to trainees and employees, preferences, and policies in the supporting narrative below.)</i>
	The Recipient or a project partner will partner and engage with local unions or other worker-based organizations in the development and lifecycle of the project, including through evidence of project labor agreements and/or community benefit agreements. <i>(Describe the partnership or engagement with unions and/or other worker-based organizations and agreements in the supporting narrative below.)</i>
	The Recipient or a project partner will partner with communities or community groups to develop workforce strategies. <i>(Describe the partnership and workforce strategies in the supporting narrative below.)</i>
X	The Recipient or a project partner has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient or a project partner has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
	The Recipient or a project partner has not taken actions related to the Project to improve good-paying jobs and strong labor standards and will not take those actions under this award.

2. Supporting Narrative.

Infrastructure programs including transportation networks and community facilities, can enhance economic growth and increase access to essential services, contributing to the growth of a strong labor market and stimulate good paying jobs.

ATTACHMENT F
CRITICAL INFRASTRUCTURE SECURITY AND RESILIENCE

1. Efforts to strengthen the Security and Resilience of Critical Infrastructure against both Physical and Cyber Threats.

The Recipient states that rows marked with “X” in the following table are accurate:

	The Recipient demonstrates, prior to the signing of this agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the activities.
	The Recipient appropriately considered and addressed physical and cyber security and resilience in the planning, design and oversight of the project, as determined by the Department and the Department of Homeland Security.
	The Recipient complies with 2 CFR 200.216 and the prohibition on certain telecommunications and video surveillance services or equipment.

2. Supporting Narrative.

N/A, grant does not require the purchase of information technology or operational technology.

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: Safe Street For All Action Plan Professional Services Contract

Department: Transportation

Presented by: Jim Kerr, Transportation Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider approval of Agreement with Kimley-Horn for Professional Services for the Safe Streets and Roads for All (SS4A) Safety Action Plan

Staff Recommendation

Approve agreement with Kimley-Horn and Associates, Inc.

Background Information

The City was awarded a \$360,000 Planning and Demonstration Grant under the SS4A program administered by the Federal Highway Administration (FHWA), with a required local match of \$72,000. The purpose of the grant is to develop a comprehensive Safety Action Plan aimed at eliminating roadway fatalities and serious injuries, particularly those involving pedestrians and vulnerable road users.

Staff issued an advertisement soliciting Qualifications and Letters of Interest to provide the professional services necessary for the project development as outlined by FHWA. After reviewing the proposals, staff recommended Kimley-Horn to provide the desired services.

Kimley-Horn will provide professional services to develop the action plan in accordance with the U.S. Department of Transportation's SS4A Action Plan and Implementation Grant Criteria. The scope includes project management, stakeholder and public outreach, data gathering and analysis, safety emphasis area identification, development of countermeasures and recommendations, and preparation of the final SAP document.

The total contract amount is \$343,100, which will be funded through the SS4A grant and the City's State Street Aid Fund for the local match.

Council Priorities Served*Responsible budgeting*

Improvements of roadway infrastructure with federal dollars allows local funds to be used for other community purposes.

Fiscal Impact

The project is funded with 80% federal funds (\$288,000) and 20% local funds (\$72,000). The City's local share will be funded through State Street Aid. The agreement with Kimley-Horn is for a not-to-exceed amount of \$343,100.

Attachments

Professional Services Agreement with Kimley-Horn



April 17, 2025

Megan Strode
Senior Purchase Analyst
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

RE: *Letter Agreement for Professional Services for the City of Murfreesboro SS4A Safety Action Plan*

Dear Mrs. Strode,

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this Letter Agreement (the "Agreement") to the **City of Murfreesboro, TN** ("Client") for providing planning services to complete a Safety Action Plan (SAP) for the City of Murfreesboro.

Project Understanding

The Client has received federal funding under the Safe Street and Roads for All (SS4A) program to develop a Safety Action Plan. The SAP needs to meet all the required criteria from the SS4A USDOT Action Plan Criteria and Implementation Grant Criteria to ensure the SAP recommendations qualify for future SS4A Implementation Grants.

Scope of Services

Kimley-Horn prepared this scope of services to meet the Client's needs for preparing the SAP.

TASK 1: PROJECT MANAGEMENT

This task includes general project administration, including management of project staff, quality control, and project accounting. This Scope of Services is anticipated to be completed over 12 months.

1.1 Kick-Off Meeting

Following notice to proceed, the Consultant will facilitate an in-person kick-off meeting with the Client to review the scope, review the draft project schedule, discuss communication protocols, establish measures of success, outline QC/QA procedures, coordinate data/previous plans collection/gathering, discuss project branding, the make-up of the steering committee, and formalize roles and responsibilities. Kimley-Horn will submit a meeting agenda prior to the kick-off meeting.

1.2 Monthly Status Meetings

Kimley-Horn will facilitate monthly (up to one hour) virtual status meetings with the Client. We will provide meeting agendas prior to the meetings and prepare meeting notes summarizing key takeaways and action items following the meetings. We will submit monthly invoices with progress reports to the Client to document progress toward completion.

Task 1 Deliverables:

- Kick-off meeting agenda package and notes
- Draft project schedule
- Monthly status meeting agendas and meeting notes
- Monthly invoices and progress reports

TASK 2: STAKEHOLDER AND PUBLIC OUTREACH**2.1 Stakeholder and Public Outreach Plan**

Kimley-Horn will develop a Stakeholder and Public Outreach Plan to serve as a living document throughout the life of the SAP detailing the following:

- Outreach objectives, strategies, and tools
- Project branding
- Proposed engagement activities and timing
- Roles and responsibilities of the Client and the Consultant Team

2.2 Steering Committee Meetings

The Client will confirm the Steering Committee members. Kimley-Horn will facilitate up to three (3) Steering Committee (SC) Meetings. It is anticipated that all SC meetings will be in person. Kimley-Horn will prepare agendas, materials, and meeting summaries. The Client is responsible for scheduling and venue reservation.

2.3 Open House and Pop-Ups

Kimley-Horn will facilitate up to two (2) in-person Open House meetings including materials, advertisements, and meeting summaries. Up to four (4) Kimley-Horn staff members will attend/facilitate the Open House meetings.

Kimley-Horn will also attend up to three (3) pop-up community events, to promote the SAP and obtain public input and feedback. Up to four (4) Kimley-Horn staff members will attend/facilitate the events.

2.4 Online Engagement

Kimley-Horn will conduct the following online engagement activities:

- Prepare and maintain an accessible project website. This website will be hosted on the City's website and will be transitioned to the Client at the end of the project
- Develop an online dashboard using Power BI summarizing the five-year crash trends
- Provide social media content to the City to disseminate
- Prepare one (1) online survey and one (1) interactive map using Public Coordinate.

2.5 Goal Setting and Leadership Commitment

Kimley-Horn will develop a draft letter of support with target goals to be signed by the City's governing body for inclusion in the final SAP. The target goals will be developed in coordination with the Client and the SC.

Task 2 Deliverables:

- Stakeholder and Public Outreach Plan including an engagement schedule
- Up to three (3) SC meetings including agendas, materials, and meeting summaries
- Up to two (2) Open House meetings including materials, activities, and a meeting summary to occur during the same calendar day
- Up to three (3) pop-up community events
- Website materials
- Social media content
- One (1) online survey
- One (1) online interactive map
- Draft letter of support

TASK 3: DATA GATHERING AND REVIEW

3.1 Data Gathering and Review

Kimley-Horn will gather and review all relevant and available GIS data, plans, and policies of significance to the SAP. Kimley-Horn will prepare a draft data needs list to review with the Client during the project kick-off meeting. Kimley-Horn anticipates gathering data from the following sources:

- The most recent five (5) years of crash data from TDOT's AASHTOWare Safety databases
- Available GIS data from the City of Murfreesboro's Limits and/or local agencies including roadway characteristics, traffic volumes, municipal boundaries, community facilities, schools, and planned/programmed projects

Kimley-Horn will collect near-miss reports using a sub-consultant for up to ten (10) intersections. The selection of these ten intersections will be coordinated with the City staff, and based on the preliminary evaluation of the available crash data.

3.2 Policy and Process Changes

Kimley-Horn will assess the current policies, plans, guidelines, and/or standards and identify opportunities to improve how processes prioritize safety. We will incorporate the findings of this analysis into the SAP. Kimley-Horn will compile a list and GIS map of planned/programmed projects within the City that may have safety impacts. We will consider this list of planned/programmed projects for the development of countermeasures and project recommendations.

Task 3 Deliverables:

- Draft data needs list

TASK 4: SAFETY ANALYSIS**4.1 Determine Safety Emphasis Areas**

Kimley-Horn will analyze the collision data to identify specific safety emphasis areas to guide the selection of crash reduction countermeasures and strategies. We will develop a summary table to compare the emphasis area trends to those defined in the statewide Strategic Highway Safety Plans (SHSP) for Tennessee (version 2025-2029).

4.2 CityWide Safety Analysis

Kimley-Horn will analyze the latest available five (5) years of crash trends across the City to identify trends related to crash locations, severities, crash types, and contributing factors for all roadway users.

Kimley-Horn will develop up to fifteen (15) GIS-based graphics illustrating the location of crash trends, crash severity, and crash types by relevant road users such as vulnerable roadway users (VRU).

4.3 High Injury Network Identification

Kimley-Horn will develop a methodology to identify the City's High Injury Network (HIN) considering high-severity crashes, VRU crashes, crash rates, and potential high-risk locations. Kimley-Horn will develop ranking criteria in coordination with the SC to identify up to fifteen (15) priority HIN locations to be considered for engineering project development. The HIN locations will not include general-purpose travel lanes of interstate facilities.

4.4 Safety Analysis Documentation

Kimley-Horn will summarize the data gathering, merging, and analysis methodology employed to be reviewed by the City staff, prior to presentation to the SC.

Task 4 Deliverables:

- Technical memorandum to serve as a guiding document for updating subsequent annual safety reports
- City of Murfreesboro Annual Safety Report summarizing the Task 4 findings

TASK 5: DEVELOP RECOMMENDATIONS

5.1 Strategies and Countermeasures Toolkit

Kimley-Horn will develop a draft Recommendations Toolkit of up to thirty (30) driver-related strategies (e.g., enforcement, emergency response, education) and up to thirty (30) engineering countermeasures (e.g., intersection and roadway segment treatments) to review with the SC to identify relevant and effective solutions for the City of Murfreesboro.

Kimley-Horn will consider the FHWA Proven Safety Countermeasures initiative (PSCi), a collection of countermeasures and strategies effective in reducing roadway fatalities and serious injuries.

5.2 Project Fact Sheets

After obtaining concurrence from the Client and the SC for effective strategies and countermeasures, Kimley-Horn will perform the following:

- Identify planning-level project recommendations at up to fifteen (15) HIN locations
- Develop a project fact sheet for each location for a total of fifteen (15) project fact sheets including implementation timeline, project descriptions, planning-level conceptual graphics and planning-level cost estimates and benefits

Task 5 Deliverables:

- Draft Recommendations Toolkit
- Up to fifteen (15) project fact sheets

TASK 6: ADMINISTRATIVE DRAFT AND FINAL PLAN

6.1 Draft and Final SAP

Kimley-Horn will develop an administrative draft of the SAP with the findings of prior tasks for review by the SC. Kimley-Horn will address one (1) round of consolidated comments from the SC and develop a final SAP document that is visually appealing, easy for policymakers and stakeholders to understand, and communicates the action plan strategies and recommendations. We will develop the final SAP to be compatible with physical print and digital formats.

6.2 Executive Summary

Upon the completion of the SAP, Kimley-Horn will develop a brief executive summary that relays all pertinent information in an easy-to-follow format including graphics, key takeaways, and recommendations.

6.3 Adoption Meetings Support

Kimley-Horn will develop electronic presentation materials for final review and approval of the SAP by the City Council and local governing bodies. Kimley-Horn team will be able to present to the leadership body if needed.

6.4 Project Closeout

Upon completion, Kimley-Horn will provide the Client with all data and study products (intermediate or final) developed for the project.

Task 6 Deliverables:

- Draft SAP (electronic)
- Final SAP (electronic and up to five [5] physical copies)
- Electronic presentation materials for adoption meetings
- Executive Summary (electronic)
- Electronic data delivery (USB drive or file transfer)

Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then-current hourly rates.

Information Provided by Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project.

Schedule

We will provide our services as expeditiously as practicable with the goal of meeting a mutually agreed-upon schedule.

Fees and Expenses

Kimley-Horn will perform the services in Tasks 1 - 6 on a labor fee plus expense basis with the maximum labor fee shown below.

Task 1	Project Management	\$25,300
Task 2	Stakeholder and Public Outreach	\$75,700
Task 3	Data Gathering and Review	\$52,200
Task 4	Safety Analysis	\$50,500
Task 5	Develop Recommendations	\$60,000
Task 6	Administrative Draft and Final Plan	\$79,400
Total Lump Sum Fee		\$343,100

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. However, Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. Direct reimbursable expenses such as express delivery services, air travel, and other direct expenses will be billed at 1.15



times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, an invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Kimley-Horn" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to **City of Murfreesboro, Tennessee**.

Kimley-Horn, to expedite invoices and reduce paper waste, submits invoices via email in a PDF. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

___ Please email all invoices to _____

___ Please copy _____

To ensure the proper setup of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in a delay in starting work on this project.

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

Signed: 

Printed Name: Kennedy Adams, P.E.
Title: Deputy Project Manager



Leo Espelet, P.E., RSP1
Vice President



CITY OF MURFREESBORO, TN

SIGNED: _____

PRINTED NAME: Shane McFarland

TITLE: Mayor

DATE: _____

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

Approved as to form:
DocuSigned by:

Kelley Blevins Baker

95766DA477474A3...
Kelley Blevins Baker, Deputy City Attorney

Attachment – Request for Information

Attachment – Kimley-Horn Standard Provisions



Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client					
Mailing Address for Invoices					
Contact for Billing Inquiries					
Contact's Phone and e-mail					
Client is (check one)	Owner	<input type="checkbox"/>	Agent for Owner	<input type="checkbox"/>	Unrelated to Owner

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
County in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

**KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS**

- 1) **Kimley-Horn's Scope of Services and Additional Services.** Kimley-Horn will perform only the services specifically described in this Agreement ("Services"). Any services that are not set forth in the scope of Services described herein will constitute additional services ("Additional Services"). If requested by the Client and agreed to by Kimley-Horn, Kimley-Horn will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay Kimley-Horn for any Additional Services an amount based upon Kimley-Horn's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.
- 2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:
 - a. Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
 - b. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
 - c. Provide Kimley-Horn all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which Kimley-Horn may rely upon.
 - d. Arrange for access to the site and other property as required for Kimley-Horn to provide its services.
 - e. Review all documents or reports presented by Kimley-Horn and communicate decisions pertaining thereto within a reasonable time so as not to delay Kimley-Horn.
 - f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
 - g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
 - h. Give prompt written notice to Kimley-Horn whenever the Client becomes aware of any development that affects Kimley-Horn's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, Kimley-Horn will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that Kimley-Horn does not control. If such delay or suspension extends for more than six months, Kimley-Horn's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Kimley-Horn as follows:
 - a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by Kimley-Horn and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after Kimley-Horn's transmittal of its invoice, Kimley-Horn may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
 - b. The Client will remit all payments electronically to:

Account Name: KIMLEY-HORN AND ASSOCIATES, INC.
Bank Name and Address: WELLS FARGO BANK, N.A., SAN FRANCISCO, CA 94104
Account Number: 2073089159554
ABA#: 121000248

- c. The Client will send the project number, invoice number and other remittance information by e-mail to payments@kimley-horn.com at the time of payment.
 - d. If the Client relies on payment or proceeds from a third party to pay Kimley-Horn and Client does not pay Kimley-Horn's invoice within 60 days of receipt, Kimley-Horn may communicate directly with such third party to secure payment.
 - e. If the Client objects to an invoice, it must advise Kimley-Horn in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
 - f. If Kimley-Horn initiates legal proceedings to collect payment, it shall recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at Kimley-Horn's normal hourly billing rates, of the time devoted to such proceedings by its employees.
 - g. The Client agrees that the payment to Kimley-Horn is not subject to any contingency or condition. Kimley-Horn may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of Kimley-Horn to collect additional amounts from the Client.
- 5) **Use of Deliverables.** All documents, data, and other deliverables prepared by Kimley-Horn are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of Kimley-Horn's deliverables, or any reuse of the deliverables without written authorization by Kimley-Horn will be at the Client's sole risk and without liability to Kimley-Horn, and the Client shall indemnify, defend and hold Kimley-Horn harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. Kimley-Horn's electronic files and source code remain the property of Kimley-Horn and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the deliverables prepared by Kimley-Horn, the hardcopy shall govern.
- 6) **Intellectual Property.** Kimley-Horn may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Kimley-Horn or its affiliates ("Intellectual Property") in the performance of this Agreement. Intellectual Property, for purposes of this section, does not include deliverables specifically created for Client pursuant to the Agreement and use of such deliverables is governed by section 5 of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Kimley-Horn maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Kimley-Horn and its affiliates. If Kimley-Horn's services include providing Client with access to or a license for Kimley-Horn's (or its affiliates') proprietary software or technology, Client agrees to the terms of the Software License Agreement set forth at <https://www.kimley-horn.com/khts-software-license-agreement> ("the License Agreement") which terms are incorporated herein by reference.
- 7) **Opinions of Cost.** Because Kimley-Horn does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. Kimley-Horn cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Kimley-Horn's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

- 8) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. Kimley-Horn shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by Kimley-Horn as a result of such termination.
- 9) **Standard of Care.** The standard of care applicable to Kimley-Horn's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by Kimley-Horn's performance of services, and it is agreed that Kimley-Horn is not a fiduciary with respect to the Client.
- 10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and Kimley-Horn, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of Kimley-Horn and Kimley-Horn's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs, attorneys' fees, or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of Kimley-Horn or Kimley-Horn's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by Kimley-Horn under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section shall require the Client to indemnify Kimley-Horn.
- 11) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.
- 12) **Construction Costs.** Under no circumstances shall Kimley-Horn be liable for extra costs or other consequences due to changed or unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Kimley-Horn shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before Kimley-Horn has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.
- 13) **Certifications.** All requests for Kimley-Horn to execute certificates, lender consents, or other third-party reliance letters must be submitted to Kimley-Horn at least 14 days prior to the requested date of execution. Kimley-Horn shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which Kimley-Horn does not have actual knowledge, or that would cause Kimley-Horn to violate applicable rules of professional responsibility.
- 14) **Dispute Resolution.** All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.
- 15) **Hazardous Substances and Conditions.** Kimley-Horn shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Kimley-Horn's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. Kimley-Horn will notify

the Client of unanticipated hazardous substances or conditions of which Kimley-Horn actually becomes aware. Kimley-Horn may stop affected portions of its services until the hazardous substance or condition is eliminated.

16) Construction Phase Services.

- a. If Kimley-Horn prepares construction documents and Kimley-Horn is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against Kimley-Horn in any way connected thereto.
- b. Kimley-Horn shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, equipment maintenance and inspection, sequence, schedule, safety programs, or safety practices, nor shall Kimley-Horn have any authority or responsibility to stop or direct the work of any contractor. Kimley-Horn's visits will be for the purpose of observing construction and reporting to the Client whether the contractors' work generally conforms to the construction documents prepared by Kimley-Horn. Kimley-Horn neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
- c. Kimley-Horn is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and Kimley-Horn for all claims and liability arising out of job site accidents; and that the Client and Kimley-Horn shall be made additional insureds under the contractor's general liability insurance policy.

17) No Third-Party Beneficiaries; Assignment and Subcontracting. This Agreement gives no rights or benefits to anyone other than the Client and Kimley-Horn, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and Kimley-Horn. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Kimley-Horn, without the written consent of Kimley-Horn. Kimley-Horn reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If Kimley-Horn exercises this right, Kimley-Horn will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

18) Confidentiality. The Client consents to the use and dissemination by Kimley-Horn of photographs of the project and to the use by Kimley-Horn of facts, data and information obtained by Kimley-Horn in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, Kimley-Horn shall use reasonable care to maintain the confidentiality of that material.

19) Miscellaneous Provisions. This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by Kimley-Horn. If Client requires Kimley-Horn to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Kimley-Horn or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: City Concrete and Storm Drainage Annual Contract Renewal

Department: Engineering

Presented by: Lexi Stacey, Project Coordinator

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider renewal of the Annual City Concrete and Storm Drainage Contract.

Staff Recommendation

Approve the Annual City Concrete and Storm Drainage contract renewal with Rollins Excavating, LLC.

Background Information

The Annual City Concrete and Storm Drainage Contract was originally awarded to Rollins Excavating, LLC on May 23, 2024, following a competitive bid process. This contract supports the installation and maintenance of storm drainage infrastructure and sidewalks throughout the City.

The contract includes a price escalation clause tied to the Consumer Price Index for All Urban Consumers (CPI-U). Based on this clause, unit pricing will increase by 3% for the upcoming contract year.

Rollins Excavating has consistently fulfilled its contractual obligations in a manner that benefits the community and supports the City's infrastructure goals. This contract was structured with a one-year initial term and the option to renew annually for up to four additional years. The current renewal represents the first of those four optional extensions.

Council Priorities Served

Responsible Budgeting

Ongoing maintenance of City infrastructure protects the City's investment in critical public assets and aligns with the City's commitment to responsible budgeting.

Fiscal Impact

The primary funding source for this contract is State Street Aid, which is the local share of the State's gasoline tax; budgeted for FY26 in the amount of \$1,250,000. Additional funding is provided through the Storm Water User Fee.

Attachments

1. Concrete and Storm Drainage Contract Renewal
2. Original Concrete and Storm Drainage Contract

**2025-2026 RENEWAL
CONCRETE & STORM DRAINAGE CONTRACT
BETWEEN
THE CITY OF MURFREESBORO
AND
ROLLINS EXCAVATING CO., LLC**

This 2025-2026 Renewal to the Concrete and Storm Drainage Contract entered into May 24, 2024 (“Contract”), is effective as of May 24, 2025, by and between the City of Murfreesboro (“City”), a municipal corporation of the State of Tennessee and Rollins Excavating Co., LLC (“Contractor”), a Limited Liability Company of the State of Tennessee.

RECITALS

WHEREAS, on May 24, 2024, the City entered into the Contract with Contractor for concrete and storm drainage related services as described in the City’s Advertisement for Bids for the 2024-2025 Concrete & Storm Drainage Concrete and Contractor’s proposal in response thereto; and,

WHEREAS, the term of the contract between the City and Contractor expired on May 23, 2025, and,

WHEREAS, the City and Contractor wish to renew and retroactively extend the Contract term pursuant to Item No. 6 of the Special Conditions to the current Contract for an additional year,

NOW THEREFORE, the City and Contractor mutually agree as follows:


1. **Extension:** The term of the current Contract is hereby renewed and extended for a period from May 24, 2025, until May 23, 2026.
2. **No Other Amendment or Modification:** Except as provided herein, the parties make no other modifications or amendments, and all other terms of the Contract shall continue in full force and effect.

ENTERED this the 5th day of June 2025.

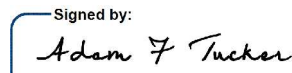
CITY OF MURFREESBORO

ROLLINS EXCAVATING CO., LLC

By: _____
Shane McFarland, Mayor

DocuSigned by:
By: 
B97DF0D3BFA3435...
Deta Rollins, Chief Manager

Approved as to form:

Signed by:

43A2035C51F9401...
Adam F. Tucker, City Attorney

CONTRACT DOCUMENTS AND SPECIFICATIONS
FOR THE

**2024-2025 CONCRETE & STORM
DRAINAGE CONTRACT**

ENGINEERING DEPARTMENT
MURFREESBORO, TENNESSEE

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- A. Advertisement for Bids
- B. Information for Bidders
- C. Bid Proposal
- D. Contract
- E. Non-Collusion Affidavit
- F. Notice to Proceed / Notice of Work Order
- G. Bidder Affidavit on Compliance with Drug-Free Workplace
- H. Statement of Compliance Certificate - Illegal Immigrants
- I. General Conditions
- J. Supplementary Conditions [Part B]
- K. Special Conditions

Special Provisions:	Special Provision No.	Revision Date
Payment Adjustment for Bituminous Material.....	SP109B	05-16-16
Employing and Contracting with Illegal Immigrants.....	SP102I	10-10-16

**Advertisement for Bids
for the
2024-2025 CONCRETE & STORM DRAINAGE CONTRACT**

Bids for the 2024-2025 Concrete and Storm Drainage Contract will be received electronically by the City of Murfreesboro until **2:00 p.m.** local time on **Tuesday, May 14, 2024**, at which time they will be opened and publicly read aloud via Zoom. A Zoom link will be provided to all proposers on file as following this solicitation. The contract will be awarded to the lowest responsible and responsive bidder as soon thereafter as practicable for the **2024-2025 Concrete & Storm Drainage Contract. Only electronic bids will be accepted. Bid documents are to be obtained online after registering with OpenGov at:**

<https://procurement.opengov.com/portal/murfreesborotn>. Proposals received after the above time and date will be rejected.

The work will consist primarily of the installation and improvements to sidewalks, curb and gutters, curb ramps, storm drainage pipes, storm drainage ditches and other miscellaneous storm drainage and concrete related projects contained herein this contract.

The work shall also include other work necessary to complete the project as directed by the Owner's specifications and proposal sheets. Contract documents, including Information for Bidders, form of Bid proposal, form of Contract, forms of Bonds may be obtained without charge from the City's Procurement Portal, OpenGov, beginning Tuesday April 16, 2024.

Each bid must be accompanied by a Bidder's Bond executed by the Bidder and Surety Company authorized to transact business in the State of Tennessee, or by a cashier's or certified check on a duly authorized bank payable to the City of Murfreesboro, Tennessee, or a letter of credit from a local bank in the sum of not less than five percent (5%) of the total amount of the Bid as a guarantee that if the Bid is accepted, the required Contract will be executed and the required Performance Bond and Payment Bond furnished. A Scan of the Bidder's Bond should be uploaded with the bid to the City's Procurement Portal, OpenGov. Physical copy of the Bidder's Bond must be in hand by the City's Purchasing Department prior to an award being made. Said check or bond will be returned to the unsuccessful Bidder as soon as the Contract has been executed and the necessary bonds have been furnished, same have been approved, and the Contract has been executed by the City of Murfreesboro, Tennessee.

All bidders must be licensed contractors as required by the Contractors Licensing Act of 1976 of the General Assembly of the State of Tennessee and all acts amendatory thereof. All bids must be prepared on the proposal form supplied with the Contract Documents on the OpenGov post. No interlineations, additions, or deletions shall be made in the proposal form by the Bidder.

The City of Murfreesboro, Tennessee, reserves the right to waive any informalities, to reject any or all Bids, to evaluate Bids, and/or to accept any Bid which in its opinion may be for the best interest of the Owner. The City of Murfreesboro reserves the right to award all or any part of this Contract to one or more bidders. This Contract is subject to four (4) 12-month extensions upon mutual agreement. No Bids will be received or accepted after the above specified time for the opening of Bids. No Bidder may withdraw his Bid within ninety (90) days after the actual date of the opening thereof.

/s/Craig Tindall, City Manager

INFORMATION FOR BIDDERS

Bids for the 2024-2025 Concrete and Storm Drainage Contract will be received electronically by the City of Murfreesboro until 2:00 p.m. local time on Tuesday May 14, 2024, at which time they will be opened and publicly read aloud via Zoom. The Bid Form found in the contract documents on the OpenGov post is to be used and all blank spaces for bid prices must be filled in, in ink or typewritten, and the Bid Form must be fully completed and executed when submitted.

All Bidders must be licensed contractors as required by the Contractors Licensing Act of 1976 of the General Assembly of the State of Tennessee and all acts amendatory thereof. No interlineations, additions, or deletions shall be made in the proposal by the Bidder.

Any Bid may be withdrawn prior to the above scheduled time for the opening of the Bids or authorized postponement thereof via OpenGov. Any Bid received after the time and date specified shall not be considered. No Bidder may withdraw a bid within ninety (90) days after the actual date of the opening thereof. Should there be reasons why the Contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the Owner and the Bidder.

Bidders must satisfy themselves as to the accuracy of the estimated quantities in the Bid Schedule. After Bids have been submitted, the Bidder shall not assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done.

The contract documents contain the provisions required for the construction of the project. Information obtained from an officer, agent, or employee of the Owner or any other person shall not affect the risks or obligations assumed by the Contractor or relieve him from fulfilling any of the conditions of the Contract.

Every request for such information should be in writing via the Question and Answer tab on the OpenGov posting or email to purchasing@murfreesborotn.gov, and to be given consideration must be received five (5) business days (05/07/2024) prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be sent out electronically via OpenGov to all prospective Bidders prior to the date fixed for the opening of bids. Failure of any Bidder to receive any such addendum or interpretation shall not relieve such Bidder from any obligation under his bid as submitted. All addenda so issued shall become a part of the contract documents.

All Bids must be signed in full by the Bidder or Bidders in his or their business name or style and must show her/his or their complete address. If the Bidder be a firm or a corporation, the signature shall be a duly authorized member of the firm or officer of the corporation stating his official title or position with such firm or corporation, with the corporate seal, attached, attested to by the proper officer. If the Bidder be a firm, the full names and addresses of all members of the firm must be shown. If the Bidder be a corporation, the name of the state under the laws of which it is incorporated must be shown. If the Bid is signed in the name of an agent, legal evidence of his authority to bind his principals must accompany the bid documents.

Each Bid must be accompanied by a Bidder's Bond executed by the Bidder and a surety company authorized to transact business in the State of Tennessee, or by a cashier's or certified check on a duly authorized bank made payable to the City of Murfreesboro as a guarantee that if the Bid is accepted, the required contract will be executed and the required Performance Bond and Payment Bonds will be furnished. A scan of the bidder's bond shall be uploaded with the Bid via OpenGov. The physical Bidder's Bond must be in hand by the City's Purchasing Department prior to an award being made. As soon as the Bid prices have been compared, the Owner will return the bonds of the remaining unsuccessful Bidders.

The Bid Bond of the successful Bidder will be retained until the Payment Bond and Performance Bond have been executed and approved, after which the Bid Bond will be returned.

A Performance Bond and Payment Bond or a cashier's check or letter of credit in the total amount of the Bid, along with a corporate surety approved by the Owner, will be required for the faithful performance of the Contract.

Attorneys-in-fact who sign the Bid, Performance, and Payment Bonds must file with each bond a certified and effective dated copy of their Power of Attorney.

The party to whom the Contract is awarded will be required to execute the Agreement and obtain the Performance Bond and Payment Bond within fifteen (15) days from the date when notice of award is delivered to the Bidder. The notice of award shall be accompanied by the necessary agreement. In case of failure of the Bidder to execute the Agreement, the Owner may, at his option, consider the Bidder in default, in which case the Bid Bond accompanying the proposal shall become the property of the Owner. The Bidder will also furnish the Owner with a properly executed contractor's Affidavit for a Drug-Free Workplace prior to awarding the bid.

Within ninety (90) calendar days of receipt of acceptable Performance Bond, Payment Bond, and agreement signed by the party to whom the agreement was awarded, the Owner shall sign the agreement and return to such party and executed duplicate of the agreement. Should the Owner not execute the agreement within such period, the Bidder may by written notice withdraw his signed agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the Owner.

The Owner may make such investigations as he deems necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligations of the agreement and to complete the work contemplated therein.

A conditional or qualified Bid will not be accepted.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Contract throughout.

The City of Murfreesboro reserves the right to award all or any part of this Contract to one or more Bidder. The City further reserves the right to extend the Contract for a period of twelve (12) months no more than four (4) times, provided both the City and the Contractor agree to such extension.

Beginning the first anniversary after the effective date of the Annual Paving Contract, the unit rates set forth in this Agreement shall be increased effective as of that anniversary and each anniversary thereafter by an amount equal to the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U): U.S. city average, all items (index base period 1982-84=100), published by the United States Bureau of Labor Statistics, from the immediately preceding January of that calendar year. This increase will be subject to City Council approval.

Each Bidder is responsible for reading and being thoroughly familiar with the Contract documents. The failure or omission of any Bidder to do any of the foregoing shall in no way relieve any Bidder from any obligation in respect to his Bid. Further, the Bidder agrees to abide by the requirements under Executive Order No. 11246, as amended, including specifically the provisions of the equal opportunity clause set forth in the General Conditions and will be required to provide assurances under Title VI.

The Contractor shall maintain such insurance as will protect them and/or the City from liability claims and workers' compensation and will save harmless the City from all claims and damages which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor or by any subcontractor or by anyone directly or indirectly employed by any of them, or by

anyone for whose acts any of them may be liable. Certificates of insurance acceptable to the City shall be filed with the City prior to commencement of the work.

The Contract will be awarded with reasonable promptness by written notice to the responsive and responsible Bidder whose Bid is determined to contain the lowest Bid price.

The City of Murfreesboro reserves the right to reject any and all Bids and to waive any informality in Bids received whenever such rejection or waiver is in the best interest of the City.

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To: Purchasing Dept.
City of Murfreesboro, TN

Rollins Excavating Co., LLC hereby propose(s) to furnish all material, labor and appliances, and to perform all work required to complete the **2024-2025 Concrete & Storm Drainage Contract**, located in the City of Murfreesboro, Tennessee, in a workmanlike manner and in accordance with the plans of the Owner and specifications herewith attached.

Rollins Excavating Co LLC
Rollins Excavating Co LLC further agree(s) that in case of failure on 's part to sign this within ten (10) days, the certified check or bid bond accompanying this proposal and the proceeds thereof shall be the property of the City of Murfreesboro.

ITEM	Description	Units	Quantity	Unit Price	Total Price
	General Concrete				
1	Std Dwg St-12 concrete curb and gutter in place	LF	1,000	16 ⁰⁰	16,000.
2	Std Dwg St-13 concrete rollover curb w/gutter in place	LF	500	16 ⁰⁰	8,000.
3	Std Dwg St-14 Curb without Gutter in place	LF	500	12 ⁰⁰	6,000.
4	Std Dwg DW-2 Driveway Ramp 6" thick in place	SF	6,000	7 ⁰⁰	42,000.
5	Std Dwg DW-4 Driveway Ramp 8" thick in place	SF	4,000	8 ⁰⁰	32,000.
6	Std Dwg TDOT RP-S-7 Concrete Sidewalk in place	SF	20,000	5 ⁰⁰	100,000.
7	Water Table Replacement	SF	1,000	5 ⁰⁰	5,000.
8	Concrete lined Ditch	SF	2,000	5 ⁰⁰	10,000.
9	Handicap ramp in place	SF	2,000	14 ⁰⁰	28,000.
10	Std Dwg TDOT D-PE-4 Straight Endwall Circular pipe in place	CY	100	250 ⁰⁰	25,000.
11	Stamped Concrete in place (4" thick)	SF	2000	15 ⁰⁰	30,000.

12	Steel Bar Reinforcing Pipe End Walls	LBS	1,000	2 ⁰⁰	2,000.
	Precast Manhole in place				
13	0'-6' Deep	EA	2	600 ⁰⁰	1,200.
14	6'-8' Deep	EA	2	700 ⁰⁰	1,400.
15	8'-10' Deep	EA	2	800 ⁰⁰	1,600.
16	Rebuild Existing Manholes	EA	5	300 ⁰⁰	1,500.
17	Rebuild Existing Catch Basin	EA	5	300 ⁰⁰	1,500.
	Combination Manhole Inlet in Place				
18	0'-6' Deep	EA	5	500 ⁰⁰	2,500.
19	6'-8' Deep	EA	5	300 ⁰⁰	1,500.
20	8'-10' Deep	EA	5	100 ⁰⁰	500.
	Std Dwg DR-1 or Single inlet Drain in place				
21	0'-6' Deep	EA	5	1200 ⁰⁰	6,000.
22	6'-8' Deep	EA	5	900 ⁰⁰	4,500.
23	8'-10' Deep	EA	2	300 ⁰⁰	600.
	Std Dwg DR-3 or DR-4 Inlet Drain in place				
24	0'-6' Deep	EA	2	1500 ⁰⁰	3,000.
25	6'-8' Deep	EA	2	1000 ⁰⁰	2,000.
26	8'-10' Deep	EA	1	800 ⁰⁰	800.
	Std Dwg DR-5 or Dr-6 Single inlet Drain for rollover Curb and Gutter				
27	0'-6' Deep	EA	2	1500 ⁰⁰	3,000.
28	6'-8' Deep	EA	2	1000 ⁰⁰	2,000.
29	8'-10' Deep	EA	1	800 ⁰⁰	800.

	Std Dwg DR-7 or DR-8 Double inlet Drain for rollover Curb and Gutter				
30	0'-6' Deep	EA	2	1800 ⁰⁰	3,600.
31	6'-8' Deep	EA	2	1500 ⁰⁰	3,000.
32	8'-10' Deep	EA	1	1200 ⁰⁰	1,200.
	Std Dwg TDOT D-CB 42 Area Drain in place				
33	0'-6' Deep	EA	5	1500 ⁰⁰	7,500.
34	6'-8' Deep	EA	3	1200 ⁰⁰	3,600.
35	8'-10' Deep	EA	1	1000 ⁰⁰	1,000.
	Pipe				
36	15" RCP Class III in Place	LF	200	34 ⁰⁰	6,800.
37	18" RCP Class III in Place	LF	200	36 ⁰⁰	7,200.
38	24" RCP Class III in Place	LF	200	46 ⁰⁰	9,200.
39	30" RCP Class III in Place	LF	200	65 ⁰⁰	13,000.
40	36" RCP Class III in Place	LF	100	86 ⁰⁰	8,600.
41	12" High Density Polyethylene (HDPE) Corrugated Pipe	LF	200	12 ⁰⁰	2,400.
42	15" High Density Polyethylene (HDPE) Corrugated Pipe	LF	500	15 ⁰⁰	7,500.
43	18" High Density Polyethylene (HDPE) Corrugated Pipe	LF	1,000	18 ⁰⁰	18,000.
44	24" High Density Polyethylene (HDPE) Corrugated Pipe	LF	1,500	30 ⁰⁰	45,000.
	Paving				
45	Pavement replacement E Mix in place (by Hand)	TN	500	98 ⁰⁰	49,000.
46	Pavement replacement B Modified Mix in place (by Hand)	TN	500	100 ⁰⁰	50,000.
47	Pavement replacement A Mix in place (Machine)	TN	500	95 ⁰⁰	47,500.
48	Pavement replacement E Mix in place (Machine)	TN	2,000	10 ⁰⁰	20,000.

49	Pavement replacement B Modified Mix in place (Machine)	TN	2,000	100 ⁰⁰	200,000.
50	Pavement replacement D Mix in place (Machine)	TN	2,000	115 ⁰⁰	230,000.
51	TDOT Spec. 70-22 Asphalt Polymer	TN	100	125 ⁰⁰	12,500.
52	Parking Lot paving E Mix	TN	1,500	130 ⁰⁰	195,000.
53	Mineral Aggregate, Type A Base, Grading D (in place)	TN	7,000	18 ⁰⁰	126,000.
54	67 Stone Backfill	TN	2,000	28 ⁰⁰	56,000.
55	Place and Spread Topsoil	CY	1000	4 ⁰⁰	4,000.
56	Furnish and Spread Topsoil	CY	1000	5 ⁰⁰	5,000.
57	Sod in place	SY	2,000	5 ⁰⁰	10,000.
58	Bulk Seeding/ Straw in place	UNIT	30	200 ⁰⁰	6,000.
59	Fill material in place	CY	500	5 ⁰⁰	2,500.
60	Rock excavation	CY	200	40 ⁰⁰	8,000.
61	Drainage Excavation for new open ditch sections only	CY	1,000	2 ⁰⁰	2,000.
62	Drainage Ditch Rip Rap 6" dia in place	TN	500	28 ⁰⁰	14,000.
63	Straw blanket in place (North American Green SC 150 or Equivalent)	SY	1,000	3 ⁰⁰	3,000.
64	Woven Filter Fabric (Mirafi 500X or equivalent)	SY	1,000	3 ⁰⁰	3,000.
65	Non-Woven Filter Fabric (Mirafi 140N or equivalent)	SY	1,000	5 ⁰⁰	5,000.
66	Silt Fence 3' in place	LF	200	5 ⁰⁰	1,000.
	Selective tree removal				
67	0-6" Diameter	EA	2	50 ⁰⁰	100.
68	6-12" Diameter	EA	2	50 ⁰⁰	100.
69	12-24" Diameter	EA	2	50 ⁰⁰	100.
	Casting Adjustments				

70	Storm Drain	EA	20	400 ⁰⁰	8,000.
71	Manholes	EA	10	200 ⁰⁰	2,000.
72	Water Valve boxes	EA	60	300 ⁰⁰	18,000.
73	Manhole tops	EA	20	300 ⁰⁰	6,000.
74	Area Drains	EA	10	400 ⁰⁰	4,000.
	Traffic control in place				
75	Flagman	HR	250	40 ⁰⁰	10,000.
76	Drums for Channelization	P/DAY	500	40 ⁰⁰	20,000.
77	Signs (4' x 4' minimum)	SF	1,500	15 ⁰⁰	22,500.
78	Warning lights (Type C)	P/DAY	10	5 ⁰⁰	50.
79	Cones (18" minimum)	P/DAY	50	5 ⁰⁰	250.
80	Barricade (Type III)	EA	5	100 ⁰⁰	500.
81	Arrow Board	P/DAY	15	1000 ⁰⁰	15,000.
82	Flag Truck	HR	50	70 ⁰⁰	3,500.
	Equipment				
83	Backhoe w/Operator	HR	250	110 ⁰⁰	27,500.
84	14 yds Dump Truck w/driver	HR	700	110 ⁰⁰	77,000.
85	Dozer w/driver	HR	200	110 ⁰⁰	22,000.
86	Compressor & Air Hand Tools w/operator	HR	25	100 ⁰⁰	2,500.
87	Grader w/Operator	HR	100	120 ⁰⁰	12,000.
88	Box Scraper w/operator	HR	10	20 ⁰⁰	200.
89	Skid steer w/Operator	HR	100	100 ⁰⁰	10,000.
90	Chain Saw w/Operator	HR	10	75 ⁰⁰	750.

91	Asphalt Saw w/ Operator	HR	50	75 ⁰⁰	3,750.
92	Vibrating plate w/operator	HR	50	50 ⁰⁰	2,500.
93	6-8 ton roller w/operator	HR	50	90 ⁰⁰	4,500.
94	Water truck w/driver	HR	10	40 ⁰⁰	400.
95	Broom Truck w/ Operator	HR	20	20 ⁰⁰	400.
96	Track hoe w/Operator	HR	100	150 ⁰⁰	15,000.
97	Lowboy/Operator	HR	50	100 ⁰⁰	5,000.
98	Grade-All w/Operator	HR	100	5 ⁰⁰	500.
99	Mini-Trackhoe w/Operator	HR	100	110 ⁰⁰	11,000.
	Personnel				
100	Laborer, Regular time	HR	500	40 ⁰⁰	20,000.
101	Driver, Overtime	HR	100	10 ⁰⁰	1,000.
102	Operator, Overtime	HR	100	10 ⁰⁰	1,000.
103	Laborer, Overtime	HR	100	10 ⁰⁰	1,000.
104	Crew Leader, Regular Time	HR	100	40 ⁰⁰	4,000.
105	Crew Leader, Overtime	HR	50	10 ⁰⁰	500.
	Materials				
106	Concrete, Dumped in place	CY	100	200 ⁰⁰	20,000.
107	Brick Pavers in place	SF	500	3 ⁰⁰	1500.

TOTAL: \$ 1,879,600.00TOTAL BID (in words and figures): One Million Eight Hundred
Seventy Nine Thousand Six Hundred & ⁰⁰/100 —

In submitting this bid, it is understood that the right is reserved by the City of Murfreesboro to reject any and all bids. If written notice of the acceptance of this bid is mailed or delivered to the undersigned within thirty (30) days after the opening thereof, or at any time thereafter before this bid is withdrawn, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required bond within ten (10) days after the contract is presented to him for signature.

Security in the sum of Ninety Three Thousand Nine Hundred Eighty Dollars
 (\$ 93,980.00) in the form of 5% Bid Bond
 is submitted herewith in accordance with the specifications.

Bidder, by signing and making this bid, makes the following affirmative declaration and statement as of the date said bid is signed to wit:

Bidder, after being first duly sworn, affirms that by its employment policy, standards and practices, it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to the individual's race, creed, color, national origin, age or sex and it is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy.

Bidder understands that it shall be a breach of ethical standards for an person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim of controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore.

A breach of ethical standards could result in civil and/or criminal sanctions and/or debarment or suspension from being a contractor or subcontractor under City contracts.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in the Notice to Proceed and to fully complete the project **2024-2025 Concrete and Storm Drainage Contract**. Bidder further agrees to pay liquidated damages, the sum of \$250.00 for each consecutive calendar day thereafter, as provided in the General Conditions.

Bidder acknowledges receipt of the following addenda:

Addendum #1 4.23.2024

The bidder is prepared to submit a financial and experience statement upon request.

Attached hereto is an affidavit in proof that the undersigned has not entered into any collusion with any person in respect to this proposal or any other proposal.

Date: 5.13.2024, 2024

Rollins Excavating Co., LLC
NAME OF BIDDER

State License No. 28516

By Dela Rollins

Treasure No. 62-1586466

Title Chief Manager

Official Address (including zip code):

Rollins Exc. Co., LLC
1468 Middle Tenn Blvd
Murfreesboro, TN 37130

Incorporated under the laws of the State of:

Tennessee.

Purchasing Department
111 West Vine Street
Murfreesboro, TN 37130
629.201.6214
purchasing@murfreesborotn.gov



April 23, 2024

Addendum #1
ITB-40-2024 – 2024-2025 Concrete and Storm Drainage Contract

This Addendum # 1 is issued to reflect changes to the Bid Form. The Bid Form has been completely replaced in the Contract Documents and the OpenGov posting.

This addendum modifies the original solicitation and is hereby incorporated, and all other terms and conditions remain the same except the portions modified by addendum.

Bidders are required to acknowledge receipt of Addendum #1 via the OpenGov portal. Failure to acknowledge all addenda may be cause of rejection of the response.

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MURFREESBORO, TENNESSEE

2024-2025 Concrete & Storm Drainage Contract

THIS AGREEMENT (hereinafter, the “Agreement” or the “Contract”) made this 24th day of May, 2024, by and between Rollins Excavating Co., LLC, a limited liability company organized and existing under the laws of the State of Tennessee, hereinafter called the “Contractor,” and the City of Murfreesboro, Tennessee, hereinafter called the Owner or the City.

WITNESSETH:

That the Contractor and the Owner, for the considerations stated herein, mutually agree as follows:

ARTICLE 1. Statement of Work. The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, and shall perform and complete all work required by Owner under the **2024-2025 CONCRETE & STORM DRAINAGE CONTRACT**, all in strict accordance with the Contract Documents including all addenda thereto, numbered Addendum #1 and dated April 23 2024, all as prepared by Owner. Owner and Contractor agree that it is Owner’s intent that Contractor provide a variety of improvements which, depending upon circumstances, may include related items for which a specific unit description is not given or price specified. In such event Owner and Contractor shall agree on the unit and its price with a Change Order before the work is begun.

ARTICLE 2. The Contract Price. The Owner shall pay the Contractor for each item of work in accordance with the Bid Price list submitted with the bid Proposal, which bid Price list is incorporated by this reference into this **2024-2025 Concrete & Storm Drainage Contract**. The Owner shall pay the Contractor for the performance of the Contract in current funds, subject to additions and deductions as provided in Section 14 of the General Conditions.

ARTICLE 3. General Provisions:

- a. **Maintenance of Records**. Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at

any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.

- b. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
- c. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
- d. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
- e. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
- f. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such

nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

- g. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
- h. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except as may be specifically provided herein, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.
- i. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
- j. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other

document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.

- k. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
- l. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
- m. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

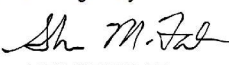
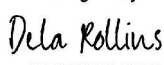
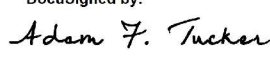
ARTICLE 4. Contract. The executed Contract Documents shall consist of the following:

- | | |
|--------------------------------|--------------------------------------|
| a. Invitation for Bids | f. Supplementary Conditions [Part B] |
| b. Information for Bidders | g. Special Conditions |
| c. Signed Copy of Bid Proposal | h. Technical Specifications |
| d. Signed Copy of Contract | i. Special Provisions |
| e. General Conditions | |

This Agreement, together with other documents enumerated in this ARTICLE 4, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms a Contract between the parties hereto. In the event any provision of any component part of this contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 4 shall govern, except as otherwise specifically stated.

[signatures to appear on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

<p>CITY OF MURFREESBORO</p> <p>DocuSigned by:  A2F6A4BF7CD74E7... Shane McFarland, Mayor</p>	<p>ROLLINS EXCAVATING CO., LLC</p> <p>DocuSigned by:  4534E8BEF8064E3... Dela Rollins, Chief Manager</p>
<p>Approved as to Form:</p> <p>DocuSigned by:  43A2035E51F9401... Adam F. Tucker, City Attorney</p>	<p>Business Address (including zip code): 1468 Middle Tennessee Boulevard Murfreesboro, TN 37130</p>

NOTE: Please indicate whether Contractor is Owner, Partnership, or Corporation. Print or type name beneath all signatures.



ROLLEXC-02

ABURR

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/13/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 1298 Hub International Mid-South 3011 Armory Drive Suite 250 Nashville, TN 37204		CONTACT NAME: PHONE (A/C, No, Ext): (615) 383-9761 FAX (A/C, No): (615) 3834628 E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: Travelers Property Casualty Company of America	25674
		INSURER B: The Phoenix Insurance Company	25623
		INSURER C: Travelers Casualty and Surety Company	19038
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		DTCO1095A524TIL23	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY		810-1L658851-23-26-G	12/31/2023	12/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		CUP-7H440586-23-26	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 6,000,000 AGGREGATE \$ 6,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	UB8J60510823-26-G	12/31/2023	12/31/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Leased/Rented Equip		QT-660-1097C601-TIL-23	12/31/2023	12/31/2024	ACV/Deductible \$1K 300,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: 2024-2025 City Concrete and Storm Drainage Improvements Contract - Murfreesboro, TN.

City of Murfreesboro is an additional insured with respect to General Liability when required by written contract. Additional Insured endorsement C6D604 08/13 is attached. Coverage afforded under the policies will not be canceled unless at least 30 days prior written notice has been given to owner.

CERTIFICATE HOLDER

CANCELLATION

City of Murfreesboro
 111 West Vine Street
 Murfreesboro, TN 37130

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Phil Barnes

COMMENTS/REMARKS

Any person or organization that you agree in a written contract requiring insurance to include as an additional insured on your policy to the extent provided within the policy forms referenced below.

GENERAL LIABILITY:

Blanket Additional Insured (Contractors) – (including Completed Operations and Primary Non-Contributory basis, where applicable) – Written Contract Requiring Insurance – CGD604 08/13

Designated Project(s) General Aggregate Limit – CGD211 01/04

Designated Project(s): Each “project” for which you have agreed, in a written contract which is in effect during this policy period, to provide a separate General Aggregate Limit, provided that the contract is signed and executed by you before the “bodily injury” or “property damage” occurs.

Contractors Xtend Endorsement – CGD316 11/11

- G. Blanket Additional Insured – Owners, Managers or Lessors of Premises
- H. Blanket Additional Insured – Lessors of Leased Equipment
- I. Blanket Additional Insured – States Or Political Subdivision – Permits
- L. Blanket Waiver of Subrogation

Designated Entity – Notice of Cancellation/Nonrenewal Provided By Us (30 days) – ILT400 12/09

AUTOMOBILE LIABILITY:

Business Auto Extension Endorsement - CAT353 02/15

- Blanket Additional Insured
- Blanket Waiver of Subrogation

Blanket Additional Insured – Primary and Non-Contributory with Other Insurance – CAT474 08/17

Pollution Liability – Broadened Coverage for Covered Autos – Business Auto and Motor Carrier Coverage Form – CA9948 10/13

Designated Entity – Notice of Cancellation/Nonrenewal Provided By Us (30 days) – ILT400 12/09

WORKERS COMPENSATION:

Waiver of Our Right to Recover From Others Endorsement – WC000313 4/84 – Any person or organization for which the named insured has agreed in a written contract executed prior to loss to provide this waiver.

Notice of Cancellation or Nonrenewal to Designated Persons or Organizations (30 days) – WC9906R4

UMBRELLA LIABILITY:

The Excess/Umbrella Liability policy provides excess limits over the underlying General Liability, Automobile Liability, and Employers Liability coverages referenced herein.

Waiver Of Our Right To Recover From Others – UM0488 07/08

Designated Entity – Notice of Cancellation/Nonrenewal Provided By Us (30 days) – ILT400 12/09

Subject to all the terms, conditions, exclusions and definitions of the above-referenced policies, as issued by the carrier(s).



Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Performance Bond

CONTRACTOR:

(Name, legal status and address)

Rollins Excavating Co., LLC
1468 Middle Tennessee Blvd.
Murfreesboro, TN 37130

SURETY:

(Name, legal status and principal place of business)

Liberty Mutual Insurance Company
175 Berkeley Street
Boston, MA 02116

83B113284

Mailing Address for Notices

Liberty Mutual Insurance Company
Attention: Surety Claims Department
1001 4th Avenue, Suite 1700
Seattle, WA 98154

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)

City of Murfreesboro, Tennessee
111 West Vine Street
Murfreesboro, TN 37130

CONSTRUCTION CONTRACT

Date: May 24, 2024

Amount: \$1,879,600.00 One Million Eight Hundred Seventy-nine Thousand Six Hundred Dollars And Zero Cents

Description:

(Name and location)

2024-25 Concrete & Storm Drainage Contract

BOND

Date: May 28, 2024

(Not earlier than Construction Contract Date)

Amount: \$1,879,600.00 One Million Eight Hundred Seventy-nine Thousand Six Hundred Dollars And Zero Cents

Modifications to this Bond:

☒ None

☐ See Section 16

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)
Rollins Excavating Co., Inc.

SURETY

Company: (Corporate Seal)
Liberty Mutual Insurance Company

Signature:

Dela Rollins

Name

and Title:

*Chief Mgr
Dela Rollins*

Signature:

Thomas W. Powell, Jr.

Name

and Title:

Thomas W. Powell, Jr.
Attorney-In-Fact



(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

HUB International Mid-South
3011 Armory Drive, Suite 250
Nashville, TN 37204
615-383-9761

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

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

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____
(Corporate Seal)

SURETY

Company: _____
(Corporate Seal)

Signature: _____
Name and Title:
Address

Signature: _____
Name and Title:
Address



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8201587-971318**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Daniel D. Hite; Robert B. Jackson; Cooper L. Jones; James P. McCain; Evers R. Miller; Thomas W. Powell, Jr.

all of the city of Nashville state of TN each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 18th day of July, 2019.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 18th day of July, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 28th day of May, 2024.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.



Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Payment Bond

Bond No. 83B113284

CONTRACTOR:

(Name, legal status and address)
Rollins Excavating Co., LLC
1468 Middle Tennessee Blvd.
Murfreesboro, TN 37130

SURETY:

(Name, legal status and principal place of business)
Liberty Mutual Insurance Company
175 Berkeley Street
Boston, MA 02116

Mailing Address for Notices

Liberty Mutual Insurance Company
Attention: Surety Claims Department
1001 4th Avenue, Suite 1700
Seattle, WA 98154

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)
City of Murfreesboro, Tennessee
111 West Vine Street
Murfreesboro, TN 37130

CONSTRUCTION CONTRACT

Date: May 24, 2024

Amount: \$ 1,879,600.00

Description:

(Name and location)
2024-25 Concrete & Storm Drainage Contract

BOND

Date: May 28, 2024

(Not earlier than Construction Contract Date)

Amount: \$ 1,879,600.00

Modifications to this Bond:

☒ None

☐ See Section 18

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)
Rollins Excavating Co., LLC
1468 Middle Tennessee Blvd.
Murfreesboro, TN 37130

Signature: Dela Rollins

Name and Title: Dela Rollins
Chief Mngr

SURETY

Company: (Corporate Seal)
Liberty Mutual Insurance Company

Signature: Thomas W. Powell, Jr.

Name and Title:
Thomas W. Powell, Jr.
Attorney-In-Fact



(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

HUB International Mid-South
3011 Armory Drive, Suite 250
Nashville, TN 37204
615-383-9761

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

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

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____
(Corporate Seal)

SURETY

Company: _____
(Corporate Seal)

Signature: _____
Name and Title: _____
Address _____

Signature: _____
Name and Title: _____
Address _____

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NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of Tennessee

County of Rutherford

Dela Rollins, being first duly sworn, deposes and says that;

The undersigned is the (owner, partner, officer, representative, or agent) of Rollins Exc Co, LLC, the bidder submitting the attached bid.

Bidder is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid.

Such id is genuine and is not a collusive or sham bid.

Neither the said bidder nor any of its officer, partners, owners, agents, representatives, employees or parties in interest, including this affiant has in any way collude, conspired, connived or agreed, directly or indirectly, with any other bidder, form or person to submit an collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collision or communication or conference with any other bidder, or, to fix any overhead, profit, or cost element of the bid price or unlawful agreement any advantage against the City of Murfreesboro or any person interested in the proposed contract.

The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the bidder or any of its agent, representatives, owners, employees, or parties in interest including this affidavit.

Rollins Excavating Co, LLC

Name of Bidder

Dela M Rollins, Chief Mngr

Printed Name and Title

Subscribed and sworn to before me, J Blanco, Notary Public
this 13th day of May, 2024

J Blanco
My commission expires: 1-25-2026



Notice to Proceed/ Notice of Work Order

Date:

Project:	
Owner:	Contract No.:
Contractor:	Contractor's Mailing Address:
Contractor's Physical Address:	

This is to advise that the contract between _____ and _____ for the above project was accepted on _____ and the effective date of the contract is _____. In accordance with the Construction Contract, the following contract times apply:

All Work shall be completed and ready for final payment within _____ after the date when the Contract Times commence to run.

It is desired that your forces begin work on this project not later than the effective date unless you are hindered by some condition over which you have no control that affects the beginning of work. **TIME WILL BE CHARGED FROM THE EFFECTIVE DATE.**

CITY OF MURFREESBORO, TENNESSEE

Owner

Given by:

Authorized Signature

Title

Copy to Owner

Date

STATEMENT OF COMPLIANCE CERTIFICATE
ILLEGAL IMMIGRANTS

EACH CONTRACTOR BIDDING SHALL FILL IN AND SIGN THE FOLLOWING:

This is to certify that Rollins Excavating Co., LLC have fully complied with all the requirements of Chapter No. 878 (House Bill No. 111 and Senate Bill No. 411) which serves to amend Tennessee Code Annotated Title 12, Chapter 4, Part I, attached herein for reference.

All Bidders for construction services on this project shall be required to submit an affidavit (by executing this compliance document) as part of their bid, attests that such Bidder shall comply with requirements of Chapter No. 878.

Signed Dela Rollins

State of Tennessee
County of Rutherford

Personally appeared before me, J. Blanco the undersigned Notary Public, Dela Rollins, the within named bargainor, with whom I am personally acquainted, and known to me to be the President / Owner / Partner (as applicable) of the Rollins Excavating Co., LLC, Corporation / Partnership / Sole Proprietorship / LLC (as applicable) and acknowledges to me that he executed the foregoing document for the purposes recited therein.

Witness my hand, at office, this 13th day of May, 2024

J. Blanco
Notary Public

My commission expires 1-25-2026



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

State of Tennessee
County of Rutherford

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

It has receives a Certificate of Compliance with the applicable sections of the Drug-Free Workplace Act from the Department of Labor and Workforce Development and has attached a copy of such certificate to this affidavit; or

It operates a drug and alcohol testing program at least as stringent as the City of Murfreesboro's drug and alcohol testing program as contained in Sections 3005 and 3008 of the City of Murfreesboro Employee Handbook and shall, upon request, provide documentation of such program to the city.

Rollins Excavating Co, LLC

Name of Bidder

Dela Rollins, Chief Mngr

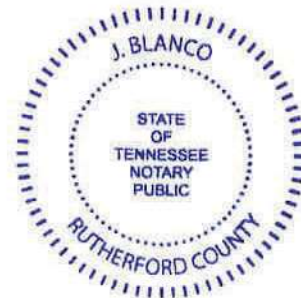
Printed Name and Title

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

13th day of May, 2024.

J. Blanco
Notary Public

My Commission Expires 1-25-2026



2023-2024

TN BUREAU OF
WORKERS' COMPENSATION

SEP 29 2023

DRUG-FREE
WORKPLACE PROGRAMTennessee Bureau of Workers' Compensation
220 French Landing Drive, 1-B
Nashville, TN 37243-1002

Phone: 615-532-1321

Fax: 615-253-5265

Email: DFW.Program@tn.govtn.gov/workforce/injuries-at-work/employers/employers/drug-free-workplace-program.html202307249
DRUG FREE WORKPLACE PROGRAM APPLICATION

1. This application must be complete, legible, and signed or it will be RETURNED.
2. This application must be resubmitted anytime a participating employer purchases or renews their workers' comp policy.
3. This form must be submitted to the Bureau by email, fax, or mail. If mailed, please include the completed original copy of this form, plus one photocopy of each of the following:
 - a. One addressed to your Workers' Compensation Insurance Carrier and
 - b. One addressed to the employer named below.
4. THIS APPLICATION MUST BE RENEWED ANNUALLY.

Check One:

New application ☐Renewal application ☒Changed Insurance Carrier ☐

Company Name Rollins Excavating Co., LLC FEIN: 62-1586466

Mailing Address 1468 Middle Tennessee Blvd City Murfreesboro State & Zip TN 37130

Business Address Same as above City _____ State & Zip _____

Primary Contact (Name and Title) Dela Rollins Owner

Phone # 615-890-0722 Fax # 615-848-9115 Email rollexllc@aol.com

Nature of Business Construction Total # of FT & PT employees 31

Workers' Compensation Insurance Carrier Travelers

Lab Certification (circle one): SAMHSA ☐ CAP-FUDTAP ☐ Other ☐Name of Testing Laboratory MRO Express City Boca Raton State FL ZIP 33496Name of Medical Review Officer (MRO) Philip A. Lopez M.D. Phone # 954-592-3680Have all employees hired prior to the date of this application been provided at least one hour of substance abuse training? Yes ☐ No ☐Have all employees hired prior to the date of this application been informed of your company's drug free program policies? Yes ☒ No ☐Effective date of your program 4/3/2000

Renewal applicants only:

Number of tests performed in past 12 months for each of the following:

Job Applicants:	Total <u>34</u>	Positive <u>2</u>	Routine Fitness for Duty:	Total _____	Positive _____
Post work accident:	Total <u>0</u>	Positive _____	EAP Follow-up:	Total _____	Positive _____
Random (optional):	Total <u>17</u>	Positive <u>0</u>	Reasonable Suspicion:	Total _____	Positive _____

Have all employees that have undergone substance abuse training acknowledged, in writing, their attendance at that training and the existence of your company's drug free program policies? Yes ☐ No ☐

I hereby certify that all provisions and requirements of the Tennessee Drug-Free Workplace Program as established by T.C.A. have been met and implemented. (To be signed by all applicants)

Owner/Officer's Signature and Title Dela Rollins Printed name Dela Rollins Date 9-28-23

Bureau of Workers' Compensation Representative Signature W. Lance Wheaton Title _____ Accepted Date 9/29/2023

LB-1111 (REV 10/21)

RDA 10189



Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)
Rollins Excavating Co., LLC
1468 Middle Tennessee Blvd.
Murfreesboro, TN 37130

SURETY:

(Name, legal status and principal place of business)
Liberty Mutual Insurance Company
175 Berkeley Street
Boston, MA 02116

Bond No. N/A

OWNER:

(Name, legal status and address)
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Mailing Address for Notices

Liberty Mutual Insurance Company
Attention: Surety Claims Department
1001 4th Avenue, Suite 1700
Seattle, WA 98154

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

BOND AMOUNT: \$ Five Percent of the Amount Bid Dollars (\$ 5% of the Amount Bid)

PROJECT:

(Name, location or address, and Project number, if any)
2024-2025 City of Murfreesboro Concrete and Storm Drainage Contract

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

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

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

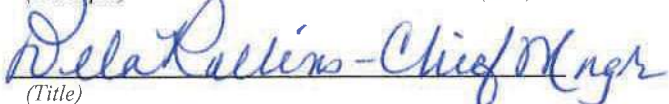
Signed and sealed this 14th day of May 2024


(Witness)

Rollins Excavating Co., LLC

(Principal)


(Seal)


(Title)

Liberty Mutual Insurance Company

(Surety)

(Seal)


(Witness)


(Title) Thomas W. Powell, Jr., Attorney-In-Fact





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8201587-971318**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Daniel D. Hite, Robert B. Jackson, Cooper L. Jones, James P. McCain, Evers R. Miller, Thomas W. Powell, Jr.

all of the city of Nashville state of TN each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 18th day of July, 2019.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By:

David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY SS

On this 18th day of July, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 26, 2021
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 14th day of May, 2024.



By:

Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.



**Rutherford County
Business Tax Standard License**

April 8, 2024

ROLLINS EXCAVATING CO, LLC
1468 MIDDLE TENNESSEE BLVD
MURFREESBORO TN 37130-5116

Letter ID: L1804883264
Expiration Date: 15-May-2025
Return Due By: 15-Apr-2025

The business tax license printed below certifies the receipt and approval of your business tax license application or the renewal of a license for your existing business. The license is valid until the expiration date noted above. Your license number is 1000403191 and your classification is 4. The certificate must be displayed publicly at the location for which it is issued.

All business tax returns are required to be filed and the payment remitted electronically. Your return is due on April 15, 2025. Please visit www.tn.gov/revenue for additional information.

Note: This license does not permit operation unless properly zoned and/or in compliance with all other applicable state, county, or city laws, rules and regulations. Also, as required by Tenn. Code Ann. § 39-17-1801 et seq., businesses must comply with all provisions of the Tennessee Non-Smoker Protection Act.

DETACH LICENSE BELOW AND DISPLAY IN PUBLIC AREA

✂

**Rutherford County
Business Tax Standard License**

This certificate must be publicly displayed.

ROLLINS EXCAVATING CO, LLC
1468 MIDDLE TENNESSEE BLVD
MURFREESBORO TN 37130-5116



Date Issued: 08-Apr-2024
Classification: 4
Letter ID: L1804883264
License Number: 1000403191
Expiration Date: 15-May-2025

Purchasing Department
 111 West Vine Street
 Murfreesboro, TN 37130
 615.849.2629
purchasing@murfreesborotn.gov



Copies of the following licenses shall be provided with bid response.

This is to certify that pursuant to Tennessee Code Annotated Title 62, Chapter 6, Part 1, if a bid is \$25,000 or above, the undersigned is a licensed contractor as required by the Contractor's Licensing Act of 1976, Public Chapter No. 822 of the General Assembly of the State of Tennessee as amended, known as the General Contractors Licensing Law.

Bidder:

By:

Title:

Rollins Exc. Co., LLC

Dele Rollins

Chief Manager

Project: 2024-25 Concrete + Storm Drainage Contract

BIDDER IDENTIFICATION

Bidder:

Rollins Excavating Co., LLC

Address:

1468 Middle Tenn Blvd M'boro TN 37130

TENNESSEE CONTRACTOR'S LICENSE INFORMATION

Provide copies of the following information if licensed. If unlicensed, please mark "Bidder Unlicensed".

TN License Number

28516

License Classification Applicable to Project

HRA-A; HRA-B; HRA-C; MV-A.3

License Expiration Date

1/31/2026

Dollar Limit

(\$ Unlimited)

☐ BIDDER UNLICENSED

SUBCONTRACTORS TO BE USED ON THIS PROJECT:

Provide the following for each listed subcontractor

		TN License No.	Expires	Classification	Dollar Limit
Plumbing:	<u>NA</u>				
HVAC:	<u>NA</u>				
Electrical:	<u>NA</u>				
Masonry:	<u>NA</u>				
Grading:	<u>NA</u>				
Geothermal:	<u>NA</u>				

State of Tennessee

408785

13705828

BOARD FOR LICENSING CONTRACTORS
CONTRACTOR
ROLLINS EXCAVATING CO., LLC

This is to certify that all requirements of the State of Tennessee have been met.

ID NUMBER: 28516
LIC STATUS: ACTIVE
EXPIRATION DATE: January 31, 2026
UNLIMITED; HRA-A; HRA-B; HRA-C; MU-A.3



IN-1313
DEPARTMENT OF
COMMERCE AND INSURANCE

Iran Divestment Act

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not a person included within the list created pursuant to T.C.A. § 12-12-106.

Signature: *Dela Rollins* Date: *5.14.24*

Title: *Chief Manager*

Non-Boycott of Israel

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to T.C.A. § 12-4-119, and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.

Signature: *Dela Rollins* Date: *5-14.24*

Title: *Chief Manager*

REFERENCE LISTING FORM

List a minimum of 3 references (other than the City of Murfreesboro) for similar projects and contracts, preferably governmental, which you have completed within the past 5 years.

1 CUSTOMER NAME: Town of Smyrna
 ADDRESS: 315 S Lowry St Smyrna TN 37167
 TELEPHONE: (615) 459-9766 EMAIL: Tom.Rose@TownofSmyrna.Org
 CONTACT NAME: Tom Rose Concrete Contract Unit Price
 DATE OF COMPLETION OF PROJECT: 12/31/23
 CONTRACT AMOUNT: \$ 644,626.38 Annual Unit Price Contract

2 CUSTOMER NAME: Town of Smyrna
 ADDRESS: 315 S Lowry St Smyrna TN 37167
 TELEPHONE: (615) 459-9766 EMAIL: _____
 CONTACT NAME: Tom Rose Storm Water + Gen Constr & Concrete Work
 DATE OF COMPLETION OF PROJECT: 12/31/23
 CONTRACT AMOUNT: \$ 818,507.72 Annual Unit Price Contract

3 CUSTOMER NAME: Atmos Energy
 ADDRESS: 334 W Lokey St M'boro, TN 37130
 TELEPHONE: (615) 566-3094 EMAIL: Kevin.Ward@atmosenergy.com
 CONTACT NAME: Kevin Ward
 DATE OF COMPLETION OF PROJECT: 12/31/23
 CONTRACT AMOUNT: \$ 35,539.52 Unit Price Work

My company has been in this type of business for 36 years

State License Number: 28516

Expires: 1/31/2026 Dela M. Rallins 5/13/24

****SIGN AND SUBMIT WITH BID PACKAGE****

ROLLINS EXCAVATING CO., LLC

1468 Middle Tennessee Blvd., Murfreesboro, TN 37130

May 2024

EXPERIENCE:

<u>Project Name</u>	<u>Project Owner</u>	<u>Contact</u>	<u>Contact #</u>
Bridge Avenue	City of M'boro	Chris Griffith	615-893-6441
City of M'boro Mulch Facility	City of M'boro	Chris Griffith	615-893-6441
Greenland Drive	City of M'boro	Chris Griffith	615-893-6441
Robert Rose Drive	City of M'boro	Chris Griffith	615-893-6441
River Rock Blvd. Road Widening	City of M'boro	Chris Griffith	615-893-6441
North Spring Street Reconst.	City of M'boro	Chris Griffith	615-893-6441
MTSU -Annual Concrete/Asphalt	MTSU	Ron Malone	615-478-0857
Fall Creek Subd-Road Repair & Completion	Rutherford County	Bob Reed	615-898-7730
Smyrna Airport Flood Damage Repairs	Smyrna/Rutherford Co Airport Authority	John Black	615-459-2651
Jones Blvd Substation Addition Sitework	Murfreesboro Electric	Nick Brown	615-893-6441
Haynes Dr. Reconstruction	City of M'boro	Chris Griffith	615-893-6441
NHK Seating Sanitary Sewer Extension	MWSD		
NHK Seating Turn Lanes	City of M'boro	Chris Griffith	615-893-6441
Interstate Warehousing - Misc. Sitework	Tippmann Const.	Jason Rice	260-490-3000
Hurricane Creek Greenway Project, Ph I	City of LaVergne	Lee Davidson -	615-242-0040
Improved Technoligies Group	City of M'boro	MWSD	615-890-0862
Molloy Lane Regional Stormwater	City of M'boro	Michael Hughes	615-890-7901
Quality Pond, Phase 1			
Thompson Lane/Sulphur Springs Rd	City of M'boro	Chris Griffith	615-893-6441
Turn Lane Installation			
Hickory Point Detention Pond	Park Nashville Partners, I	Kurt Miller	225-757-7111
Veterans Parkway, Phase 2B	City of M'boro	Chris Griffith	615-893-6441
Maple Street Alley Reconstruction	City of M'boro	Chris Griffith	615-893-6441
Cherry Lane Soccer Fields	City of M'boro	Chris Griffith	615-893-6441
Miracle Fields - M'boro Sports Com	City of M'boro	Chris Griffith	615-893-6441
Shelbyville N Square Sidewalk Imprv	Curl Construction	Brian Perry	931-389-6996
Blaze Drive Road Improvements	City of M'boro	Chris Griffith	615-893-6441
Murfreesboro Turn Lanes	City of M'boro	Chris Griffith	615-893-6441
Eagleville High School Access Road	R'ford County Board of Ex	Dillon Potter	

Present Commitments

City of Murfreesboro Annual Concrete and Storm Drainage Contract
 City of Murfreesboro for weekly Limb, Brush and Yard Waste Curbside Collection
 Town of Smyrna Annual Concrete Contract
 Town of Smyrna Annual Stormwater Const. Contract
 Miscellaneous Concrete & Site Work

SIGNATURE SHEET

I, the undersigned, do hereby agree to all terms and conditions listed within this formal solicitation, and will supply all information as required in this solicitation.

COMPANY NAME: Rollins Excavating Co., LLC
ADDRESS: 1468 Middle Tenn Blvd
Murfreesboro TN 37130
TELEPHONE: 615-890-0722 FAX: 615-848-9115
EMAIL: Rolexllc@aol.com

ADDENDUM ACKNOWLEDGEMENT

The proposer shall acknowledge obtaining all addenda issued to this formal solicitation within your response in the City's eProcurement Portal. Failure to acknowledge all addenda may be cause for rejection of the response.

AUTHORIZED SIGNATURE: Dela Rollins
TITLE: Chief Manager
(Print / type name as signed above): Dela Rollins
DATE: 5/13/2024

******SIGN AND SUBMIT WITH BID PACKAGE******

Purchasing Department
111 West Vine Street
Murfreesboro, TN 37130
615.849.2629
purchasing@murfreesborotn.gov



Thank you for your interest in working with the City of Murfreesboro on this project. Please complete the form below. The information provided will be incorporated into the sample agreement provided in the bid document once the award has been issued.

Bid Name/Project

2024-2025 Concrete and Storm Drainage Contract

Company Name:

Rollins Excavating Co., LLC

State of Business Registration

Tennessee

Type of business entity (sole proprietorship, corporations, LLC):

LLC

Authorized Company Signatory Information

(This is the person authorized to bind the company in a contract)*

Name:

Dela Rollins

Title:

Chief Manager

Email Address:

Rolex11c@aol.com

Phone Number:

615-890-0722

Notices to Contractor/Vendor to

Name:

Rollins Excavating Co., LLC

Address:

1468 Middle Tenn Blvd M'boro TN 37130

Email Address:

Rolex11c@aol.com

*The City utilizes DocuSign for electronic signature of contracts.

GENERAL CONDITIONS

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



Endorsed by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a

Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
 - 1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
 - 1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
 - 1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
 - 1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 - 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 - 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 - 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,”

“install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance:* After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 2. a preliminary Schedule of Submittals; and
 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

- 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 2. abnormal weather conditions;
 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's

performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 - 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
 - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
 - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and

2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
 - C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
 - D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
 - E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
 - F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract.

Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.

- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract),

certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
 - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.

2. claims for damages insured by reasonably available personal injury liability coverage.
 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Broad form property damage coverage.
 4. Severability of interest.
 5. Underground, explosion, and collapse coverage.
 6. Personal injury coverage.
 7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
 8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability:* Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds:* The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims

covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.

- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
 - 1. include at least the specific coverages provided in this Article.
 - 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 - 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 - 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 - 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.

9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners,

employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.

- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 Receipt and Application of Property Insurance Proceeds

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR’S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner’s written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *“Or Equals”*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or equal” item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review

of proposed substitute items of material or equipment from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a

substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents,

consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements:*

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

- d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
 3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
1. *Shop Drawings:*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 2. *Samples:*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to

starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.

- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be

conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.
- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER’S STATUS DURING CONSTRUCTION

10.01 *Owner’s Representative*

- A. Engineer will be Owner’s representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner’s representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor’s executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer’s efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer’s visits and observations are subject to all the limitations on Engineer’s authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer’s visits or observations of Contractor’s Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer’s consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer’s authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer’s authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer’s authority as to Change Orders is set forth in Article 11.

- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 - 1. *Change Orders:*
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
 - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.
 - 3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities

with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
 - 1. a mutually acceptable fixed fee; or
 - 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner

shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;

- d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
 - 1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 - 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

3. *Binding Decision*: Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.
 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval:* If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim:* If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:
 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The

payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. *Contractor's Fee*: When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.
- E. *Documentation*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances*: Contractor agrees that:
1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to

the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 Access to Work

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such

inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final

payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right

of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
 - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and

evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or

- b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
 - 5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
 - 6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.
- D. *Payment Becomes Due:*
- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.
- E. *Reductions in Payment by Owner:*
- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

- e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner

to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 1. correct the defective repairs to the Site or such other adjacent areas;
 2. correct such defective Work;

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 4. Contractor's repeated disregard of the authority of Owner or Engineer.

- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 Owner May Terminate For Convenience

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and

3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 Contractor May Stop Work or Terminate

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 Methods and Procedures

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
 2. agree with the other party to submit the dispute to another dispute resolution process; or
 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

Supplementary Conditions
[Part B]

SUPPLEMENTARY CONDITIONS

[Part B]

The Supplementary Conditions of this Part B modifies specific provisions the General Standard Conditions of the Construction Contract (EJCDC C-700 (2013)):

1. Strike Paragraph 1.01.A.4 in its entirety and replace with the following:

4. *Bid*—The offer of a Bidder submitted on the prescribed form under a contract that solicits bids and provides a bid form, setting forth the prices for the Work to be performed.

2. Strike Paragraph 1.01.A.7 in its entirety and replace with the following:

7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, bid bond or other Bid security, if any, the proscribed bid form, and the Bid with any attachments.

3. Strike Paragraph 1.01.A.8 in its entirety and replace with the following:

8. *Change Order*—A document which is signed by Contractor and Owner, a requirement that cannot be waived by any subsequent action or agreement of the parties, and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.

4. Strike Paragraph 1.01.A.23 in its entirety and replace with the following:

23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having or purporting to have jurisdiction.

5. Strike Paragraph 1.01.A.24 in its entirety and replace with the following:

24. *Liens*—Charges, security interests, or encumbrances, or legal actions to assert the same, upon

Contract-related funds, real property, or personal property.

6. Strike Paragraph 1.01.A.26 in its entirety and replace with the following:

26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid. The Notice of Award alone shall not create remedies for any Work performed under the Agreement or Contract Documents. Until Contractor receives a Notice to Proceed from Owner, Contractor shall not proceed with work and has no remedy against Owner for performing any Work related to the Project before receiving that Notice.

7. Strike Paragraph 2.01.C in its entirety and replace with the following:

C. [Intentionally omitted]

8. Strike Paragraph 2.03.A.1 in its entirety and replace with the following:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract. The Progress Schedule, in detailed precedence-style critical path method (CPM) or primavera-type format satisfactory to Owner and Engineer, shall (i) provide a graphic representation of all activities and event that will occur during the performance of the Work:

(ii) identify each phase of the construction and occupancy; and (iii) set forth milestone dates that are significant to ensure the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents.

9. Strike Paragraph 2.04.A in its entirety and replace with the following:

A. Contractor shall arrange for, either at such time as Engineer shall specifically direct, of any, or otherwise, before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

10. After Paragraph 2.04.B add the following:

1. Generally, Contractor shall communicate with Engineer, or the Engineer's designated representative under Paragraph 9.02, concerning matters affecting Engineer or Owner. In the event that Contractor believes he cannot deliver necessary communications to Engineer or his representative, Contractor may transmit those communications to Owner's representative with a copy to Engineer, which communications will include a brief explanation of the need to communicate with Owner's Representative.

11. Strike Paragraph 2.05.A in its entirety and replace with the following:

- A. Contractor shall arrange for, either at such time as Engineer shall specifically direct, of any, or otherwise, at least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times, in compliance with the requirements of Paragraph 2.03.A.1. Upon review and acceptance by Owner and Engineer, the Progress Schedule shall be deemed to be part of the Contract Documents. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor. If not accepted, the Project Schedule shall be promptly revised by the Contractor in accordance with the recommendations of Owner and Engineer and resubmitted.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work. The unit prices or lump sum amounts provided by the Contractor in the Bid Form shall serve as the basis for the Schedule of Values.

Additional subdivision of unit price or lump sum items shall be made as reasonably requested by the Engineer or as required to verify progress payments for Lump Sum or Unit Price work that will take place over several progress payment periods.

12. Strike Paragraph 3.01.B in its entirety and replace with the following:

- B. It is the intent of the parties that the Contract Documents describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom, practice, or trade usage as being required to produce the indicated result will be provided at no additional cost to Owner. The grades, elevations, dimensions, locations, and field measurements or any drawings or specification issued by Engineer, or the Work installed by other Contractors, are not guaranteed by Engineer or Owner. Contractor shall be responsible for verifying the accuracy of all grades, elevations, dimensions, locations, and field measurements. In all cases of the interconnection of its Work with existing or other Work, Contractor shall verify at the site all dimensions relating to such existing or other Work. Any errors due to Contractor's fault to verify shall be promptly rectified by Contractor without any additional costs to Owner or extensions of Contract Time.

13. Strike Paragraph 3.03.A in its entirety and replace with the following:

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall within two business days report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall within two business days report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof, or should have had such knowledge under the circumstances of the Contract.

14. Strike Paragraph 3.04 in its entirety and replace with the following:

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to Engineer all matters in question concerning the requirements of the Contract

Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder. However, should Owner choose to self-perform the duties and responsibilities of Engineer, or should Owner chooses to designate another party to fulfill these duties and responsibilities, (i) Contractor shall accept all actions and decisions of Owner or Owner's designated party as if and to the same extent it would were Engineer fulfilling these duties and responsibilities under the Contract; and (ii) Engineer shall have no liability for such actions or decisions.

- B. Engineer will, with reasonable timeliness based on the circumstances affected by the issue, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will within one business day of its determination give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

15. Strike Paragraph 4.01.A in its entirety and replace with the following:

A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. Owners, with the concurrence of Engineer, will provide a Notice to Proceed after the effective date of the Agreement. In no event will Contractor have any remedies for Work performed on the Project until the Notice to Proceed is given of Contractor.

16. Strike Paragraph 4.02.A in its entirety and replace with the following:

A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date. Contractor shall have no remedies for any Work Performed under the Agreement or Contract Documents until Owner issues the Notice to Proceed.

17. Strike Paragraph 4.03.A in its entirety and replace with the following:

A. Engineer shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel, approved by Engineer, and licensed in the state where the

Project is located or working under direct supervision of a surveyor licensed in the state where the Project is located.

18. Strike Paragraph 4.05.A in its entirety and replace with the following:

A. If Owner or Engineer delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Notwithstanding any other provision of the Contract, Owner shall not be liable, as damages for delays under this section, for any consequential damages, lost opportunity costs, impact damages, or other similar remuneration. Owner's exercise of any of its rights or remedies under the Contract Documents (including, without limitation, ordering changes in the Work, directing suspension, rescheduling, or correction of the Work, or terminating this agreement for its convenience), regardless of the extent or frequency of Owner's exercise of such rights or remedies, shall not be construed as active interference with Contractor's performance of the Work. If Contractor submits a progress report indicating, or otherwise expressing, an intention to achieve completion of the Work prior to any completion date required by the Contract Documents or expiration of the Contract Times, Owner shall have no liability to Contractor for any failure of Contractor to so complete the Work according to that progress report.

19. Strike Paragraph 4.05.F in its entirety and replace with the following:

F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor, its subcontractors, suppliers, agents and representatives.

20. Strike Paragraph 5.03.A in its entirety and replace with the following:

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 3. Technical Data contained in such reports and drawings.

Such reports shall not excuse Contractor and each Subcontractor from the duty to independently evaluate and satisfy themselves as to the site conditions and limitations under which the Work is to be performed, including, without limitation, (1) the location, condition, layout, and nature of the project site and surrounding areas; (2) generally prevailing climatic conditions; (3) anticipated labor, supply, and costs; (4) availability and cost of materials, tools, and equipment; and (5) other similar issues. Further, Owners assumes no responsibility or liability for the physical conditions or safety of the project site or any improvements located on the project site. Except as set forth in in Article 5, Contractor shall be solely response for providing a safe place for the performance of the Work. Owner shall not be required to make adjustments in either the Contract Price or Contract Times

arising from a failure by Contractor or any Subcontractor to independently evaluate and satisfy themselves as to the site conditions and limitations.

21. Strike Paragraph 5.04.A in its entirety and replace with the following:

- A. *Notice by Contractor:* If Contractor discovers or should have discovered that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, immediately or as soon as feasible, and in any event not more than 24 hours after the time Contractor discovers, and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

22. Strike Paragraph 5.04.B in its entirety and replace with the following:

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will immediately or as soon as feasible review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

23. Strike Paragraph 5.04.D.3 in its entirety and replace with the following:

3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a written, duly authorized, and signed Change Order.

24. Strike Paragraph 5.05.B in its entirety and replace with the following:

- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, immediately attempt to and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the

owner of such Underground Facility and by not later than the end of the next business day give written notice to that owner and to Owner and Engineer.

25. Strike Paragraph 5.05.C in its entirety and replace with the following:

- C. *Engineer's Review.* Engineer will as soon as feasible review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

26. Strike Paragraph 5.05.E.2 in its entirety and replace with the following:

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a written, duly authorized, and signed Change Order.

27. Strike Paragraph 5.06.C in its entirety and replace with the following:

- C. Contractor must make all reasonable efforts to discover and locate any Hazardous Environmental Conditions at the site that may present a danger to persons or property exposed thereto in connection with the Work at the site. Contractor is liable for any damages caused by any Hazardous Environmental Conditions that Contractor knew or, or by the exercise of reasonable efforts should have known of, and any damages caused by reason of any Hazardous Environmental Conditions created, known to, or encountered by Contractor, its Subcontractors, Supplier, or anyone else for whom Contractor is responsible. Within 24 hours of the time when Contractor discovers any Hazardous Environmental Conditions, Contractor will follow the procedures set forth in Paragraph 5.06.E. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

28. Strike Paragraph 5.06.G in its entirety and replace with the following:

- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of

Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Nothing in this Paragraph obligates Owner or Contractor to indemnify the other from and against the consequences of the other's own negligence.

29. Strike Paragraph 5.06.I in its entirety and replace with the following:

I. To the fullest extent permitted by Laws and Regulations, the party to this Contract who created or was responsible for the Hazardous Environmental Condition shall indemnify and hold harmless the other party to this Contract, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (i) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by the party(ies) to be indemnified hereunder or by anyone for whom party(ies) to be indemnified hereunder is responsible. Nothing in this Paragraph 5.06.I shall obligate the party to this Contract who created or was responsible for the Hazardous Environmental Condition to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

30. Strike Paragraph 6.01.A in its entirety and replace with the following:

A. Contractor shall furnish a performance bond and a payment bond, each in an amount of 100% of the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.

31. Strike Paragraph 6.01.D in its entirety and replace with the following:

D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall immediately upon learning of the bankruptcy or insolvency notify Owner and Engineer and shall, within 10 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

32. Strike Paragraph 6.02.A in its entirety and replace with the following:

A. Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions Addendum A.

33. Modify Paragraph 6.02.B as follows:

Strike the words "Owner or" in the first sentence.

34. Strike Paragraph 6.02.D in its entirety and replace with the following:

D. [Intentionally omitted]

35. Modify Paragraph 6.02.E as follows:

Strike the words “or Contractor” in the first sentence.

36. Strike Paragraph 6.02.F in its entirety and replace with the following:

F. If Contractor does not purchase or maintain all of the insurance required of such party by the Contract, Owner shall notify Contractor in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

37. Strike Paragraph 6.02.H in its entirety and replace with the following:

H. Without prejudice to any other right or remedy, if Contractor has failed to obtain required insurance, Owner may elect to obtain equivalent insurance to protect Owner and Contractor's interests at the expense of Contractor and the Contract Price shall be adjusted in order for Owner to recover the full cost of the insurance so obtained.

38. Strike Paragraph 6.06.B in its entirety and replace with the following:

- B. Owner waives all rights against Contractor and Subcontractors and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
1. [Intentionally left blank]
 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06. This Paragraph applies solely to pre-completion insurance policies and Owner may claim subrogation to coverages provided for damages caused by Contractor and Subcontractors, or officers, directors, members, partners, employees, agents, consultants and subcontractors of each.

39. Strike Paragraph 6.07.A in its entirety and replace with the following:

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 6.07.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.

40. Strike Paragraph 6.07.B in its entirety and replace with the following:

- B. Proceeds for such insured losses under the builder's risk and other policies of insurance required by Paragraph 6.05 shall be made payable by the insurer to Owner, or if paid to another Party to this Contract, shall be immediately signed over to the benefit of Owner. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to

Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers.

41. Strike Paragraph 7.01 in its entirety and replace with the following:

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent, as provided under Paragraph 2.04.B., who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

42. After Paragraph 7.02.B, add the following:

- C. Contractor shall be responsible for the cost of any overtime pay or other expense incurred by the Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

43. Strike Paragraph 7.03.B in its entirety and replace with the following:

B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. Contractor agrees to assign to Owner at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work, and Contractor further agrees to perform the Work in such a manner as to preserve any and all manufacturer's warranties. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

44. Strike Paragraph 7.05.B in its entirety and replace with the following:

B. *Engineer's Evaluation and Determination:* Engineer will be allowed an average of seven days, or such other reasonable period of time as Owner determines is required to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts,

including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

45. Strike Paragraph 7.06.A in its entirety and replace with the following:

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. No later than 14 days after the execution of the Agreement by Contractor and Owner, Contractor shall furnish Owner and Engineer, in writing, with (1) the name, trade, and subcontract amount for each Subcontractor and (2) the names of all persons or entities proposed as manufacturers of the products identified in the specifications (including those who are to furnish materials or equipment fabricated to a special design) and, where applicable, the name of the installing Subcontractor.

46. Strike Paragraph 7.08.A in its entirety and replace with the following:

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Contractor shall pay all charges of utility owners for connections for providing service to the Work, and Owner shall pay all charges of such utility owners for costs related to providing post-construction service to the Work.

47. After Paragraph 7.09.A, add the following:

B. Should Owner be exempt from payment of sales and compensating use taxes of the State on all materials to be incorporated into the Work.

1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

48. Strike Paragraph 7.10.B in its entirety and replace with the following:

B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action.

49. Strike Paragraph 7.12.D in its entirety and replace with the following:

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must

comply while at the Site, to which Owner may interpose reasonable objections that are not beyond a general right to order, inspect, make suggestions, or prescribe alterations or deviations or in any way accept or cause liable for site safety to shift from the sole responsibility of Contractor to either Owner or Engineer to any degree.

50. Strike Paragraph 7.15.A in its entirety and replace with the following:

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof as soon as is feasible. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

51. Strike Paragraph 7.17.A in its entirety and replace with the following:

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective.

52. Strike Paragraph 7.18.A in its entirety and replace with the following:

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting in whole or in part from any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

53. Strike Paragraph 8.03.D in its entirety and replace with the following:

D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) as soon as reasonably possible attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim as expediently as possible by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all

costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference. In no event shall Contractors actions as described in this Paragraph result in an increase in the Contract Price or Contract Times.

54. Strike Paragraph 9.03.A in its entirety and replace with the following:

A. Owner shall furnish the data required of Owner in accordance with the Contract Documents.

55. Strike Paragraph 10.03.A in its entirety and replace with the following:

A. If Owner and Engineer have agreed that Engineer will act as Owner's Project Representative, Engineer shall act as its Resident Project Representative and designate a specific person with Engineer's firm to serve as the Resident Project Representative to represent Owner at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority, which shall include the authority to transmit instructions, receive information, render decisions relative to the Contract Documents, and otherwise act in place of the Engineer, subject to the Supplementary Conditions providing otherwise and the limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions. In the event Owner designates a representative or agent other than Engineer or Engineer's agent, Engineer shall not be liable for decisions rendered by such Owner or Owner's Representative.

56. Strike Paragraph 10.07.A in its entirety and replace with the following:

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith. However, should Owner choose to self-perform the duties and responsibilities of Engineer, or should Owner chooses to designate another party to fulfill these duties and responsibilities, (i) Contractor shall accept all actions and decisions of Owner or Owner's designated party as if and to the same extent it would were the Engineer fulfilling these duties and responsibilities under the Contract; and (ii) Engineer shall not be liable for decision rendered by Owner or Owner's Representative

57. Strike Paragraph 11.01.A.1.b in its entirety.

58. Strike Paragraph 11.01.A.3 in its entirety and replace with the following:

3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the

Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order should instead, have been issued as a Change Order, because that Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein. Engineer will obtain not later than one week after issuing a given Field Order, and if possible before Contractor performs work under the Field Order, the signature of Contractor on each Field Order. This signature confirms that Contractor is not entitled to any change in the Contract Price or the Contract Times.

Engineer should obtain the signature of Contractor on all Field Orders issued.

59. Strike Paragraph 11.02.A in its entirety and replace with the following:

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall proceed with the Work involved; or, in the case of a deletion in the Work, cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

60. Strike Paragraph 11.04.C.2.a in its entirety and replace with the following:

a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, Contractor's fee shall be 15%;

61. Strike Paragraph 11.04.C.2.c in its entirety and replace with the following:

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that Contractor's fee shall be based on: (i) a fee of 15% of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (ii) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27% of the costs incurred by the Subcontractor that actually performs the work;

62. Strike Paragraph 11.05.A in its entirety and replace with the following:

A. The Contract Times may only be changed by agreement only through a written and executed Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

63. After Paragraph 11.05.B add the following:

C. All time limits stated in the Contract Documents are of the essence of the Agreement. Contractor acknowledges and understands that (i) Owner has a need for the completed Work, shortly after the date set forth in the Agreement by which substantial completion is to be achieved for the public good and to protect public funds; and (ii) failure by Contractor to complete the Work in accordance with the construction schedule will cause significant damages to Owner, including, without limitation, public health, safety, and welfare, as well as the undue diminishment of public funds.

64. Strike Paragraph 11.01.A.1.B in its entirety.**65. Strike Paragraph 11.06.A.2 in its entirety and replace with the following:**

2. *Engineer's Action:* Engineer will review each Change Proposal and, within 60 days after receipt of the Contractor's supporting data, will recommend to the Owner that the Owner either deny or approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor and Funding Agency (if there is one). If Engineer does not take action on the Change Proposal within 60 days, then either Owner or Contractor may, at any time thereafter, submit a letter to the other party indicating that as a result of Engineer's inaction, the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

66. Strike Paragraph 11.06.A.3 in its entirety and replace with the following:

3. *Binding Decision:* Engineer's decision on issues other than changes in Contract Price or changes in Contract Times will be final and binding upon Contractor, unless Owner or Contractor appeals the decision by filing a claim under Article 12.

67. In Paragraph 11.07.A delete the following:

"in accordance with a Work Change Directive"

68. After Paragraph 11.07.B add the following:

C. An agreed Change Order that adjusts the Contract Price, or the Contract Time, or both, shall be accomplished only by a written and executed Change Order. Accordingly, no course of conduct or dealings between the parties, no expressed or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any alterations or additions to the Work shall be the basis of any claim for an increase in any amount due under the contract documents or in any time period provided for in the Contract Documents, unless executed as a Change Order under Paragraph 10.03. Any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Price and the Contract Times. In the event a Change Order increases the Contract Price, Contractor shall include the Work covered by such Change Order in applications for payments as if such Work were originally part of the Agreement. No individual employer, agent, or representative of Owner is authorized to waive this requirement of compliance with the requirement of this Section.

69. Strike Paragraph 12.01.B in its entirety and replace with the following:

B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract as soon as practicable, and in no event more than 30 calendar days, after the start of the event giving rise thereto, and in the case of appeals regarding Change Proposals within 14 calendar days of the decision under appeal. The party submitting the Claim shall also furnish a copy to Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

70. Strike Paragraph 13.01.B.1 in its entirety and replace with the following:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized in writing by Owner.

71. Strike Paragraph 13.01.B.4 in its entirety and replace with the following:

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work, but only to the extent authorized and approved in writing by Engineer.

72. Strike Paragraph 13.01.B.5.c in its entirety and replace with the following:

- c. Construction Equipment and Machinery:
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor will be paid at a rate shown for such equipment in the "The Rental Rate Blue Book for Construction Equipment" published by Equipment Watch, Prism Business Media. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs. Costs will include the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading,

assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, shall cease to accrue when the use thereof is no longer necessary for the changed Work. Equipment or machinery with a value of less than \$1,000 will be considered small tools.

73. Strike Paragraph 13.03.E.1 in its entirety and replace with the following:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement (the quantity of an item will be deemed to differ materially and significantly, without limitation, if it exceeds or falls short of the estimated quantity by more than 25 percent);

74. Strike Paragraph 14.02.F in its entirety and replace with the following:

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted in a reasonable time, but in no case more than seven days.

75. Strike Paragraph 14.03.D in its entirety and replace with the following:

D. *Correction, or Removal and Replacement:* Using best efforts and as soon as feasible, but in no event more than three days after receipt of written notice of defective Work, Contractor shall begin correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective, and shall continue to undertake corrections without delay or adjustment to Contract Price or Contract Times.

76. Strike Paragraph 14.05.C.2 in its entirety and replace with the following:

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction, unless Contractor fails to provide written notice as required in Paragraph 14.02.F. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

77. After Paragraph 15.01.B.3 add the following:

4. Each Application for Payment shall be accompanied by the following, all in a form and substance satisfactory to the Owner:
 - a. In addition to the current Contractor's lien waiver, a duly executed and acknowledged sworn statement showing all Subcontractors and material suppliers with whom the Contractor has entered into Subcontracts, the amount of each such Subcontract, the amount requested for each Subcontractor and Supplier who is to be paid any sum under the Application for Payment, and the amount to be paid to the Contractor from such progress payment, together with similar sworn statements from all such Subcontractors and Suppliers;

- b. Duly executed waivers of mechanics' and material suppliers' liens from all Subcontractors and, when appropriate, from material Suppliers and lower-tier Subcontractors, establishing payment or satisfaction of payment of all amounts requested of the Contractor on behalf of such entities or persons in any previous application for payment; and
 - c. All information and materials required to comply with the requirements of the Contract Documents or reasonably requested by the Owner or the Engineer. If required by the Owner's title insurer, if any, the Contractor shall execute a personal gap undertaking in form and substance satisfactory to such title insurer.
- 5. Contractor shall also comply with the following specific requirements:
 - a. The aggregate cost of materials stored off site shall not exceed \$10,000 at any time without written approval of Owner.
 - b. Title to such materials shall be vested in Owner, as evidenced by documentation satisfactory in form and substance to Owner and Owner's construction lender, including, without limitation, recorded financing statements, UCC filings, and UCC searches.
 - c. With each application for payment, Contractor shall submit to Owner a written list identifying each location where materials are stored off the project site and the value of materials at each location. Contractor shall procure insurance satisfactory to Owner for materials stored off the project site in an amount not less than the total value thereof.
 - d. The consent of any surety shall be obtained, to the extent required by the surety, or Owner prior to payment for any materials stored off the project site. e. Representatives of Owner and the lender shall have the right to make inspections of the storage areas for any materials stored off site at any time.
- f. Such materials shall be (1) protected from diversion, destruction, theft, and damage to the satisfaction of Owner and lender; (2) specifically marked for use on the project; and (3) segregated from other materials at the storage facility.

78. After Paragraph 15.01.C.6.e add the following:

- f. Liability for liquidated damages has been incurred by Contractor
- g. Contractor has failed to pay for damages to existing underground utilities as required by the Tennessee One Call Law.

79. After Paragraph 15.02.A add the following:

- 1. Contractor further expressly undertakes to defend Owner and Engineer, at Contractor's sole expense, against any actions, lawsuits, or proceedings brought against Owner, Engineer, or any third party as a result of liens filed against the Work, the site of any of the Work, the project site and any improvements thereon, payments due Contractor, or any portion of the property of Owner, Engineer, or third party. Contractor hereby agrees to indemnify and hold Owner, Engineer, and third parties harmless against any such liens or claims of lien and agrees to pay any judgment or lien resulting from any such action, lawsuit, or proceeding.

2. Owner shall release any payments withheld due to a lien or claim of lien, if Contractor obtains security acceptable to Owner or a lien bond that is (a) issued by a surety acceptable to Owner; (b) in form and substance satisfactory to Owner; and (c) in an amount not less than two hundred percent (200%) of such lien claim. Provided, however, Contractor shall not be relieved of any responsibilities or obligations under this paragraph, by obtaining a bond or other acceptable security, including, without limitation, the duty to defend and indemnify Owner and Engineer. The cost of any premiums incurred in connection with such bonds and securities shall be the responsibility of Contractor and shall not be part of, or cause any adjustment to, the Contract Price.
3. Contractor agrees to waive, to the fullest extent allowed by applicable law, any right that it may have to assert a mechanic's or other lien against the Project or the Site and any improvements thereon, including, without limitation, the Work itself. Furthermore, Contractor will cause a similar provision, waiving to the fullest extent allowed by applicable law all rights to a mechanic's or other lien against the property, to be included in all of its Subcontracts, any sub-subcontracts, and all contracts with material Suppliers.
4. Notwithstanding the foregoing, Owner reserves the right to settle any disputed Subcontractor's, mechanic's or material Supplier's lien claim by payment to the lien claimant or by such other means as Owner, in Owner's sole discretion, determines is the most economical or advantageous method for settling the dispute. Contractor shall promptly reimburse Owner, upon demand, for any payment so made.

80. Strike Paragraph 15.03.B in its entirety and replace with the following:

B. At a time Engineer determines to be reasonable, after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel, and living expenses, will be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

81. Strike Paragraph 15.03.E in its entirety and replace with the following:

E. After Substantial Completion the Contractor shall without delay begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

82. Strike Paragraph 15.05.A in its entirety and replace with the following:

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will within five business days make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

83. Strike Paragraph 15.08.A in its entirety and replace with the following:

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall immediately, without cost to Owner and in accordance with Owner's written instructions:
1. correct the defective repairs to the Site or such other adjacent areas;
 2. correct such defective Work;
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

84. Strike Paragraph 15.08.B in its entirety and replace with the following:

- B. If Contractor does not immediately comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

85. Strike Paragraph 15.08.C in its entirety and replace with the following:

- C. In special circumstances where a particular item of equipment is placed in continuous service solely for the benefit of Owner before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

86. Strike Paragraph 16.02.A.1 in its entirety and replace with the following:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to have Contractor's authorized representative required by Paragraph 2.04.B available as reasonably needed (including the repeated absence of such authorized representative for two business days consecutively or more at a time), failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);

87. Strike Paragraph 16.03 in its entirety and replace with the following:

- A. Owner may, at any time, terminate the Contract in whole or in part for Owner's convenience and without cause. Termination by Owner under this paragraph shall be by a notice of

termination delivered to Contractor specifying the extent of termination and the effective date.

- B. Upon receipt of a notice of termination for convenience, Contractor shall immediately, in accordance with instructions from Owner, proceed with performance of the following duties regardless of delay in determining or adjusting amounts due under this paragraph:
 - (1) Cease operations as specified in the notice;
 - (2) Place no further orders and enter into no further subcontracts for materials, labor, services, or facilities except as necessary to complete continued portions of the Contract;
 - (3) Terminate all subcontracts and orders to the extent they relate to the Work terminated;
 - (4) Proceed to complete the performance of Work not terminated; and
 - (5) Take actions that may be necessary, or that Owner may direct, for the protection and preservation of the terminated Work.
- C. Upon such termination, Contractor shall recover as its sole remedy payment of the percentage of the Contract Price equal to the percentage of the work performed satisfactorily and not previously paid for. Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, anticipated profits or revenue or other economic loss arising out of or resulting from such termination.
- D. Owner shall be credited for: (1) payments previously made to Contractor for the terminated portion of the Work; (2) claims that Owner has against Contractor under the Contract; and (3) the value of the materials, supplies, equipment, or other items that are to be disposed of by Contractor that are part of the Contract Price.

88. Strike Paragraph 16.04 in its entirety and replace with the following:

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 60 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 30 days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 60 days to pay Contractor any sum finally determined to be due, Contractor may, seven business days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

89. Add Paragraph 17.02 as follows:

17.02 *Dispute Resolution.* Any dispute subject to resolution under this Article and any other claim or dispute regarding the Contract Documents shall be resolved in accordance with the process set forth in Addendum B of these Supplementary Conditions.

ADDENDUM A

Schedule of Insurance CONTRACTOR'S INSURANCE REQUIREMENTS

Contractor must, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Exhibit.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Agreement requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers' compensation and employers liability insurance, providing the following coverages, limits and endorsements:

1. **Commercial General Liability Insurance.**

- 1.1 The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU (explosion, collapse, and underground), and products and completed operations, with a combined single limit of liability of not less than \$2,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$2,000,000 applicable solely to the Work, and meeting all other requirements of this Exhibit.
- 1.2 The general liability insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.
- 1.3 Each general liability policy must be endorsed or written to:
 - a. Include the per project aggregate endorsement;
 - b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");
 - c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;
 - d. Includes a severability of interest clause; and
 - e. Waive all rights of recovery against the Additional Insureds.

2. **Workers' Compensation Insurance.** Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

3. Auto Liability Insurance

- 3.1 Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.
- 3.2 This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.
- 3.3 This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

4. Environmental Liability. Contractor must secure, pay for, and maintain Contractor's Pollution Liability (CPL) coverage, including mold coverage, in an amount not less than \$1,000,000 and endorsing the Owner as an Additional Insured. Contractor must also provide to the Owner proof of Contractor's Pollution Legal Liability (PLL) for sites owned or operated by Contractors and by any Subcontractors handling hazardous or potentially hazardous materials. Environmental liability coverage may be part of a package policy.

5. Professional Liability. Contractor must secure, pay for, and maintain professional liability coverage in the amount of not less than \$1,000,000 on a form acceptable to the Owner and with tail coverage of not less than two years.

6. Umbrella Coverage. Contractor must secure, pay for, and maintain professional liability coverage in the amount of not less than \$5,000,000 on a form acceptable to the Owner. Umbrella coverage must not be limited to excess coverage that merely follows form of underlying coverages.

7. Equipment Property Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary and without exceptions in order to protect the Owner against loss of owned, non-owned, rented, or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor, its Subcontractors, or Lower Tier Entities and any construction material in transit (unless shipped FOB destination Project Site or (Incoterm) DAP Project site) or materials stored in any location other than the Site.

8. Builder's Risk. Unless otherwise instructed by the Owner, Contractor will secure a completed value, all-risk Builder's Risk policy in manuscript form acceptable to Owner for the Project (not merely the Work), including appropriate, as determinate by the Owner, coverages, coverage amounts and limits, deductibles, and exclusions. The Owner must be a named insured and the policy may not terminate until Substantial Final Completion or a certificate of occupancy applicable to the entire property is issued, whichever is latest.

9. Waiver of Subrogation. Contractor hereby waives, and will require each of its Subcontractors and Lower Tier Entities to waive, all rights of subrogation under all policies against the Owner and other Additional Insureds for losses or damages covered by any policy of insurance. Contractor, Subcontractors, and Lower Tier Entities must provide notice of waiver to all insurance carriers.

10. Term of Coverage

- 10.1 The products and completed operations liability coverage required by this Agreement must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Agreement (the "Completed Operations Term").

- 10.2 If at any time during the Completed Operations Term Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.
- 10.3 Contractor will furnish certificates of insurance and other evidence that the Owner may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.
- 10.4 All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

11. Subcontractor and Lower-Tier Entities Insurance Requirements

- 11.1 Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:
 - a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$ 1,000,000 per occurrence, and \$ 1,000,000 as the annual aggregate limit; and
 - b. Timely furnish to the Owner proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.
 - c. The Lower Tier Entities' general liability policy must also be endorsed to provide the policy must be primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.
 - d. The Owner has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

12. Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

- 12.1 Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;
- 12.2 Provide that attorney's fees are outside of the policy's limits;
- 12.3 Include the Project per aggregate endorsement;
- 12.4 Waive all rights of subrogation against the Owner;
- 12.5 Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the Owner; and

- 12.6 Be otherwise satisfactory to the Owner. The Owner agrees to consider alternatives to the requirements imposed by this Exhibit but only to the extent that the Owner is satisfied the insurance is not commercially available to the insured. In such event, the Owner has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the Owner be a loss-payee under the policy.

13. Certificates and Endorsements

- 13.1 Within 10 days after the execution of this Agreement, Contractor must provide the Owner with certificates and endorsements;
- 13.2 Upon the Owner request, Contractor must provide the Owner with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Exhibit together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of coverage potentially available to the Owner under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the Owner.
- 13.3 If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

- 14. Reduction in Coverage.** Contractor must promptly inform the Owner of any reduction of coverage resulting from revised limits, claims paid, or both and must require its Subcontractors and Lower Tier Entities to promptly inform Contractor of same. The Owner has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

15. Suppliers and Materialmen Coverages

- 15.1 Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.
- 15.2 With respect to any equipment, machinery or other goods for which the Owner or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the Owner and Contractor as loss payee as their interests appear.

16. Condition Precedent to Starting Work

- 16.1 Prior to, and as a condition of its right to begin performing any Work on the Site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the Owner certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the Owner that the required insurance is in place; together with the

original of each bond required under this Agreement. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the Owner to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

- 16.2 The Owner is under no obligation or duty to make any such inquiry and the Owner is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The Owner's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.
17. **Additional Proofs of Insurance.** Contractor must, within 10 days after request, provide the Owner with certified copies of all policies and endorsements obtained in compliance with this Agreement.
18. **Indemnity.** The fact that Contractor and its Subcontractors are required by this Agreement to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the Owner and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.
19. **Interpretation.** In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Agreement, the terms of this Exhibit will govern.

ADDENDUM B DISPUTE RESOLUTION PROCEDURES

1. Disputes

- 1.1 Each Dispute arising out of or related to this Agreement (including Disputes regarding any alleged breaches of this Agreement) must be initiated and decided under the provisions of this Exhibit.
- 1.2 Contractor and the Owner will each designate in writing to the other Party, from time to time, a member of senior management who is authorized to attempt to expeditiously resolve any Dispute relating to the subject matter of this Agreement in an equitable manner.
- 1.3 A Party initiates a Dispute by delivery of written Notice to the members of management designated by the respective parties under Section 1.2 hereof.
- 1.4 The parties must:
 - a. Attempt to resolve all Disputes promptly, equitably and in a good faith manner, and
 - b. Provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such Dispute.
- 1.5 With respect to matters concerning Change Orders for modification of the Guaranteed Maximum Price or Project Schedule, Contractor must first follow the provisions of any Claim procedure established by the Contractor Agreement before seeking relief under these Procedures.

2. Emergency Arbitration

- 2.1 If the parties are unable to accomplish resolution of a Dispute, the expedited resolution of which either Party considers necessary to prevent or mitigate a material delay to the critical path of the Construction Services (a "Time Sensitive Dispute") within two days after the Time Sensitive Dispute has been initiated by a Party, either Party may thereafter seek emergency relief before an emergency arbitrator (the "Emergency Arbitrator") appointed as follows:
 - a. The parties will exercise best efforts to pre-select an Emergency Arbitrator within 20 days after entering into this Agreement;
 - b. If the Emergency Arbitrator has not been selected at the time a Party delivers Notice of a Time Sensitive Dispute, the parties will each select a representative within one day after the Notice is delivered and the two representatives will then select the Emergency Arbitrator by the third day following delivery of the Notice.
 - c. The Emergency Arbitrator must be an attorney with at least 10 years' experience with commercial construction legal matters in Tennessee, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 The Emergency Arbitrator will conduct a hearing and render a written determination on the Dispute to both parties within five business days of the matter being referred to him or her, all in accordance with Rules O-1 to O-8 of the American Arbitration Association ("AAA")

Commercial Rules-Optional Rules for Emergency Protection Commercial Rules (“AAA Emergency Rules”)

- 2.3 Although the hearing will be conducted using AAA rules, unless both parties agree otherwise, this dispute process will not be administered by the AAA but will be conducted by the parties in accordance with these procedures.
- 2.4 If, however, an Emergency Arbitrator has not selected within three days after delivery of the Notice, either Party may upon three days additional notice, thereafter seek emergency relief before the AAA, in accordance with the AAA Emergency Rules, provided that the Emergency Arbitrator meets the qualifications set forth above.
- 2.5 All proceedings to arbitrate Time Sensitive Disputes will be conducted in Rutherford, Davidson, or Williamson counties, Tennessee.
- 2.6 Presentation, request for determination (i.e., a Party’s prayer), and the Emergency Arbitrators decision will adhere to the procedures required in Section 3.5 hereof.
- 2.7 The finding of the Emergency Arbitrator with respect to any Time Sensitive Dispute will be binding upon the parties on an interim basis during progress of the Construction Services, subject to review *de novo* by arbitration after the Project Substantial Completion Date.
- 2.8 The time and extent of discovery will be as determined by the Emergency Arbitrator.
 - a. Discovery orders of the Emergency Arbitrator will consider the time sensitivity of the matter and the parties desire to resolve the issue in the most time and costs efficient manner;
 - b. The parties are obligated to cooperate fully and completely in the provision of documents and other information, including joint interviews of individuals with knowledge such that the matter moves toward resolution in the most time and costs efficient manner and the Emergency Arbitrator is empowered to fashion any equitable penalty against a Party that fail to meet this obligation

3. Non-Emergency Arbitration

- 3.1 Except as provided in Section 5 hereof, any Dispute that is either a non-emergency Dispute that has not been resolved by negotiation, or a *de novo* review of an emergency arbitration will be decided by binding arbitration by a panel of three arbitrators in accordance with, but not necessarily administered by, the Construction Industry Rules of the AAA.
 - a. The parties each select an arbitrator within 15 days after Notice that a Party desire to resolve a dispute by arbitration.
 - b. The two arbitrators then each select a third arbitrator.
 - c. The arbitrator(s) must meet the qualifications of Emergency Arbitrators as provided in Section 2 hereof.
- 3.2 The arbitrators do not have the authority to consider or award punitive damages as part of the arbitrators' award.
- 3.3 In connection with such arbitration, each Party is entitled to conduct up to five depositions, and, no less than 90 days prior to the date of the arbitration hearing, each Party will deliver

to the other Party copies of all documents in the delivering Party's possession that are relevant to the dispute.

- 3.4 The arbitration hearing must be held within 150 days of the appointment of the arbitrators.
- 3.5 At the arbitration hearing, each Party will argue its position to the arbitrators in support of one proposed resolution to the dispute (a "Proposed Resolution").
 - a. Each Party's Proposed Resolution must be fully dispositive of the dispute.
 - b. The arbitrators must select one of Proposed Resolution by majority consent and are not free to fashion any alternative resolutions.
 - c. The parties must submit their Proposed Resolution of the matter to the arbitrators and the other Party 15 days prior to the date set for commencement of the arbitration proceeding.
 - d. The decision of the arbitrators will be forwarded to the parties within 15 days after the conclusion of the arbitration hearing.
 - e. The decision of the arbitration panel is final and binding on the parties and may be entered in any court of competent jurisdiction for the purpose of securing an enforceable judgment.
 - f. All costs and expenses associated with the arbitration, including the reasonable legal fees and costs incurred by the prevailing Party, must be paid by the Party whose position was not selected by the arbitrators.
4. **Continuing Work.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of the Work during any Dispute resolution or arbitration proceedings, and the Owner will continue to make payment to Contractor in accordance with the Contractor Agreement.
5. **Exceptions**
 - 5.1 Neither the Owner nor Contractor are not be required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defenses in any action that is commenced by a third-party who is not obligated by contract to arbitrate disputes with the Owner and Contractor.
 - 5.2 The Owner or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice (but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Tennessee law), without the necessity of initiating or exhausting the procedures of this Exhibit.
 - 5.3 This Exhibit does not apply to, and may not be construed to require arbitration of, any claims, actions or other process undertaken, filed, or issued by the City of Murfreesboro Building Safety Department, Code Compliance Department, Police Department, Fire Department, or any other agency of the Owner (the City) acting in its governmental permitting, for the benefit of public health, safety, and welfare, or other regulatory capacity.
 - 5.4 In connection with any arbitration, the arbitrators do not have the authority to, and may not enforce, any provision of the Federal or Tennessee Rules of Civil Procedure.

SPECIAL CONDITIONS

SPECIAL CONDITIONS

Item No. 1 Non-Collusion Affidavit

All bidders must submit with bid a non-collusion affidavit as contained in these documents.

Item No. 2 Discrepancies

Where there appears to be a discrepancy between the Special Conditions and any other part of the contract documents and specifications, these Special Conditions shall govern.

Item No.3 Tennessee Department of Transportation Specification

The most current edition of the Tennessee Department of Transportation, Standard Specifications for Roadway and Bridge Construction, and any revisions and amendments since then, are hereby designated a part of these specifications. All materials, equipment, workmanship, traffic control methods, and any other applicable parts of this publication shall be in accordance with this publication. In the Standard Specifications and Special Provisions, change the words as listed below and substitute the words:

State to Owner

Department to Owner

Commissioner to Owner

Engineer to Owner

Item No. 4 Construction Materials Testing

The City of Murfreesboro reserves the right to sample and have performed applicable testing on any materials used and have those samples evaluated for compliance to the appropriate specifications. The cost of the testing shall be the responsibility of the City of Murfreesboro. If the initial testing is found to be out of compliance with the specifications contained herein, then the City of Murfreesboro will reserve the right to have the materials retested and those cost shall be borne by the Contractor.

Item No. 5 Utilities

All utility adjustments are to be performed by the contractor, except as he may negotiate with the owners to have the adjustments at the rate provided in his bid proposal and made a part of the contract.

The contractor shall schedule a meeting with all utilities at least 48 hours prior to the scheduled work to verify that all castings have been properly adjusted and there are no conflicts with proposed utility construction. It will be necessary for all utilities to perform an on-site inspection with the contractor to verify all castings are properly adjusted. Any castings that are not properly adjusted must be readjusted prior to paving.

Item No. 6 Contract Extension

The City of Murfreesboro reserves the right to award all or any part of this Contract to one or more bidders. The City further reserves the right to extend the contract for a period of twelve (12) months no more than four

(4) times, provided both the City and Contractor agree to such extension. The time of this contract shall expire one year from effective date.

Item No. 7 Traffic Control

Traffic control provisions should adhere to the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD). Cost to maintain traffic control measures shall be paid for per the items provided within this contract. The contractor will furnish examples of traffic control plans for review by the Traffic Department. In certain situations, specific traffic control plans may be required based on the scheduled work and location.

Item No. 8 Measurement of Quantities for Payment

The Contractor will reconcile each day with the City of Murfreesboro Project Representative the materials used during that day or shipped to the project and adequately stored and protected for which the Contractor requests payment.

Item No. 9 Certification of Scale Operators

The Contractor's attention is specifically directed to Tennessee Code Annotated 47-26-101, et seq., governing certification and bond of scale operators. The provisions of this code as well as all other federal, state, and City of Murfreesboro laws, ordinances, rules and regulations applicable to the construction of this project shall apply to the Contract throughout. The City of Murfreesboro reserves the right to direct the Contractor to a state or commercially owned scale to verify scale weights provided by the Contractor.

Item No. 12 Quantities

The quantities shown under for the items listed for bidding purposes are estimated amounts only. The quantities used will fluctuate based on the need for the items during the contract period.

Item No. 19 Miscellaneous

All incidental equipment used in cold planning and paving of City streets shall be furnished by the Contractor and be included in the unit prices. No separate payment will be made for incidental equipment charges.

Item No. 20 Quarterly Bituminous Asphalt Adjustment Factor

The "monthly bituminous adjustment factor", according to Special Provision 109B, shall be averaged on a monthly basis and applied to the contract unit price bid provided the increase or decrease differs 5 percent or more from the "basic bituminous material index". The Owner reserves the right to alter the quantities of material or modify the design if the change in prices warrants material of design substitution. If adjustments are made in quantities or design, the Contractor shall accept the unit price bid or the applicable monthly adjusted unit prices as full compensation for all work performed according to the provisions of TDOT subsection 104.02 of the standard specification.

STATE**OF****TENNESSEE**

January 1, 2015

(Rev. 08-01-00)

(Rev. 08-02-00)

(Rev. 01-07-13)

(Rev. 05-16-16)

SPECIAL PROVISION**REGARDING****PAYMENT ADJUSTMENT FOR BITUMINOUS MATERIAL**

This Special Provision covers the method of payment adjustment for bituminous materials.

100% Virgin Bituminous Material

A payment adjustment will be made to compensate for increases and decreases of 5% or more in the contractor's bituminous material cost. The normal bid items in the contract covering the bituminous material shall not be changed. Payment adjustments (+/-) shall be paid under "Payment Adjustment for Bituminous Material" and calculated as described herein:

A "Basic Bituminous Material Index" will be established by the Tennessee Department of Transportation prior to the time the bids are opened. This "Basic Bituminous Material Index" is the average of the current quotations on P.G. 64-22 from suppliers furnishing asphalt cement to contractors in the State of Tennessee. These quotations are the cost per ton f.o.b. supplier's terminal.

The "Basic Bituminous Material Index" for this project is **\$623.64** per ton

The "Monthly Bituminous Material Index" is also established on the first day of each month by the same method. A payment adjustment shall be made provided the "Monthly Bituminous Material Index" varies 5% or more (+/-) from the "Basic Bituminous Material Index".

Where the price index varies 5% or more, the payment adjustment will be made as follows: PA

$$= [Ic - Ib] \times T$$

Where:

PA =	Price Adjustment for Adjustment
Month Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
T =	Tons bituminous material for Adjustment Month

Payment adjustment will be applied to all asphalt cement, asphalt emulsion, or bituminous material used for paving on this project.

Upon the expiration of the allocated working time, as set forth in the original contract or as extended by Change Order, payment adjustments for bituminous material will continue to be made only when the "Monthly Bituminous Material Index" is less than the "Basic Bituminous Material Index" and varies 5% or more.

Payment adjustment, for bituminous material used after the expiration of the allocated working time and where the "Monthly Bituminous Material Index" exceeds the "Basic Bituminous Material Index", will not be made until after the contract records have been approved by Final Records (FR)/Materials & Tests (MT) and a Final Estimate is ready to be processed. Upon contract record approval by FR/MT, payment adjustments for bituminous material shall be calculated for each month where the allocated working time has expired, the "Monthly Bituminous Material Index" exceeds the "Basic Bituminous Material Index", and the indices vary 5% or more. The calculation of the bituminous payment adjustment shall be made using the "Monthly Bituminous Material Index" or the "Bituminous Material Index for Contract Completion Date" in accordance with the following formulas:

The "Bituminous Material Index for Contract Completion Date" is the Monthly Bituminous Material Index in effect on the allocated Contract Completion Date or on the completion date as extended by Change Order.

The "Monthly Bituminous Material Index" is less than the "Bituminous Material Index for Contract Completion Date".

$$PA = [Ic - Ib] \times T$$

The "Monthly Bituminous Material Index" is greater than the "Bituminous Material Index for Contract Completion Date".

$$PA = [Icd - Ib] \times T$$

Where:

PA =	Price Adjustment for Adjustment Month
Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
Icd =	Bituminous Material Index for Contract Completion Date (or as extended by Change Order)
T =	Tons

FOR REFERENCE ONLY

SiteManager calculates the price adjustment based on the actual amount of asphalt cement (residue) in the emulsion using the following percentages:

-tack coats and shoulder sealants (e.g. SS-1, SS-1h, CSS-1, Css-1h)	63% residue
---	-------------

-prime coats (e.g. AE-P)

-microsurfacing (e.g. CQS-1HP)

-chip seals (e.g. CRS-2, CRS-2P)

54% residue

65% residue

69% residue

Mixes Containing Recycled Bituminous Material

The quantity of virgin asphalt cement in tons subject to payment adjustment in recycled mixes shall be the product of the total tons of each mix multiplied by the difference between (1) the percent of asphalt cement specified for bidding purposes and (2) the percent of asphalt cement obtained from the recycled asphaltic material (RAP) used in each mix. No payment adjustment under this special provision for increases and decreases in the contractor's cost for virgin asphalt cement in recycled mixes will be allowed for asphalt cement content in excess of the percent specified for bidding purposes, as all payment adjustments for asphalt cement in the mix design of recycled mixes in excess of the percent of asphalt cement specified for bidding purposes will be made in accordance with the Standard Specifications.

No payment adjustment for bituminous material containing RAP shall be made unless the "Monthly Bituminous Material Index" varies 5% or more from the "Basic Bituminous Material Index" indicated in this Special Provision.

Where the price index varies 5% or more, the payment adjustment will be made as follows:

PA = $[Ic - Ib] \times \frac{[BA - RA]}{100} \times Tm$

PA = Price Adjustment for Adjustment Month
Ib = Basic Bituminous Material Index
Ic = Monthly Bituminous Material Index
BA = Percent asphalt specified for bidding purposes
RA = Percent asphalt obtained from recycled asphaltic material used in each mix
Tm = Tons asphalt mix for adjustment month

Upon the expiration of the allocated working time, as set forth in the original contract or as extended by Change Order, payment adjustments for bituminous material containing RAP will continue to be made only when the "Monthly Bituminous Material Index" is less than the "Basic Bituminous Material Index" and varies 5% or more.

Payment adjustment, for bituminous material containing RAP provided after the expiration of the allocated working time and where the "Monthly Bituminous Material Index" exceeds the "Basic Bituminous Material Index", shall not be made until after the contract records have been approved by Final Records (FR)/Materials & Tests (MT) and a Final Estimate is ready to be processed. Upon contract record approval by FR/MT, payment adjustments for bituminous material containing RAP shall be calculated for each month where the allocated working time has expired, the "Monthly Bituminous Material Index" exceeds the "Basic Bituminous Material Index", and the indices vary 5% or more. The calculation of the bituminous payment adjustment shall be made using the "Monthly Bituminous Material Index" or the "Bituminous Material Index for Contract Completion Date" in accordance with the following formulas:

The “Bituminous Material Index for Contract Completion Date” is the Monthly Bituminous Material Index in effect on the allocated Contract Completion Date or on the completion date as extended by Change Order.

The “Monthly Bituminous Material Index” is less than the “Bituminous Material Index for Contract Completion Date”.

$$PA = \frac{[Icd - Ib] \times [BA - RA]}{100} \times Tm$$

The “Monthly Bituminous Material Index” is greater than the “Bituminous Material Index for Contract Completion Date”.

$$PA = \frac{[Ic - Ib] \times [BA - RA]}{100} \times Tm$$

Where:

PA =	Price Adjustment for Adjustment
Month Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
Icd =	Bituminous Material Index for Contract Completion Date (or as extended by Change Order)
BA =	Percent asphalt specified for bidding purposes
RA =	Percent asphalt obtained from recycled asphaltic material used in each mix
Tm =	Tons asphalt mix for adjustment month

STATE

Rev: October 10, 2016

OFTENNESSEE

January 1, 2015

SPECIAL PROVISION**REGARDING****EMPLOYING AND CONTRACTING WITH ILLEGAL IMMIGRANTS**

The State shall endeavor to do business only with those contractors and subcontractors that are in compliance with the Federal Immigration and Nationality Act. This policy shall apply to all State Contractors including subcontractors. This policy statement is issued to establish implementation guidance to procuring state agencies and contractors reflecting the requirements of *Tennessee Code Annotated* §12-3-309 regarding the employment of illegal immigrants in the performance of state contracts.

1. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the "Attestation form" provided by the Department, semi-annually during the period of this Contract.
2. Prior to the use of any subcontractor in the performance of this Contract, and semi- annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract.
3. The Contractor shall maintain records for its employees used in the performance of this Contract. Said records shall include a completed federal Department of Homeland Security Form I-9, *Employment Eligibility Verification*, for each employee and shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of *Tennessee Code Annotated* § 12-3-309 for acts or omissions occurring after January 1, 2007. This law requires the Chief Procurement Officer, Department of General Services, to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with

the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this contract.

For the Purposes of this policy, "illegal immigrant" shall be defined as a non-citizen who has entered the United State of America without federal government permission or stayed in this country beyond the period allowed by a federal government-issued visa authorizing the non-citizen to enter the country for specific purposes and a particular time period.

COUNCIL COMMUNICATION

Meeting Date: 06/26/2025

Item Title: City Paving Contract Renewals

Department: Engineering

Presented by: Lexi Stacey, Project Coordinator

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider renewal of the two Annual City Paving Contracts.

Staff Recommendation

Approve the Annual City Paving contract renewals with Wiregrass Construction Company and Hawkins Asphalt Paving, LLC.

Background Information

The original contracts were awarded on June 15, 2023, and are eligible for renewal annually for up to four years, contingent upon mutual agreement. This request represents the second renewal year.

The contracts include a price escalation clause tied to the Consumer Price Index for All Urban Consumers (CPI-U). Based on this clause, unit pricing will increase by 3% for the upcoming contract year.

These contracts are primarily used for the resurfacing of existing city streets, ensuring continued investment in and maintenance of critical infrastructure.

Council Priorities Served

Responsible Budgeting

Maintaining City infrastructure protects the City's long-term investments and aligns with principles of responsible fiscal management.

Fiscal Impact

Funding for these contracts is primarily sourced from State Street Aid, which is derived from the local share of the State's gasoline tax; budgeted for FY26 in the amount of \$2,500,000.

Attachments

1. Wiregrass Construction Company contract renewal
2. Wiregrass Construction Company original contract
3. Hawkins Asphalt Paving, LLC contract renewal
4. Hawkins Asphalt Paving, LLC original contract

**2025-2026 RENEWAL
CITY PAVING CONTRACT
BETWEEN
THE CITY OF MURFREESBORO
AND
WIREGRASS CONSTRUCTION COMPANY, INC.**

This 2025-2026 Renewal to the City Paving Contract ("Contract"), by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee, and Wiregrass Construction Company, Inc. ("Contractor"), a corporation of the State of Alabama, is effective as of July 1, 2025.

RECITALS

WHEREAS, the City entered into the Contract with Contractor for paving services with an initial term of July 1, 2023, through June 30, 2024; and,

WHEREAS, the City and Contractor renewed the Contract for an additional one-year term effective July 1, 2024; and,

WHEREAS, the City and Contractor wish to renew the Contract for a third one-year term to commence on July 1, 2025, pursuant to Section 2 of the Contract.

NOW THEREFORE, the City and Contractor mutually agree as follows:

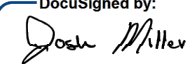
1. **Extension:** The term of the current Contract is hereby renewed and extended for a period from July 1, 2025, until June 30, 2026.
2. **No Other Amendment or Modification:** Except as provided herein, the parties make no other modifications or amendments, and all other terms of the Contract shall continue in full force and effect.

ENTERED _____.

CITY OF MURFREESBORO

WIREGRASS CONSTRUCTION COMPANY

By: _____
Shane McFarland, Mayor

DocuSigned by:
By: 
A5244827740C48E...
Joshua D. Miller, Vice President

Approved as to form:

Signed by:

43A2035E51F9401...
Adam F. Tucker, City Attorney

Agreement for 2023-2024 City Paving Contract

This Agreement is entered into and effective as of the 16 day of June 2023 ("Effective Date"), by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Wiregrass Construction Company**, a Corporation of the State of Alabama ("Contractor").

This Agreement consists of the following documents:

- This document;
- ITB-53-2023 – City Paving Contract issued 05/23/2023 (the "Solicitation");
- Addenda (numbered #1 dated May 25, 2023, and #2 dated May 31, 2023)
- General Conditions and Supplementary Conditions (Exhibit C)
- Special Provision (Exhibit A)
- List of Streets to be Paved (Exhibit B)
- Contractor's Proposal, dated 06/07/2023 ("Contractor's Proposal");
- Contractor's Price Proposal, dated 06/07/2023 (the "Price Proposal"); and,
- Any properly executed amendments to this Agreement.

In the event of conflicting provisions, all documents will be construed according to the following priorities:

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority);
- Second, this Agreement;
- Third, the Addenda (if multiple Addenda, priority shall be in numerical order);
- Fourth, the General Conditions and Supplementary Conditions
- Fifth, the Special Provisions;
- Sixth, the Solicitation;
- Seventh, the List of Streets to be Paved; and,
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, and shall perform and complete all work required by Owner under the **2023-2024 CITY PAVING CONTRACT**, all in strict accordance with the Contract Documents including all addenda thereto, as prepared by Owner. Owner and Contractor agree that it is Owner's intent that Contractor provide a variety of improvements which, depending upon circumstances, may include related items for which a specific unit description is not given or price specified. In such event Owner and Contractor shall agree on the unit and its price with a Change Order before the work is begun, but no such Change Order Shall exceed ten percent (10%) of the total estimated amount upon which the bid is awarded.

2. Term.

The term of this Agreement commences on the Effective Date and expires in one year, unless extended by mutual agreement of Contractor and the City or earlier terminated as set forth herein Termination. Contractor's services may be terminated in whole or in part:

- a. Upon 30-day prior notice, for the convenience of the City.

- b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
- c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
- d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
- e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Payment.

- a. The Owner shall pay the Contractor for each item of work in accordance with the Bid Price list submitted with the bid Proposal, which bid Price list is incorporated by this reference into this **2023-2024 City Paving Contract**. The Owner shall pay the Contractor for the performance of the Contract in current funds, subject to additions and deductions as provided in Section 14 of the General Conditions.
- b. Beginning the first anniversary after the effective date of the Annual Paving Contract, the unit rates set forth in this Agreement shall be increased effective as of that anniversary and each anniversary thereafter by an amount equal to the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U): U.S. city average, all items (index base period 1982-84=100), published by the United States Bureau of Labor Statistics, from the immediately preceding January of that calendar year. This increase will be subject to City Council approval.

4. Warranty. Contractor shall provide all warranties as described in the ITB and Bid Proposal. Warranties shall further be provided according to the terms listed in the General Conditions and Supplementary Conditions, if any.

5. Taxes. The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.

6. Insurance. During the term of this Agreement, Contractor must maintain insurance as provided in the General Conditions, Supplemental Conditions, and Addendum A – Schedule of Insurance.

7. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

- b. Copyright, Trademark, Service Mark, or Patent Infringement.

- I. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

- II. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

- a. Procure for the City the right to continue using the products or services.
- b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
- c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.

- III. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use

of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

8. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:	If to Contractor:
City Manager City of Murfreesboro 111 West Vine Street Murfreesboro, TN 37130	Josh Miller Wiregrass Construction Company 827 Needham Dr. Smyrna, TN 37167

9. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
10. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
11. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
12. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
13. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.

Non-Discrimination. It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded

from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

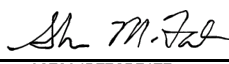
14. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
15. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.
16. **Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.
17. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
18. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only

be filed in the courts of Rutherford County, Tennessee.

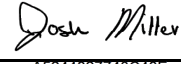
19. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
20. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
21. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of 6/16/2023, 2023 (the "Effective Date").


CITY OF MURFREESBORO, TENNESSEE

DocuSigned by:
By: 
A2F6A4BF7CD74E7...
Shane McFarland, Mayor

Wiregrass Construction Company

DocuSigned by:
By: 
A5244827740C48E...
Josh Miller, Vice President & TN
Area Manager

Approved as to form:

DocuSigned by:

43A2035E91F9401...
Adam F. Tucker, City Attorney

Purchasing Department
111 West Vine Street
Murfreesboro, TN 37130
615.849.2629
purchasing@murfreesborotn.gov



May 25, 2023

Addendum #1
ITB-53-2023 – City Paving

This Addendum #. 1 is issued to provide attached list of changes to exhibits in the Invitation to Bid to reflect a change in the bid form.

- Item 311-03.01 Hot In Place Recycling of Asphalt Pavement has been removed from the Bid Form

This addendum modifies the original solicitation and is hereby incorporated, and all other terms and conditions remain the same except the portions modified by addendum.

Bidders are required to acknowledge receipt of Addendum #1 via the OpenGov portal. Failure to acknowledge all addenda may be cause of rejection of the response.

Purchasing Department
111 West Vine Street
Murfreesboro, TN 37130
615.849.2629
purchasing@murfreesborotn.gov



May 31, 2023

Addendum #2
ITB-53-2023 – City Paving

This Addendum #2 is issued to provide attached list of changes to exhibits in the Invitation to Bid to reflect a change in the bid form.

- Item 203-03 Borrow Excavation (Unclassified) was removed from Bid Form
- Ace Aramid Fiber was removed from Bid Form
- Item 307-02.01 was edited to reflect Asphalt Concrete Mix (PG70-22) (BPMB-HM) Grading A on bid form.

This addendum modifies the original solicitation and is hereby incorporated, and all other terms and conditions remain the same except the portions modified by addendum.

Bidders are required to acknowledge receipt of Addendum #2 via the OpenGov portal. Failure to acknowledge all addenda may be cause of rejection of the response.

Exhibit C

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



Endorsed by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words

“furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 2. a preliminary Schedule of Submittals; and
 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
 - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.

C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
2. abnormal weather conditions;
3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
 - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste

materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

- C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings*: The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 - 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
 - 1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 - 2. is of such a nature as to require a change in the Drawings or Specifications; or
 - 3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
 1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site

and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

- c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
- 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
- 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 - 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 - 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and

recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
 - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
 - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 - 2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer,

or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special

conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond

signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor

to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
 - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 - 2. claims for damages insured by reasonably available personal injury liability coverage.
 - 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
 - 1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.

- b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 - 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 - 3. Broad form property damage coverage.
 - 4. Severability of interest.
 - 5. Underground, explosion, and collapse coverage.
 - 6. Personal injury coverage.
 - 7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
 - 8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial

Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

- I. *General provisions:* The policies of insurance required by this Paragraph 6.03 shall:
 1. include at least the specific coverages provided in this Article.
 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."

2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this

Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.

- C. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by,

arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
 - D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
- b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the

Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the

performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if

any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 1. all persons on the Site or who may be affected by the Work;
 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly

or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

- A. *Shop Drawing and Sample Submittal Requirements:*
 1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
1. *Shop Drawings:*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 2. *Samples:*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and

Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or

alter others' work with the written consent of Engineer and the others whose work will be affected.

- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual

rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.
- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On

the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in

contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 - 1. *Change Orders:*
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
 - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents

governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under

the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal

and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing

Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or

indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**14.01 Access to Work**

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon

Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

- c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
 4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
 5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
 6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due:*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

- A. *Application for Payment:*
 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Completion of Work:*** The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due:*** Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When

exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTARY CONDITIONS

[Part B]

The Supplementary Conditions of this Part B modifies specific provisions the General Standard Conditions of the Construction Contract (EJCDC C-700 (2013)):

1. **Strike Paragraph 1.01.A.4 in its entirety and replace with the following:**
 4. *Bid*—The offer of a Bidder submitted on the prescribed form under a contract that solicits bids and provides a bid form, setting forth the prices for the Work to be performed.
2. **Strike Paragraph 1.01.A.7 in its entirety and replace with the following:**
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, bid bond or other Bid security, if any, the proscribed bid form, and the Bid with any attachments.
3. **Strike Paragraph 1.01.A.8 in its entirety and replace with the following:**
 8. *Change Order*—A document which is signed by Contractor and Owner, a requirement that cannot be waived by any subsequent action or agreement of the parties, and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
4. **Strike Paragraph 1.01.A.23 in its entirety and replace with the following:**
 23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having or purporting to have jurisdiction.
5. **Strike Paragraph 1.01.A.24 in its entirety and replace with the following:**
 24. *Liens*—Charges, security interests, or encumbrances, or legal actions to assert the same, upon Contract-related funds, real property, or personal property.
6. **Strike Paragraph 1.01.A.26 in its entirety and replace with the following:**
 26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid. The Notice of Award alone shall not create remedies for any Work performed under the Agreement or Contract Documents. Until Contractor receives a Notice to Proceed from Owner, Contractor shall not proceed with work and has no remedy against Owner for performing any Work related to the Project before receiving that Notice.
7. **Strike Paragraph 2.01.C in its entirety and replace with the following:**
 - C. [Intentionally omitted]
8. **Strike Paragraph 2.03.A.1 in its entirety and replace with the following:**
 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract. The Progress Schedule, in detailed precedence-style critical path method (CPM) or primavera-type format satisfactory to Owner and Engineer, shall (i) provide a graphic representation of all activities and event that will occur during the performance of the Work:

(ii) identify each phase of the construction and occupancy; and (iii) set forth milestone dates that are significant to ensure the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents.

9. Strike Paragraph 2.04.A in its entirety and replace with the following:

- A. Contractor shall arrange for, either at such time as Engineer shall specifically direct, of any, or otherwise, before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

10. After Paragraph 2.04.B add the following:

- 1. Generally, Contractor shall communicate with Engineer, or the Engineer's designated representative under Paragraph 9.02, concerning matters affecting Engineer or Owner. In the event that Contractor believes he cannot deliver necessary communications to Engineer or his representative, Contractor may transmit those communications to Owner's representative with a copy to Engineer, which communications will include a brief explanation of the need to communicate with Owner's Representative.

11. Strike Paragraph 2.05.A in its entirety and replace with the following:

- A. Contractor shall arrange for, either at such time as Engineer shall specifically direct, of any, or otherwise, at least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times, in compliance with the requirements of Paragraph 2.03.A.1. Upon review and acceptance by Owner and Engineer, the Progress Schedule shall be deemed to be part of the Contract Documents. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor. If not accepted, the Project Schedule shall be promptly revised by the Contractor in accordance with the recommendations of Owner and Engineer and resubmitted.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work. The unit prices or lump sum amounts provided by the Contractor in the Bid Form shall serve as the basis for the Schedule of Values.

Additional subdivision of unit price or lump sum items shall be made as reasonably requested by the Engineer or as required to verify progress payments for Lump Sum or Unit Price work that will take place over several progress payment periods.

12. Strike Paragraph 3.01.B in its entirety and replace with the following:

- B. It is the intent of the parties that the Contract Documents describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom, practice, or trade usage as being required to produce the indicated result will be provided at no additional cost to Owner. The grades, elevations, dimensions, locations, and field measurements or any drawings or specification issued by Engineer, or the Work installed by other Contractors, are not guaranteed by Engineer or Owner. Contractor shall be responsible for verifying the accuracy of all grades, elevations, dimensions, locations, and field measurements. In all cases of the interconnection of its Work with existing or other Work, Contractor shall verify at the site all dimensions relating to such existing or other Work. Any errors due to Contractor's fault to verify shall be promptly rectified by Contractor without any additional costs to Owner or extensions of Contract Time.

13. Strike Paragraph 3.03.A in its entirety and replace with the following:

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall within two business days report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall within two business days report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof, or should have had such knowledge under the circumstances of the Contract.

14. Strike Paragraph 3.04 in its entirety and replace with the following:

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to Engineer all matters in question concerning the requirements of the Contract

Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder. However, should Owner choose to self-perform the duties and responsibilities of Engineer, or should Owner chooses to designate another party to fulfill these duties and responsibilities, (i) Contractor shall accept all actions and decisions of Owner or Owner's designated party as if and to the same extent it would were Engineer fulfilling these duties and responsibilities under the Contract; and (ii) Engineer shall have no liability for such actions or decisions.

- B. Engineer will, with reasonable timeliness based on the circumstances affected by the issue, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will within one business day of its determination give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

15. Strike Paragraph 4.01.A in its entirety and replace with the following:

- A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. Owners, with the concurrence of Engineer, will provide a Notice to Proceed after the effective date of the Agreement. In no event will Contractor have any remedies for Work performed on the Project until the Notice to Proceed is given of Contractor.

16. Strike Paragraph 4.02.A in its entirety and replace with the following:

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date. Contractor shall have no remedies for any Work Performed under the Agreement or Contract Documents until Owner issues the Notice to Proceed.

17. Strike Paragraph 4.03.A in its entirety and replace with the following:

- A. Engineer shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel, approved by Engineer, and licensed in the state where the

Project is located or working under direct supervision of a surveyor licensed in the state where the Project is located.

18. Strike Paragraph 4.05.A in its entirety and replace with the following:

- A. If Owner or Engineer delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Notwithstanding any other provision of the Contract, Owner shall not be liable, as damages for delays under this section, for any consequential damages, lost opportunity costs, impact damages, or other similar remuneration. Owner's exercise of any of its rights or remedies under the Contract Documents (including, without limitation, ordering changes in the Work, directing suspension, rescheduling, or correction of the Work, or terminating this agreement for its convenience), regardless of the extent or frequency of Owner's exercise of such rights or remedies, shall not be construed as active interference with Contractor's performance of the Work. If Contractor submits a progress report indicating, or otherwise expressing, an intention to achieve completion of the Work prior to any completion date required by the Contract Documents or expiration of the Contract Times, Owner shall have no liability to Contractor for any failure of Contractor to so complete the Work according to that progress report.

19. Strike Paragraph 4.05.F in its entirety and replace with the following:

- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor, its subcontractors, suppliers, agents and representatives.

20. Strike Paragraph 5.03.A in its entirety and replace with the following:

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 3. Technical Data contained in such reports and drawings.

Such reports shall not excuse Contractor and each Subcontractor from the duty to independently evaluate and satisfy themselves as to the site conditions and limitations under which the Work is to be performed, including, without limitation, (1) the location, condition, layout, and nature of the project site and surrounding areas; (2) generally prevailing climatic conditions; (3) anticipated labor, supply, and costs; (4) availability and cost of materials, tools, and equipment; and (5) other similar issues. Further, Owners assumes no responsibility or liability for the physical conditions or safety of the project site or any improvements located on the project site. Except as set forth in in Article 5, Contractor shall be solely response for providing a safe place for the performance of the Work. Owner shall not be required to make adjustments in either the Contract Price or Contract Times

arising from a failure by Contractor or any Subcontractor to independently evaluate and satisfy themselves as to the site conditions and limitations.

21. Strike Paragraph 5.04.A in its entirety and replace with the following:

- A. *Notice by Contractor:* If Contractor discovers or should have discovered that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, immediately or as soon as feasible, and in any event not more than 24 hours after the time Contractor discovers, and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

22. Strike Paragraph 5.04.B in its entirety and replace with the following:

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will immediately or as soon as feasible review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

23. Strike Paragraph 5.04.D.3 in its entirety and replace with the following:

3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a written, duly authorized, and signed Change Order.

24. Strike Paragraph 5.05.B in its entirety and replace with the following:

- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, immediately attempt to and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the

owner of such Underground Facility and by not later than the end of the next business day give written notice to that owner and to Owner and Engineer.

25. Strike Paragraph 5.05.C in its entirety and replace with the following:

- C. *Engineer's Review*: Engineer will as soon as feasible review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

26. Strike Paragraph 5.05.E.2 in its entirety and replace with the following:

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a written, duly authorized, and signed Change Order.

27. Strike Paragraph 5.06.C in its entirety and replace with the following:

- C. Contractor must make all reasonable efforts to discover and locate any Hazardous Environmental Conditions at the site that may present a danger to persons or property exposed thereto in connection with the Work at the site. Contractor is liable for any damages caused by any Hazardous Environmental Conditions that Contractor knew or, or by the exercise of reasonable efforts should have known of, and any damages caused by reason of any Hazardous Environmental Conditions created, known to, or encountered by Contractor, its Subcontractors, Supplier, or anyone else for whom Contractor is responsible. Within 24 hours of the time when Contractor discovers any Hazardous Environmental Conditions, Contractor will follow the procedures set forth in Paragraph 5.06.E. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

28. Strike Paragraph 5.06.G in its entirety and replace with the following:

- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Nothing in this Paragraph obligates Owner or Contractor to indemnify the other from and against the consequences of the other's own negligence.

29. Strike Paragraph 5.06.I in its entirety and replace with the following:

- I. To the fullest extent permitted by Laws and Regulations, the party to this Contract who created or was responsible for the Hazardous Environmental Condition shall indemnify and hold harmless the other party to this Contract, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (i) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by the party(ies) to be indemnified hereunder or by anyone for whom party(ies) to be indemnified hereunder is responsible. Nothing in this Paragraph 5.06.I shall obligate the party to this Contract who created or was responsible for the Hazardous Environmental Condition to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

30. Strike Paragraph 6.01.A in its entirety and replace with the following:

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount of 100% of the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.

31. Strike Paragraph 6.01.D in its entirety and replace with the following:

- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall immediately upon learning of the bankruptcy or insolvency notify Owner and Engineer and shall, within 10 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

32. Strike Paragraph 6.02.A in its entirety and replace with the following:

- A. Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions Addendum A.

33. Modify Paragraph 6.02.B as follows:

Strike the words "Owner or" in the first sentence.

34. Strike Paragraph 6.02.D in its entirety and replace with the following:

- D. [Intentionally omitted]

35. Modify Paragraph 6.02.E as follows:

Strike the words “or Contractor” in the first sentence.

36. Strike Paragraph 6.02.F in its entirety and replace with the following:

- F. If Contractor does not purchase or maintain all of the insurance required of such party by the Contract, Owner shall notify Contractor in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

37. Strike Paragraph 6.02.H in its entirety and replace with the following:

- H. Without prejudice to any other right or remedy, if Contractor has failed to obtain required insurance, Owner may elect to obtain equivalent insurance to protect Owner and Contractor's interests at the expense of Contractor and the Contract Price shall be adjusted in order for Owner to recover the full cost of the insurance so obtained.

38. Strike Paragraph 6.06.B in its entirety and replace with the following:

- B. Owner waives all rights against Contractor and Subcontractors and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
1. [Intentionally left blank]
 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06. This Paragraph applies solely to pre-completion insurance policies and Owner may claim subrogation to coverages provided for damages caused by Contractor and Subcontractors, or officers, directors, members, partners, employees, agents, consultants and subcontractors of each.

39. Strike Paragraph 6.07.A in its entirety and replace with the following:

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 6.07.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.

40. Strike Paragraph 6.07.B in its entirety and replace with the following:

- B. Proceeds for such insured losses under the builder's risk and other policies of insurance required by Paragraph 6.05 shall be made payable by the insurer to Owner, or if paid to another Party to this Contract, shall be immediately signed over to the benefit of Owner. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to

Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers.

41. Strike Paragraph 7.01 in its entirety and replace with the following:

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent, as provided under Paragraph 2.04.B., who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

42. After Paragraph 7.02.B, add the following:

- C. Contractor shall be responsible for the cost of any overtime pay or other expense incurred by the Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

43. Strike Paragraph 7.03.B in its entirety and replace with the following:

- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. Contractor agrees to assign to Owner at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work, and Contractor further agrees to perform the Work in such a manner as to preserve any and all manufacturer's warranties. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

44. Strike Paragraph 7.05.B in its entirety and replace with the following:

- B. *Engineer's Evaluation and Determination:* Engineer will be allowed an average of seven days, or such other reasonable period of time as Owner determines is required to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts,

including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

45. Strike Paragraph 7.06.A in its entirety and replace with the following:

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. No later than 14 days after the execution of the Agreement by Contractor and Owner, Contractor shall furnish Owner and Engineer, in writing, with (1) the name, trade, and subcontract amount for each Subcontractor and (2) the names of all persons or entities proposed as manufacturers of the products identified in the specifications (including those who are to furnish materials or equipment fabricated to a special design) and, where applicable, the name of the installing Subcontractor.

46. Strike Paragraph 7.08.A in its entirety and replace with the following:

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Contractor shall pay all charges of utility owners for connections for providing service to the Work, and Owner shall pay all charges of such utility owners for costs related to providing post-construction service to the Work.

47. After Paragraph 7.09.A, add the following:

- B. Should Owner be exempt from payment of sales and compensating use taxes of the State on all materials to be incorporated into the Work.
 - 1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 - 2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

48. Strike Paragraph 7.10.B in its entirety and replace with the following:

- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action.

49. Strike Paragraph 7.12.D in its entirety and replace with the following:

- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must

comply while at the Site, to which Owner may interpose reasonable objections that are not beyond a general right to order, inspect, make suggestions, or prescribe alterations or deviations or in any way accept or cause liable for site safety to shift from the sole responsibility of Contractor to either Owner or Engineer to any degree.

50. Strike Paragraph 7.15.A in its entirety and replace with the following:

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof as soon as is feasible. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

51. Strike Paragraph 7.17.A in its entirety and replace with the following:

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective.

52. Strike Paragraph 7.18.A in its entirety and replace with the following:

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting in whole or in part from any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

53. Strike Paragraph 8.03.D in its entirety and replace with the following:

- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) as soon as reasonably possible attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim as expediently as possible by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all

costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference. In no event shall Contractors actions as described in this Paragraph result in an increase in the Contract Price or Contract Times.

54. Strike Paragraph 9.03.A in its entirety and replace with the following:

- A. Owner shall furnish the data required of Owner in accordance with the Contract Documents.

55. Strike Paragraph 10.03.A in its entirety and replace with the following:

- A. If Owner and Engineer have agreed that Engineer will act as Owner's Project Representative, Engineer shall act as its Resident Project Representative and designate a specific person with Engineer's firm to serve as the Resident Project Representative to represent Owner at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority, which shall include the authority to transmit instructions, receive information, render decisions relative to the Contract Documents, and otherwise act in place of the Engineer, subject to the Supplementary Conditions providing otherwise and the limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions. In the event Owner designates a representative or agent other than Engineer or Engineer's agent, Engineer shall not be liable for decisions rendered by such Owner or Owner's Representative.

56. Strike Paragraph 10.07.A in its entirety and replace with the following:

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith. However, should Owner choose to self-perform the duties and responsibilities of Engineer, or should Owner chooses to designate another party to fulfill these duties and responsibilities, (i) Contractor shall accept all actions and decisions of Owner or Owner's designated party as if and to the same extent it would were the Engineer fulfilling these duties and responsibilities under the Contract; and (ii) Engineer shall not be liable for decision rendered by Owner or Owner's Representative

57. Strike Paragraph 11.01.A.1.b in its entirety.

58. Strike Paragraph 11.01.A.3 in its entirety and replace with the following:

- 3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the

Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order should instead, have been issued as a Change Order, because that Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein. Engineer will obtain not later than one week after issuing a given Field Order, and if possible before Contractor performs work under the Field Order, the signature of Contractor on each Field Order. This signature confirms that Contractor is not entitled to any change in the Contract Price or the Contract Times. Engineer should obtain the signature of Contractor on all Field Orders issued.

59. Strike Paragraph 11.02.A in its entirety and replace with the following:

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall proceed with the Work involved; or, in the case of a deletion in the Work, cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

60. Strike Paragraph 11.04.C.2.a in its entirety and replace with the following:

- a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, Contractor's fee shall be 15%;

61. Strike Paragraph 11.04.C.2.c in its entirety and replace with the following:

- c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that Contractor's fee shall be based on: (i) a fee of 15% of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (ii) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27% of the costs incurred by the Subcontractor that actually performs the work;

62. Strike Paragraph 11.05.A in its entirety and replace with the following:

- A. The Contract Times may only be changed by agreement only through a written and executed Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

63. After Paragraph 11.05.B add the following:

- C. All time limits stated in the Contract Documents are of the essence of the Agreement. Contractor acknowledges and understands that (i) Owner has a need for the completed Work, shortly after the date set forth in the Agreement by which substantial completion is to be achieved for the public good and to protect public funds; and (ii) failure by Contractor to complete the Work in accordance with the construction schedule will cause significant damages to Owner, including, without limitation, public health, safety, and welfare, as well as the undue diminishment of public funds.

64. Strike Paragraph 11.01.A.1.B in its entirety.**65. Strike Paragraph 11.06.A.2 in its entirety and replace with the following:**

- 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 60 days after receipt of the Contractor's supporting data, will recommend to the Owner that the Owner either deny or approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor and Funding Agency (if there is one). If Engineer does not take action on the Change Proposal within 60 days, then either Owner or Contractor may, at any time thereafter, submit a letter to the other party indicating that as a result of Engineer's inaction, the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

66. Strike Paragraph 11.06.A.3 in its entirety and replace with the following:

- 3. *Binding Decision:* Engineer's decision on issues other than changes in Contract Price or changes in Contract Times will be final and binding upon Contractor, unless Owner or Contractor appeals the decision by filing a claim under Article 12.

67. In Paragraph 11.07.A delete the following:

"in accordance with a Work Change Directive"

68. After Paragraph 11.07.B add the following:

- C. An agreed Change Order that adjusts the Contract Price, or the Contract Time, or both, shall be accomplished only by a written and executed Change Order. Accordingly, no course of conduct or dealings between the parties, no expressed or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any alterations or additions to the Work shall be the basis of any claim for an increase in any amount due under the contract documents or in any time period provided for in the Contract Documents, unless executed as a Change Order under Paragraph 10.03. Any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Price and the Contract Times. In the event a Change Order increases the Contract Price, Contractor shall include the Work covered by such Change Order in applications for payments as if such Work were originally part of the Agreement. No individual employer, agent, or representative of Owner is authority to waive this requirement of compliance with the requirement of this Section.

69. Strike Paragraph 12.01.B in its entirety and replace with the following:

- B. *Submittal of Claim.* The party submitting a Claim shall deliver it directly to the other party to the Contract as soon as practicable, and in no event more than 30 calendar days, after the start of the event giving rise thereto, and in the case of appeals regarding Change Proposals within 14 calendar days of the decision under appeal. The party submitting the Claim shall also furnish a copy to Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

70. Strike Paragraph 13.01.B.1 in its entirety and replace with the following:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized in writing by Owner.

71. Strike Paragraph 13.01.B.4 in its entirety and replace with the following:

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work, but only to the extent authorized and approved in writing by Engineer.

72. Strike Paragraph 13.01.B.5.c in its entirety and replace with the following:

- c. Construction Equipment and Machinery:
- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor will be paid at a rate shown for such equipment in the "The Rental Rate Blue Book for Construction Equipment" published by Equipment Watch, Prism Business Media. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs. Costs will include the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading,

assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, shall cease to accrue when the use thereof is no longer necessary for the changed Work. Equipment or machinery with a value of less than \$1,000 will be considered small tools.

73. Strike Paragraph 13.03.E.1 in its entirety and replace with the following:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement (the quantity of an item will be deemed to differ materially and significantly, without limitation, if it exceeds or falls short of the estimated quantity by more than 25 percent);

74. Strike Paragraph 14.02.F in its entirety and replace with the following:

- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted in a reasonable time, but in no case more than seven days.

75. Strike Paragraph 14.03.D in its entirety and replace with the following:

- D. *Correction, or Removal and Replacement:* Using best efforts and as soon as feasible, but in no event more than three days after receipt of written notice of defective Work, Contractor shall begin correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective, and shall continue to undertake corrections without delay or adjustment to Contract Price or Contract Times.

76. Strike Paragraph 14.05.C.2 in its entirety and replace with the following:

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction, unless Contractor fails to provide written notice as required in Paragraph 14.02.F. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

77. After Paragraph 15.01.B.3 add the following:

4. Each Application for Payment shall be accompanied by the following, all in a form and substance satisfactory to the Owner:
 - a. In addition to the current Contractor's lien waiver, a duly executed and acknowledged sworn statement showing all Subcontractors and material suppliers with whom the Contractor has entered into Subcontracts, the amount of each such Subcontract, the amount requested for each Subcontractor and Supplier who is to be paid any sum under the Application for Payment, and the amount to be paid to the Contractor from such progress payment, together with similar sworn statements from all such Subcontractors and Suppliers;

- b. Duly executed waivers of mechanics' and material suppliers' liens from all Subcontractors and, when appropriate, from material Suppliers and lower-tier Subcontractors, establishing payment or satisfaction of payment of all amounts requested of the Contractor on behalf of such entities or persons in any previous application for payment; and
 - c. All information and materials required to comply with the requirements of the Contract Documents or reasonably requested by the Owner or the Engineer. If required by the Owner's title insurer, if any, the Contractor shall execute a personal gap undertaking in form and substance satisfactory to such title insurer.
- 5. Contractor shall also comply with the following specific requirements:
 - a. The aggregate cost of materials stored off site shall not exceed \$10,000 at any time without written approval of Owner.
 - b. Title to such materials shall be vested in Owner, as evidenced by documentation satisfactory in form and substance to Owner and Owner's construction lender, including, without limitation, recorded financing statements, UCC filings, and UCC searches.
 - c. With each application for payment, Contractor shall submit to Owner a written list identifying each location where materials are stored off the project site and the value of materials at each location. Contractor shall procure insurance satisfactory to Owner for materials stored off the project site in an amount not less than the total value thereof.
 - d. The consent of any surety shall be obtained, to the extent required by the surety, or Owner prior to payment for any materials stored off the project site. e. Representatives of Owner and the lender shall have the right to make inspections of the storage areas for any materials stored off site at any time.
 - f. Such materials shall be (1) protected from diversion, destruction, theft, and damage to the satisfaction of Owner and lender; (2) specifically marked for use on the project; and (3) segregated from other materials at the storage facility.

78. After Paragraph 15.01.C.6.e add the following:

- f. Liability for liquidated damages has been incurred by Contractor
- g. Contractor has failed to pay for damages to existing underground utilities as required by the Tennessee One Call Law.

79. After Paragraph 15.02.A add the following:

- 1. Contractor further expressly undertakes to defend Owner and Engineer, at Contractor's sole expense, against any actions, lawsuits, or proceedings brought against Owner, Engineer, or any third party as a result of liens filed against the Work, the site of any of the Work, the project site and any improvements thereon, payments due Contractor, or any portion of the property of Owner, Engineer, or third party. Contractor hereby agrees to indemnify and hold Owner, Engineer, and third parties harmless against any such liens or claims of lien and agrees to pay any judgment or lien resulting from any such action, lawsuit, or proceeding.

2. Owner shall release any payments withheld due to a lien or claim of lien, if Contractor obtains security acceptable to Owner or a lien bond that is (a) issued by a surety acceptable to Owner; (b) in form and substance satisfactory to Owner; and (c) in an amount not less than two hundred percent (200%) of such lien claim. Provided, however, Contractor shall not be relieved of any responsibilities or obligations under this paragraph, by obtaining a bond or other acceptable security, including, without limitation, the duty to defend and indemnify Owner and Engineer. The cost of any premiums incurred in connection with such bonds and securities shall be the responsibility of Contractor and shall not be part of, or cause any adjustment to, the Contract Price.
3. Contractor agrees to waive, to the fullest extent allowed by applicable law, any right that it may have to assert a mechanic's or other lien against the Project or the Site and any improvements thereon, including, without limitation, the Work itself. Furthermore, Contractor will cause a similar provision, waiving to the fullest extent allowed by applicable law all rights to a mechanic's or other lien against the property, to be included in all of its Subcontracts, any sub-subcontracts, and all contracts with material Suppliers.
4. Notwithstanding the foregoing, Owner reserves the right to settle any disputed Subcontractor's, mechanic's or material Supplier's lien claim by payment to the lien claimant or by such other means as Owner, in Owner's sole discretion, determines is the most economical or advantageous method for settling the dispute. Contractor shall promptly reimburse Owner, upon demand, for any payment so made.

80. Strike Paragraph 15.03.B in its entirety and replace with the following:

- B. At a time Engineer determines to be reasonable, after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel, and living expenses, will be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

81. Strike Paragraph 15.03.E in its entirety and replace with the following:

- E. After Substantial Completion the Contractor shall without delay begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

82. Strike Paragraph 15.05.A in its entirety and replace with the following:

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will within five business days make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

83. Strike Paragraph 15.08.A in its entirety and replace with the following:

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall immediately, without cost to Owner and in accordance with Owner's written instructions:
1. correct the defective repairs to the Site or such other adjacent areas;
 2. correct such defective Work;
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

84. Strike Paragraph 15.08.B in its entirety and replace with the following:

- B. If Contractor does not immediately comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

85. Strike Paragraph 15.08.C in its entirety and replace with the following:

- C. In special circumstances where a particular item of equipment is placed in continuous service solely for the benefit of Owner before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

86. Strike Paragraph 16.02.A.1 in its entirety and replace with the following:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to have Contractor's authorized representative required by Paragraph 2.04.B available as reasonably needed (including the repeated absence of such authorized representative for two business days consecutively or more at a time), failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);

87. Strike Paragraph 16.03 in its entirety and replace with the following:

- A. Owner may, at any time, terminate the Contract in whole or in part for Owner's convenience and without cause. Termination by Owner under this paragraph shall be by a notice of

termination delivered to Contractor specifying the extent of termination and the effective date.

- B. Upon receipt of a notice of termination for convenience, Contractor shall immediately, in accordance with instructions from Owner, proceed with performance of the following duties regardless of delay in determining or adjusting amounts due under this paragraph:
 - (1) Cease operations as specified in the notice;
 - (2) Place no further orders and enter into no further subcontracts for materials, labor, services, or facilities except as necessary to complete continued portions of the Contract;
 - (3) Terminate all subcontracts and orders to the extent they relate to the Work terminated;
 - (4) Proceed to complete the performance of Work not terminated; and
 - (5) Take actions that may be necessary, or that Owner may direct, for the protection and preservation of the terminated Work.
- C. Upon such termination, Contractor shall recover as its sole remedy payment of the percentage of the Contract Price equal to the percentage of the work performed satisfactorily and not previously paid for. Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, anticipated profits or revenue or other economic loss arising out of or resulting from such termination.
- D. Owner shall be credited for: (1) payments previously made to Contractor for the terminated portion of the Work; (2) claims that Owner has against Contractor under the Contract; and (3) the value of the materials, supplies, equipment, or other items that are to be disposed of by Contractor that are part of the Contract Price.

88. Strike Paragraph 16.04 in its entirety and replace with the following:

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 60 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 30 days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 60 days to pay Contractor any sum finally determined to be due, Contractor may, seven business days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

89. Add Paragraph 17.02 as follows:

17.02 *Dispute Resolution.* Any dispute subject to resolution under this Article and any other claim or dispute regarding the Contract Documents shall be resolved in accordance with the process set forth in Addendum B of these Supplementary Conditions.

ADDENDUM A

Schedule of Insurance

CONTRACTOR'S INSURANCE REQUIREMENTS

Contractor must, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Exhibit.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Agreement requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers' compensation and employers liability insurance, providing the following coverages, limits and endorsements:

1. **Commercial General Liability Insurance.**

- 1.1 The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU (explosion, collapse, and underground), and products and completed operations, with a combined single limit of liability of not less than \$2,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$2,000,000 applicable solely to the Work, and meeting all other requirements of this Exhibit.
- 1.2 The general liability insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.
- 1.3 Each general liability policy must be endorsed or written to:
 - a. Include the per project aggregate endorsement;
 - b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");
 - c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;
 - d. Includes a severability of interest clause; and
 - e. Waive all rights of recovery against the Additional Insureds.

2. **Workers' Compensation Insurance.** Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

3. **Auto Liability Insurance**

- 3.1 Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.
- 3.2 This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.
- 3.3 This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

4. **Environmental Liability.** Contractor must secure, pay for, and maintain Contractor's Pollution Liability (CPL) coverage, including mold coverage, in an amount not less than \$1,000,000 and endorsing the Owner as an Additional Insured. Contractor must also provide to the Owner proof of Contractor's Pollution Legal Liability (PLL) for sites owned or operated by Contractors and by any Subcontractors handling hazardous or potentially hazardous materials. Environmental liability coverage may be part of a package policy.

5. **Professional Liability.** Contractor must secure, pay for, and maintain professional liability coverage in the amount of not less than \$1,000,000 on a form acceptable to the Owner and with tail coverage of not less than two years.

6. **Umbrella Coverage.** Contractor must secure, pay for, and maintain professional liability coverage in the amount of not less than \$5,000,000 on a form acceptable to the Owner. Umbrella coverage must not be limited to excess coverage that merely follows form of underlying coverages.

7. **Equipment Property Insurance.** Contractor must secure, pay for, and maintain all-risk insurance as necessary and without exceptions in order to protect the Owner against loss of owned, non-owned, rented, or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor, its Subcontractors, or Lower Tier Entities and any construction material in transit (unless shipped FOB destination Project Site or (Incoterm) DAP Project site) or materials stored in any location other than the Site.

8. **Builder's Risk.** Unless otherwise instructed by the Owner, Contractor will secure a completed value, all-risk Builder's Risk policy in manuscript form acceptable to Owner for the Project (not merely the Work), including appropriate, as determinate by the Owner, coverages, coverage amounts and limits, deductibles, and exclusions. The Owner must be a named insured and the policy may not terminate until Substantial Final Completion or a certificate of occupancy applicable to the entire property is issued, whichever is latest.

9. **Waiver of Subrogation.** Contractor hereby waives, and will require each of its Subcontractors and Lower Tier Entities to waive, all rights of subrogation under all policies against the Owner and other Additional Insureds for losses or damages covered by any policy of insurance. Contractor, Subcontractors, and Lower Tier Entities must provide notice of waiver to all insurance carriers.

10. **Term of Coverage**

- 10.1 The products and completed operations liability coverage required by this Agreement must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Agreement (the "Completed Operations Term").

- 10.2 If at any time during the Completed Operations Term Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.
- 10.3 Contractor will furnish certificates of insurance and other evidence that the Owner may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.
- 10.4 All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

11. Subcontractor and Lower-Tier Entities Insurance Requirements

- 11.1 Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:
 - a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$ 1,000,000 per occurrence, and \$ 1,000,000 as the annual aggregate limit; and
 - b. Timely furnish to the Owner proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.
 - c. The Lower Tier Entities' general liability policy must also be endorsed to provide the policy must be primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.
 - d. The Owner has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

12. Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

- 12.1 Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;
- 12.2 Provide that attorney's fees are outside of the policy's limits;
- 12.3 Include the Project per aggregate endorsement;
- 12.4 Waive all rights of subrogation against the Owner;
- 12.5 Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the Owner; and

- 12.6 Be otherwise satisfactory to the Owner. The Owner agrees to consider alternatives to the requirements imposed by this Exhibit but only to the extent that the Owner is satisfied the insurance is not commercially available to the insured. In such event, the Owner has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the Owner be a loss-payee under the policy.

13. Certificates and Endorsements

- 13.1 Within 10 days after the execution of this Agreement, Contractor must provide the Owner with certificates and endorsements;
- 13.2 Upon the Owner request, Contractor must provide the Owner with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Exhibit together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of coverage potentially available to the Owner under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the Owner.
- 13.3 If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

- 14. Reduction in Coverage.** Contractor must promptly inform the Owner of any reduction of coverage resulting from revised limits, claims paid, or both and must require its Subcontractors and Lower Tier Entities to promptly inform Contractor of same. The Owner has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

15. Suppliers and Materialmen Coverages

- 15.1 Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.
- 15.2 With respect to any equipment, machinery or other goods for which the Owner or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the Owner and Contractor as loss payee as their interests appear.

16. Condition Precedent to Starting Work

- 16.1 Prior to, and as a condition of its right to begin performing any Work on the Site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the Owner certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the Owner that the required insurance is in place; together with the

original of each bond required under this Agreement. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the Owner to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

- 16.2 The Owner is under no obligation or duty to make any such inquiry and the Owner is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The Owner's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.
17. **Additional Proofs of Insurance.** Contractor must, within 10 days after request, provide the Owner with certified copies of all policies and endorsements obtained in compliance with this Agreement.
18. **Indemnity.** The fact that Contractor and its Subcontractors are required by this Agreement to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the Owner and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.
19. **Interpretation.** In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Agreement, the terms of this Exhibit will govern.

ADDENDUM B

DISPUTE RESOLUTION PROCEDURES

1. Disputes

- 1.1 Each Dispute arising out of or related to this Agreement (including Disputes regarding any alleged breaches of this Agreement) must be initiated and decided under the provisions of this Exhibit.
- 1.2 Contractor and the Owner will each designate in writing to the other Party, from time to time, a member of senior management who is authorized to attempt to expeditiously resolve any Dispute relating to the subject matter of this Agreement in an equitable manner.
- 1.3 A Party initiates a Dispute by delivery of written Notice to the members of management designated by the respective parties under Section 1.2 hereof.
- 1.4 The parties must:
 - a. Attempt to resolve all Disputes promptly, equitably and in a good faith manner, and
 - b. Provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such Dispute.
- 1.5 With respect to matters concerning Change Orders for modification of the Guaranteed Maximum Price or Project Schedule, Contractor must first follow the provisions of any Claim procedure established by the Contractor Agreement before seeking relief under these Procedures.

2. Emergency Arbitration

- 2.1 If the parties are unable to accomplish resolution of a Dispute, the expedited resolution of which either Party considers necessary to prevent or mitigate a material delay to the critical path of the Construction Services (a "Time Sensitive Dispute") within two days after the Time Sensitive Dispute has been initiated by a Party, either Party may thereafter seek emergency relief before an emergency arbitrator (the "Emergency Arbitrator") appointed as follows:
 - a. The parties will exercise best efforts to pre-select an Emergency Arbitrator within 20 days after entering into this Agreement;
 - b. If the Emergency Arbitrator has not been selected at the time a Party delivers Notice of a Time Sensitive Dispute, the parties will each select a representative within one day after the Notice is delivered and the two representatives will then select the Emergency Arbitrator by the third day following delivery of the Notice.
 - c. The Emergency Arbitrator must be an attorney with at least 10 years' experience with commercial construction legal matters in Tennessee, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 The Emergency Arbitrator will conduct a hearing and render a written determination on the Dispute to both parties within five business days of the matter being referred to him or her, all in accordance with Rules O-1 to O-8 of the American Arbitration Association ("AAA")

Commercial Rules-Optional Rules for Emergency Protection Commercial Rules (“AAA Emergency Rules”)

- 2.3 Although the hearing will be conducted using AAA rules, unless both parties agree otherwise, this dispute process will not be administered by the AAA but will be conducted by the parties in accordance with these procedures.
- 2.4 If, however, an Emergency Arbitrator has not selected within three days after delivery of the Notice, either Party may upon three days additional notice, thereafter seek emergency relief before the AAA, in accordance with the AAA Emergency Rules, provided that the Emergency Arbitrator meets the qualifications set forth above.
- 2.5 All proceedings to arbitrate Time Sensitive Disputes will be conducted in Rutherford, Davidson, or Williamson counties, Tennessee.
- 2.6 Presentation, request for determination (i.e., a Party’s prayer), and the Emergency Arbitrators decision will adhere to the procedures required in Section 3.5 hereof.
- 2.7 The finding of the Emergency Arbitrator with respect to any Time Sensitive Dispute will be binding upon the parties on an interim basis during progress of the Construction Services, subject to review *de novo* by arbitration after the Project Substantial Completion Date.
- 2.8 The time and extent of discovery will be as determined by the Emergency Arbitrator.
 - a. Discovery orders of the Emergency Arbitrator will consider the time sensitivity of the matter and the parties desire to resolve the issue in the most time and costs efficient manner;
 - b. The parties are obligated to cooperate fully and completely in the provision of documents and other information, including joint interviews of individuals with knowledge such that the matter moves toward resolution in the most time and costs efficient manner and the Emergency Arbitrator is empowered to fashion any equitable penalty against a Party that fail to meet this obligation

3. Non-Emergency Arbitration

- 3.1 Except as provided in Section 5 hereof, any Dispute that is either a non-emergency Dispute that has not been resolved by negotiation, or a *de novo* review of an emergency arbitration will be decided by binding arbitration by a panel of three arbitrators in accordance with, but not necessarily administered by, the Construction Industry Rules of the AAA.
 - a. The parties each select an arbitrator within 15 days after Notice that a Party desire to resolve a dispute by arbitration.
 - b. The two arbitrators then each select a third arbitrator.
 - c. The arbitrator(s) must meet the qualifications of Emergency Arbitrators as provided in Section 2 hereof.
- 3.2 The arbitrators do not have the authority to consider or award punitive damages as part of the arbitrators' award.
- 3.3 In connection with such arbitration, each Party is entitled to conduct up to five depositions, and, no less than 90 days prior to the date of the arbitration hearing, each Party will deliver

to the other Party copies of all documents in the delivering Party's possession that are relevant to the dispute.

- 3.4 The arbitration hearing must be held within 150 days of the appointment of the arbitrators.
- 3.5 At the arbitration hearing, each Party will argue its position to the arbitrators in support of one proposed resolution to the dispute (a "Proposed Resolution").
 - a. Each Party's Proposed Resolution must be fully dispositive of the dispute.
 - b. The arbitrators must select one of Proposed Resolution by majority consent and are not free to fashion any alternative resolutions.
 - c. The parties must submit their Proposed Resolution of the matter to the arbitrators and the other Party 15 days prior to the date set for commencement of the arbitration proceeding.
 - d. The decision of the arbitrators will be forwarded to the parties within 15 days after the conclusion of the arbitration hearing.
 - e. The decision of the arbitration panel is final and binding on the parties and may be entered in any court of competent jurisdiction for the purpose of securing an enforceable judgment.
 - f. All costs and expenses associated with the arbitration, including the reasonable legal fees and costs incurred by the prevailing Party, must be paid by the Party whose position was not selected by the arbitrators.

4. **Continuing Work.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of the Work during any Dispute resolution or arbitration proceedings, and the Owner will continue to make payment to Contractor in accordance with the Contractor Agreement.

5. **Exceptions**

- 5.1 Neither the Owner nor Contractor are not be required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defenses in any action that is commenced by a third-party who is not obligated by contract to arbitrate disputes with the Owner and Contractor.
- 5.2 The Owner or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice (but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Tennessee law), without the necessity of initiating or exhausting the procedures of this Exhibit.
- 5.3 This Exhibit does not apply to, and may not be construed to require arbitration of, any claims, actions or other process undertaken, filed, or issued by the City of Murfreesboro Building Safety Department, Code Compliance Department, Police Department, Fire Department, or any other agency of the Owner (the City) acting in its governmental permitting, for the benefit of public health, safety, and welfare, or other regulatory capacity.
- 5.4 In connection with any arbitration, the arbitrators do not have the authority to, and may not enforce, any provision of the Federal or Tennessee Rules of Civil Procedure.

ADDENDUM A

Schedule of Insurance

CONTRACTOR'S INSURANCE REQUIREMENTS

Contractor must, as a material obligation to the City and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Addendum.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Agreement requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers compensation and employers liability insurance, providing the following coverages, limits and endorsements:

1. Commercial General Liability Insurance.

The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU, and products and completed operations, with a combined single limit of liability of not less than \$2,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$2,000,000 applicable solely to the Work, and meeting all other requirements of this Addendum.

The general liability insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.

Each general liability policy must be endorsed or written to:

- a. Include the per project aggregate endorsement;
- b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");
- c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;
- d. Includes a severability of interest clause; and
- e. Waive all rights of recovery against the Additional Insureds.

2. Workers' Compensation Insurance. The Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance, with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

Auto Liability Insurance

Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.

This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.

This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

Builder's Risk. Contractor will secure a completed value, all-risk Builder's Risk policy in manuscript form acceptable to City for the Project (not merely the Work), including appropriate, as determinate by the City, coverages, coverage amounts and limits, deductibles, and exclusions. The City must be a named insured and the policy may not terminate until Substantial Final Completion or a certificate of occupancy applicable to the entire property is issued, whichever is latest.

Equipment Property Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary and without exceptions in order to protect the City against loss of owned, non-owned, rented, or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor, its Subcontractors, or Lower Tier Entities and any construction material in transit (unless shipped FOB destination Project Site or (Incoterm) DAP Project site) or materials stored in any location other than the Site.

Waiver of Subrogation. Contractor hereby waives, and will require each of its Subcontractors and Lower Tier Entities to waive, all rights of subrogation under all policies against the City and other Additional Insureds for losses or damages covered by any policy of insurance. Contractor, Subcontractors, and Lower Tier Entities must provide notice of waiver to all insurance carriers.

Term of Coverage

The products and completed operations liability coverage required by this Agreement must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Agreement (the "Completed Operations Term").

If at any time during the Completed Operations Term Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.

Contractor will furnish certificates of insurance and other evidence that the City may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.

All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

Subcontractor and Lower-Tier Entities Insurance Requirements

Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:

- a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages,

endorsements, terms of coverage and other provisions as are required of Contractor under by this Addendum, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$ 1,000,000 per occurrence, and \$ 1,000,000 as the annual aggregate limit; and

- b. Timely furnish to the City proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Addendum.
- c. The Lower Tier Entities' general liability policy must also be endorsed to provide the policy must be primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.
- d. The City has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;

Have a deductible not exceeding \$10,000 unless otherwise agreed upon by the City;

Provide that attorney's fees are outside of the policy's limits and be unlimited;

Include the Project per aggregate endorsement;

Waive all rights of subrogation against the City;

Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the City; and

Be otherwise satisfactory to the City. The City agrees to consider alternatives to the requirements imposed by this Addendum but only to the extent that the City is satisfied the insurance is not commercially available to the insured. In such event, the City has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the City be a loss-payee under the policy.

Certificates and Endorsements

Within 10 days after the execution of this Agreement, Contractor must provide the City with certificates and endorsements;

Within 10 days after execution of each Subcontract (but in all events prior to such Subcontractor commencing Services), Contractor must provide the City with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Addendum together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of

coverage potentially available to the City under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the City.

If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

Reduction in Coverage. Contractor must and must require its Subcontractors and Lower Tier Entities to promptly inform the City of any reduction of coverage resulting from revised limits, claims paid, or both. The City has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

Suppliers and Materialmen Coverages

Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.

With respect to any equipment, machinery or other goods for which the City or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the City and Contractor as loss payee as their interests appear.

Condition Precedent to Starting Work

Prior to, and as a condition of its right to begin performing any Work on the Site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the City certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the City that the required insurance is in place; together with the original of each bond required under this Agreement. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the City to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

The City is under no obligation or duty to make any such inquiry and the City is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The City's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Addendum.

Additional Proofs of Insurance. Contractor must, within 10 days after request, provide the City with certified copies of all policies and endorsements obtained in compliance with this Agreement.

Indemnity. The fact that Contractor and its Subcontractors are required by this Agreement to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the City and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.

Interpretation. In the event of any inconsistency between the provisions of this Addendum and those of the other provisions of the Agreement, the terms of this Addendum will govern.

SP109B**SP109B**

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S T A T E**O F****T E N N E S S E E**

(Rev. 05-16-16)

(Rev. 04-01-19)

(Rev. 11-08-19)

(Rev. 3-2-23)

January 1, 2021

SPECIAL PROVISION**REGARDING****PAYMENT ADJUSTMENT FOR BITUMINOUS MATERIAL**

This Special Provision covers the method of payment adjustment for bituminous materials.

100% Virgin Bituminous Material

A payment adjustment will be made to compensate for increases and decreases of 5% or more in the contractor's bituminous material cost. The normal bid items in the contract covering the bituminous material shall not be changed. Payment adjustments (+/-) shall be paid under "Payment Adjustment for Bituminous Material" and calculated as described herein:

A "Basic Bituminous Material Index" will be established by the Tennessee Department of Transportation prior to the time the bids are opened. This "Basic Bituminous Material Index" is the average of the current quotations on P.G. 64-22 from suppliers furnishing asphalt cement to contractors in the State of Tennessee. These quotations are the cost per ton f.o.b. supplier's terminal.

The "Basic Bituminous Material Index" for this project is \$ 655.45 per ton.

The "Monthly Bituminous Material Index" is also established on the first day of each month by the same method. A payment adjustment shall be made provided the "Monthly Bituminous Material Index" varies 5% or more (+/-) from the "Basic Bituminous Material Index".

Where the price index varies 5% or more (+/-), the payment adjustment will be made as follows:

$$PA = [Ic - Ib] \times T$$

Where:

PA =	Price Adjustment for Adjustment Month
Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
T =	Tons bituminous material for Adjustment Month

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Payment adjustment will be applied to all asphalt cement, asphalt emulsion, or bituminous material used for paving on this project.

Upon the expiration of the allocated working time, as set forth in the original contract or as extended by Change Order, payment adjustments for bituminous material will continue to be made when the "Monthly Bituminous Material Index" varies 5% or more (+/-) from the "Basic Bituminous Material Index".

The calculation of the bituminous payment adjustment shall be made using the "Monthly Bituminous Material Index" or the "Bituminous Material Index for Contract Completion Date" in accordance with the following formulas:

The "Bituminous Material Index for Contract Completion Date" is the Monthly Bituminous Material Index in effect on the allocated Contract Completion Date or on the completion date as extended by Change Order.

The "Monthly Bituminous Material Index" is **less** than the "Bituminous Material Index for Contract Completion Date".

$$PA = [Ic - Ib] \times T$$

The "Monthly Bituminous Material Index" is **greater** than the "Bituminous Material Index for Contract Completion Date".

$$PA = [Icd - Ib] \times T$$

Where:

PA =	Price Adjustment for Adjustment Month
Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
Icd =	Bituminous Material Index for Contract Completion Date (or as extended by Change Order)
T =	Tons

FOR REFERENCE ONLY

SiteManager or spreadsheet calculates the price adjustment based on the actual amount of asphalt cement (residue) in the emulsion using the following percentages:

-tack coats and shoulder sealants (e.g., SS-1, SS-1h, CSS-1, Css-1h)	63% residue
-prime coats (e.g., AE-P)	54% residue
-scrub seals and microsurfacing (e.g., CQS-1HP)	65% residue
-chip seals (e.g., CRS-2, CRS-2P)	69% residue
-hot in-place recycle (ARA-3P)	63% residue

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Mixes Containing Recycled Bituminous Material

The quantity of virgin asphalt cement in tons subject to payment adjustment in recycled mixes shall be the product of the total tons of each mix multiplied by the difference between (1) the percent of asphalt cement specified for bidding purposes and (2) the percent of asphalt cement obtained from the recycled asphaltic material (RAP) used in each mix. No payment adjustment under this special provision for increases and decreases in the contractor's cost for virgin asphalt cement in recycled mixes will be allowed for asphalt cement content in excess of the percent specified for bidding purposes, as all payment adjustments for asphalt cement in the mix design of recycled mixes in excess of the percent of asphalt cement specified for bidding purposes will be made in accordance with the Standard Specifications.

No payment adjustment for bituminous material containing RAP shall be made unless the "Monthly Bituminous Material Index" varies 5% or more (+/-) from the "Basic Bituminous Material Index" indicated in this Special Provision.

Where the price index varies 5% or more (+/-), the payment adjustment will be made as follows:

$$PA = \frac{[Ic - Ib] \times [BA - RA]}{100} \times Tm$$

PA =	Price Adjustment for Adjustment Month
Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
BA =	Percent asphalt specified for bidding purposes
RA =	Percent asphalt obtained from recycled asphaltic material used in each mix
Tm =	Tons asphalt mix for adjustment month

Upon the expiration of the allocated working time, as set forth in the original contract or as extended by Change Order, payment adjustments for bituminous material containing RAP will continue to be made when the "Monthly Bituminous Material Index" varies 5% or more (+/-) from the "Basic Bituminous Material Index".

The calculation of the bituminous payment adjustment shall be made using the "Monthly Bituminous Material Index" or the "Bituminous Material Index for Contract Completion Date" in accordance with the following formulas:

The "Bituminous Material Index for Contract Completion Date" is the Monthly Bituminous Material Index in effect on the allocated Contract Completion Date or on the completion date as extended by Change Order.

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The “Monthly Bituminous Material Index” is **less** than the “Bituminous Material Index for Contract Completion Date”.

$$PA = [Ic - Ib] \times \frac{[BA - RA]}{100} \times Tm$$

The “Monthly Bituminous Material Index” is **greater** than the “Bituminous Material Index for Contract Completion Date”.

$$PA = [Icd - Ib] \times \frac{[BA - RA]}{100} \times Tm$$

Where:

PA =	Price Adjustment for Adjustment Month
Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
Icd =	Bituminous Material Index for Contract Completion Date (or as extended by Change Order)
BA =	Percent asphalt specified for bidding purposes
RA =	Percent asphalt obtained from recycled asphaltic material used in each mix
Tm =	Tons asphalt mix for adjustment month

Street List

STREET NAME	FROM	TO
Middle Tenn Blvd	MLK Blvd	SE Broad St
Throne St	Regenwood Dr	Banner Dr
Veterans Pkwy	96 hwy	Blackman rd
Saratoga Dr	Manchester hwy	end
St Johns Dr	Sulphur Springs Rd	end
Rutherford blvd	Greenland Dr	Main St
Greenland Dr	Rutherford Blvd	Middle Tenn Blvd
Battleground Dr	Northfield Blvd	Avon Rd
Pitts Ln	Dejarnette Ln	Northfield Blvd
Old Lascassas Hwy	Greenland Dr	Rutherford Blvd
St Andrews Dr	Cason trl	HWY 99
Cason Ln	Cason trl	HWY 99
Veterans Pkwy	Burnknob rd	840 Bridge
Dejarnette Ln	Kingsgate Dr	96 Hwy
Northfield Blvd	Broad St	Jones Blvd
Rutherford blvd	Broad St	Bradyville Pk
Middle Tenn Blvd	Church St	Broad St
Main St	Rutherford Blvd	Middle Tenn Blvd
Square Area		
Cherry Ln	Memorial Blvd	End of Soccer park
Lytle St	Highland Ave	Spring St
Riverrock Blvd	Maybrook Ct	HWY 99

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
303-01	Mineral Aggregate, Type A Base, Grading D	300	TON	\$32.00	\$9,600.00
307-01.08	Asphalt Concrete Mix (PG64-22)(BPMB) Grading B-M2	500	TON	\$90.00	\$45,000.00
307-01.09 (1)	Asphalt Concrete Mix (PG64-22)(BPMB) Grading B-M2	500	TON	\$58.00	\$29,000.00
307-01.15	ACS Mix (PG64-22) (BPMLC-HM) Grading CS	250	TON	\$135.00	\$33,750.00
307-01.01	Asphalt Concrete Mix (PG64-22) (BPMB-HM) Grading A	50	TON	\$240.00	\$12,000.00
307-02.01	Asphalt Concrete Mix (PG70-22) (BPMB-HM) Grading A	50	TON	\$250.00	\$12,500.00
307-02.02	Asphalt Cement (PG70-22)(BPMB-HM) Grading A-S	17.5	TON	\$32.00	\$560.00
307-02.03	Aggregate (BPMB-HM) Grading A-S Mix	482.5	TON	\$75.00	\$36,187.50
307-02.08	Asphalt Concrete Mix (PG70-22)(BPMB) Grading B-M2	500	TON	\$93.00	\$46,500.00
403-01	Bituminous Material for Tack Coat (TC)	35	TON	\$1,100.00	\$38,500.00
403-05.01	Bituminous Material (Fog Seal) (Roadway/Shoulder)	3	TON	\$950.00	\$2,850.00
411-01.10	ACS Mix (PG-64-22) Grading D	6000	TON	\$125.00	\$750,000.00
411-01.13 (2)	ACS Mix (PG-64-22) Grading D Roadway	1000	TON	\$96.00	\$96,000.00
411-01.14	ACS Mix (PG-64-22)Grading E Roadway	5000	TON	\$108.00	\$540,000.00
411-01.15 (3)	ACS Mix (PG-64-22) Grading E Roadway (Small Quantity)	250	TON	\$126.00	\$31,500.00
411-02.10	ACS Mix (PG-70-22) Grading D	12000	TON	\$133.00	\$1,596,000.00
411-04	Crack Sealant	500	LB	\$12.00	\$6,000.00
411-33.34	Stamped Asphalt Pattern	12000	SF	\$12.00	\$144,000.00
411-51.10	Infrared Patch Repair (Asphalt)	1500	SF	\$8.00	\$12,000.00
415-01.01	Cold Planing Bituminous Pavement (Based on 1.5 inch	17000	TON	\$18.00	\$306,000.00
712-01	Traffic Control	40	Day	\$1,800.00	\$72,000.00
716-05.01	Painted Pavement marking (4" Line)	1	LM	\$900.00	\$900.00
716-05.05	Painted Pavement Marking (Stop Line)	150	LF	\$15.00	\$2,250.00
716-05.06	Painted Pavement Marking (Turn Lane Arrow)	10	EACH	\$85.00	\$850.00
716-05.11	Painted Pavement Marking (Straight Arrow)	10	EACH	\$85.00	\$850.00
716-05.21	Painted Pavement Marking (4" Dotted Line)	100	LF	\$3.00	\$300.00
716-05.22	Painted Pavement Marking (Longitudinal Crosswalk)	300	LF	\$18.00	\$5,400.00
	Total				\$3,830,497.50

Line Item	Description	Quantity	Unit of Me.	Unit Cost	Total
1	Manhole Type	120	EACH	\$440.00	\$52,800.00
2	Manhole Type Plated	185	EACH	\$665.00	\$123,025.00
3	Valve Box Type	120	EACH	\$420.00	\$50,400.00
4	Valve Box Type Plated	165	EACH	\$635.00	\$104,775.00
5	Inlet Type	5	EACH	\$440.00	\$2,200.00
6	Inlet Type Plated	5	EACH	\$665.00	\$3,325.00
	Total				\$336,525.00

Line Item	Description	Quantity	Unit of Me.	Unit Cost	Total
1	Champion 710 Motor Grader or Equal	200	Hours	\$70.00	\$14,000.00
2	CAT 289 Skid Steer or Equal	200	Hours	\$55.00	\$11,000.00
3	23,160 GVWR Dump Truck or Equal	200	Hours	\$95.00	\$19,000.00
4	Case 580 K Back Hoe or Equal	500	Hours	\$40.00	\$20,000.00
5	Broom Truck	500	Hours	\$125.00	\$62,500.00
	Total				\$126,500.00

GRAND TOTAL

\$4,293,522.50

- (1) - Item to be priced as materials only. Owner will furnish transport, labor and installation.
- (2) - Item to be priced as materials only. Owner will furnish transport, labor and installation.
- (3) – Item to be used for small quantity jobs under 250 Tons.



**WIREGRASS
CONSTRUCTION**
C O M P A N Y, I N C.

CENTRAL TN DIVISION

811 Needham Drive

Smyrna, TN 37167

615-793-2600

An Equal Opportunity Employer

May 9, 2024

Mr. Chris Griffith
City of Murfreesboro
111 West Vine Street
P. O. Box 1139
Murfreesboro, TN 37133-1139

Re: 2023-2024 City Paving Contract
Contract Renewal Period of July 1, 2024 thru June 30, 2025

Dear Sir:

In accordance with Item 2. Term of current Agreement for 2023-2024 City Paving Contract, Wiregrass Construction Company, Inc. respectfully requests the above referenced contract be extended for an additional twelve (12) month period, effective July 1, 2024. We understand that all terms and conditions of the current Contract will remain the same.

Respectfully submitted,

WIREGRASS CONSTRUCTION COMPANY, INC.

Joshua D. Miller,
Vice President & TN Area Manager

/pe

**2025-2026 RENEWAL
CITY PAVING CONTRACT
BETWEEN
THE CITY OF MURFREESBORO
AND
HAWKINS ASPHALT PAVING**

This 2025-2026 Renewal to the City Paving Contract (“Contract”), by and between the City of Murfreesboro (“City”), a municipal corporation of the State of Tennessee and Hawkins Asphalt Paving (“Contractor”), a Limited Liability Company of the State of Tennessee, is effective as of July 1, 2025.

RECITALS

WHEREAS, the City entered into the Contract with Contractor for paving services with an initial term of July 1, 2023, through June 30, 2024; and,

WHEREAS, the City and Contractor renewed the Contract for an additional one-year term effective July 1, 2024; and,

WHEREAS, the City and Contractor wish to renew the Contract for a third one-year term to commence on July 1, 2025, pursuant to Section 2 of the Contract.

NOW THEREFORE, the City and Contractor mutually agree as follows:

1. **Extension:** The term of the current Contract is hereby renewed and extended for a period from July 1, 2025, until June 30, 2026.
2. **No Other Amendment or Modification:** Except as provided herein, the parties make no other modifications or amendments, and all other terms of the Contract shall continue in full force and effect.

ENTERED _____.

CITY OF MURFREESBORO

HAWKINS ASPHALT PAVING

By: _____
Shane McFarland, Mayor

Signed by:
By: Nolen Spencer
F9CED0D7623C4DF...
Nolen Spencer, President

Approved as to form:

Signed by:
Adam F. Tucker
43A2035E51F9401...
Adam F. Tucker, City Attorney

Agreement for 2023-2024 City Paving Contract

This Agreement is entered into and effective as of the 16 day of June 2023 ("Effective Date"), by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Hawkins Asphalt Paving**, a Limited Liability Company of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document;
- ITB-53-2023 – City Paving Contract issued 05/23/2023 (the "Solicitation");
- Addenda (numbered #1 dated May 25, 2023, and #2 dated May 31, 2023)
- General Conditions and Supplementary Conditions (Exhibit C)
- Special Provision (Exhibit A)
- List of Streets to be Paved (Exhibit B)
- Contractor's Proposal, dated 06/07/2023 ("Contractor's Proposal");
- Contractor's Price Proposal, dated 06/07/2023 (the "Price Proposal"); and,
- Any properly executed amendments to this Agreement.

In the event of conflicting provisions, all documents will be construed according to the following priorities:

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority);
- Second, this Agreement;
- Third, the Addenda (if multiple Addenda, priority shall be in numerical order);
- Fourth, the General Conditions and Supplementary Conditions
- Fifth, the Special Provisions;
- Sixth, the Solicitation;
- Seventh, the List of Streets to be Paved; and
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, and shall perform and complete all work required by Owner under the **2023-2024 CITY PAVING CONTRACT**, all in strict accordance with the Contract Documents including all addenda thereto, as prepared by Owner. Owner and Contractor agree that it is Owner's intent that Contractor provide a variety of improvements which, depending upon circumstances, may include related items for which a specific unit description is not given or price specified. In such event Owner and Contractor shall agree on the unit and its price with a Change Order before the work is begun, but no such Change Order Shall exceed ten percent (10%) of the total estimated amount upon which the bid is awarded.

2. Term.

The term of this Agreement commences on the Effective Date and expires in one year, unless extended by mutual agreement of Contractor and the City or earlier terminated as set forth herein Termination. Contractor's services may be terminated in whole or in part:

- a. Upon 30-day prior notice, for the convenience of the City.

- b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
- c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
- d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
- e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Payment.

- a. The Owner shall pay the Contractor for each item of work in accordance with the Bid Price list submitted with the bid Proposal, which bid Price list is incorporated by this reference into this **2023-2024 City Paving Contract**. The Owner shall pay the Contractor for the performance of the Contract in current funds, subject to additions and deductions as provided in Section 14 of the General Conditions.
- b. Beginning the first anniversary after the effective date of the Annual Paving Contract, the unit rates set forth in this Agreement shall be increased effective as of that anniversary and each anniversary thereafter by an amount equal to the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U): U.S. city average, all items (index base period 1982-84=100), published by the United States Bureau of Labor Statistics, from the immediately preceding January of that calendar year. This increase will be subject to City Council approval.

4. Warranty. Contractor shall provide all warranties as described in the ITB and Bid Proposal. Warranties shall further be provided according to the terms listed in the General Conditions and Supplementary Conditions, if any.

5. Taxes. The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.

6. Insurance. During the term of this Agreement, Contractor must maintain insurance as provided in the General Conditions, Supplemental Conditions, and Addendum A – Schedule of Insurance.

7. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

- b. Copyright, Trademark, Service Mark, or Patent Infringement.

- I. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

- II. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

- a. Procure for the City the right to continue using the products or services.
- b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
- c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.

Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use

of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

8. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

<p>If to the City of Murfreesboro:</p> <p>City Manager City of Murfreesboro 111 West Vine Street Murfreesboro, TN 37130</p>	<p>If to Contractor:</p> <p>Nolen Spencer Hawkins Asphalt Paving 6015 Hwy 64 East Wartrace, TN 37183</p>
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9. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
10. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
11. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
12. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
13. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement,

Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

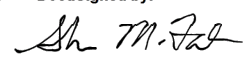
15. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
16. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.
17. **Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.
18. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
19. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other

document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.

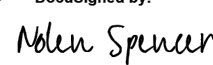
- 20. Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
- 21. Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
- 22. Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of 6/16/2023, 2023 (the "Effective Date").

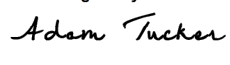
CITY OF MURFREESBORO, TENNESSEE

DocuSigned by:
By: 
A2F6A4BFTCD74E7...
Shane McFarland, Mayor

Hawkins Asphalt Paving

DocuSigned by:
By: 
F9CED0D7623C4DF...
Nolen Spencer, President

Approved as to form:

DocuSigned by:

43AZ035E51F9401...
Adam F. Tucker, City Attorney

Purchasing Department
111 West Vine Street
Murfreesboro, TN 37130
615.849.2629
purchasing@murfreesborotn.gov



May 25, 2023

Addendum #1
ITB-53-2023 – City Paving

This Addendum #. 1 is issued to provide attached list of changes to exhibits in the Invitation to Bid to reflect a change in the bid form.

- Item 311-03.01 Hot In Place Recycling of Asphalt Pavement has been removed from the Bid Form

This addendum modifies the original solicitation and is hereby incorporated, and all other terms and conditions remain the same except the portions modified by addendum.

Bidders are required to acknowledge receipt of Addendum #1 via the OpenGov portal. Failure to acknowledge all addenda may be cause of rejection of the response.

Purchasing Department
111 West Vine Street
Murfreesboro, TN 37130
615.849.2629
purchasing@murfreesborotn.gov



May 31, 2023

Addendum #2
ITB-53-2023 – City Paving

This Addendum #2 is issued to provide attached list of changes to exhibits in the Invitation to Bid to reflect a change in the bid form.

- Item 203-03 Borrow Excavation (Unclassified) was removed from Bid Form
- Ace Aramid Fiber was removed from Bid Form
- Item 307-02.01 was edited to reflect Asphalt Concrete Mix (PG70-22) (BPMB-HM) Grading A on bid form.

This addendum modifies the original solicitation and is hereby incorporated, and all other terms and conditions remain the same except the portions modified by addendum.

Bidders are required to acknowledge receipt of Addendum #2 via the OpenGov portal. Failure to acknowledge all addenda may be cause of rejection of the response.

Exhibit C

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



Endorsed by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words

“furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
 - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.

C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
2. abnormal weather conditions;
3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
 - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste

materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

- C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings*: The Supplementary Conditions identify:
 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
 1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
 1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site

and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

- c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
- 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
- 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 - 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 - 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and

recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
 - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
 - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 - 2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer,

or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special

conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond

signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor

to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
 - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 - 2. claims for damages insured by reasonably available personal injury liability coverage.
 - 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
 - 1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.

- b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Broad form property damage coverage.
 4. Severability of interest.
 5. Underground, explosion, and collapse coverage.
 6. Personal injury coverage.
 7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
 8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial

Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

- I. *General provisions:* The policies of insurance required by this Paragraph 6.03 shall:
 1. include at least the specific coverages provided in this Article.
 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."

2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this

Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.

- C. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by,

arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
 - D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
- b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the

Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the

performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if

any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 1. all persons on the Site or who may be affected by the Work;
 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly

or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

- A. *Shop Drawing and Sample Submittal Requirements:*
 1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
1. *Shop Drawings:*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 2. *Samples:*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and

Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or

alter others' work with the written consent of Engineer and the others whose work will be affected.

- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual

rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.
- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On

the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in

contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 - 1. *Change Orders:*
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
 - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents

governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under

the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal

and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing

Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or

indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**14.01 Access to Work**

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon

Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

- c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due:*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

- A. *Application for Payment:*
 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Completion of Work:*** The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due:*** Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When

exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTARY CONDITIONS

[Part B]

The Supplementary Conditions of this Part B modifies specific provisions the General Standard Conditions of the Construction Contract (EJCDC C-700 (2013)):

1. **Strike Paragraph 1.01.A.4 in its entirety and replace with the following:**
 4. *Bid*—The offer of a Bidder submitted on the prescribed form under a contract that solicits bids and provides a bid form, setting forth the prices for the Work to be performed.
2. **Strike Paragraph 1.01.A.7 in its entirety and replace with the following:**
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, bid bond or other Bid security, if any, the proscribed bid form, and the Bid with any attachments.
3. **Strike Paragraph 1.01.A.8 in its entirety and replace with the following:**
 8. *Change Order*—A document which is signed by Contractor and Owner, a requirement that cannot be waived by any subsequent action or agreement of the parties, and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
4. **Strike Paragraph 1.01.A.23 in its entirety and replace with the following:**
 23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having or purporting to have jurisdiction.
5. **Strike Paragraph 1.01.A.24 in its entirety and replace with the following:**
 24. *Liens*—Charges, security interests, or encumbrances, or legal actions to assert the same, upon Contract-related funds, real property, or personal property.
6. **Strike Paragraph 1.01.A.26 in its entirety and replace with the following:**
 26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid. The Notice of Award alone shall not create remedies for any Work performed under the Agreement or Contract Documents. Until Contractor receives a Notice to Proceed from Owner, Contractor shall not proceed with work and has no remedy against Owner for performing any Work related to the Project before receiving that Notice.
7. **Strike Paragraph 2.01.C in its entirety and replace with the following:**
 - C. [Intentionally omitted]
8. **Strike Paragraph 2.03.A.1 in its entirety and replace with the following:**
 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract. The Progress Schedule, in detailed precedence-style critical path method (CPM) or primavera-type format satisfactory to Owner and Engineer, shall (i) provide a graphic representation of all activities and event that will occur during the performance of the Work:

(ii) identify each phase of the construction and occupancy; and (iii) set forth milestone dates that are significant to ensure the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents.

9. Strike Paragraph 2.04.A in its entirety and replace with the following:

- A. Contractor shall arrange for, either at such time as Engineer shall specifically direct, of any, or otherwise, before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

10. After Paragraph 2.04.B add the following:

- 1. Generally, Contractor shall communicate with Engineer, or the Engineer's designated representative under Paragraph 9.02, concerning matters affecting Engineer or Owner. In the event that Contractor believes he cannot deliver necessary communications to Engineer or his representative, Contractor may transmit those communications to Owner's representative with a copy to Engineer, which communications will include a brief explanation of the need to communicate with Owner's Representative.

11. Strike Paragraph 2.05.A in its entirety and replace with the following:

- A. Contractor shall arrange for, either at such time as Engineer shall specifically direct, of any, or otherwise, at least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times, in compliance with the requirements of Paragraph 2.03.A.1. Upon review and acceptance by Owner and Engineer, the Progress Schedule shall be deemed to be part of the Contract Documents. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor. If not accepted, the Project Schedule shall be promptly revised by the Contractor in accordance with the recommendations of Owner and Engineer and resubmitted.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work. The unit prices or lump sum amounts provided by the Contractor in the Bid Form shall serve as the basis for the Schedule of Values.

Additional subdivision of unit price or lump sum items shall be made as reasonably requested by the Engineer or as required to verify progress payments for Lump Sum or Unit Price work that will take place over several progress payment periods.

12. Strike Paragraph 3.01.B in its entirety and replace with the following:

- B. It is the intent of the parties that the Contract Documents describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom, practice, or trade usage as being required to produce the indicated result will be provided at no additional cost to Owner. The grades, elevations, dimensions, locations, and field measurements or any drawings or specification issued by Engineer, or the Work installed by other Contractors, are not guaranteed by Engineer or Owner. Contractor shall be responsible for verifying the accuracy of all grades, elevations, dimensions, locations, and field measurements. In all cases of the interconnection of its Work with existing or other Work, Contractor shall verify at the site all dimensions relating to such existing or other Work. Any errors due to Contractor's fault to verify shall be promptly rectified by Contractor without any additional costs to Owner or extensions of Contract Time.

13. Strike Paragraph 3.03.A in its entirety and replace with the following:

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall within two business days report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall within two business days report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof, or should have had such knowledge under the circumstances of the Contract.

14. Strike Paragraph 3.04 in its entirety and replace with the following:

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to Engineer all matters in question concerning the requirements of the Contract

Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder. However, should Owner choose to self-perform the duties and responsibilities of Engineer, or should Owner chooses to designate another party to fulfill these duties and responsibilities, (i) Contractor shall accept all actions and decisions of Owner or Owner's designated party as if and to the same extent it would were Engineer fulfilling these duties and responsibilities under the Contract; and (ii) Engineer shall have no liability for such actions or decisions.

- B. Engineer will, with reasonable timeliness based on the circumstances affected by the issue, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will within one business day of its determination give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

15. Strike Paragraph 4.01.A in its entirety and replace with the following:

- A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. Owners, with the concurrence of Engineer, will provide a Notice to Proceed after the effective date of the Agreement. In no event will Contractor have any remedies for Work performed on the Project until the Notice to Proceed is given of Contractor.

16. Strike Paragraph 4.02.A in its entirety and replace with the following:

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date. Contractor shall have no remedies for any Work Performed under the Agreement or Contract Documents until Owner issues the Notice to Proceed.

17. Strike Paragraph 4.03.A in its entirety and replace with the following:

- A. Engineer shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel, approved by Engineer, and licensed in the state where the

Project is located or working under direct supervision of a surveyor licensed in the state where the Project is located.

18. Strike Paragraph 4.05.A in its entirety and replace with the following:

- A. If Owner or Engineer delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Notwithstanding any other provision of the Contract, Owner shall not be liable, as damages for delays under this section, for any consequential damages, lost opportunity costs, impact damages, or other similar remuneration. Owner's exercise of any of its rights or remedies under the Contract Documents (including, without limitation, ordering changes in the Work, directing suspension, rescheduling, or correction of the Work, or terminating this agreement for its convenience), regardless of the extent or frequency of Owner's exercise of such rights or remedies, shall not be construed as active interference with Contractor's performance of the Work. If Contractor submits a progress report indicating, or otherwise expressing, an intention to achieve completion of the Work prior to any completion date required by the Contract Documents or expiration of the Contract Times, Owner shall have no liability to Contractor for any failure of Contractor to so complete the Work according to that progress report.

19. Strike Paragraph 4.05.F in its entirety and replace with the following:

- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor, its subcontractors, suppliers, agents and representatives.

20. Strike Paragraph 5.03.A in its entirety and replace with the following:

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 3. Technical Data contained in such reports and drawings.

Such reports shall not excuse Contractor and each Subcontractor from the duty to independently evaluate and satisfy themselves as to the site conditions and limitations under which the Work is to be performed, including, without limitation, (1) the location, condition, layout, and nature of the project site and surrounding areas; (2) generally prevailing climatic conditions; (3) anticipated labor, supply, and costs; (4) availability and cost of materials, tools, and equipment; and (5) other similar issues. Further, Owners assumes no responsibility or liability for the physical conditions or safety of the project site or any improvements located on the project site. Except as set forth in in Article 5, Contractor shall be solely response for providing a safe place for the performance of the Work. Owner shall not be required to make adjustments in either the Contract Price or Contract Times

arising from a failure by Contractor or any Subcontractor to independently evaluate and satisfy themselves as to the site conditions and limitations.

21. Strike Paragraph 5.04.A in its entirety and replace with the following:

- A. *Notice by Contractor:* If Contractor discovers or should have discovered that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, immediately or as soon as feasible, and in any event not more than 24 hours after the time Contractor discovers, and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

22. Strike Paragraph 5.04.B in its entirety and replace with the following:

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will immediately or as soon as feasible review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

23. Strike Paragraph 5.04.D.3 in its entirety and replace with the following:

3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a written, duly authorized, and signed Change Order.

24. Strike Paragraph 5.05.B in its entirety and replace with the following:

- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, immediately attempt to and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the

owner of such Underground Facility and by not later than the end of the next business day give written notice to that owner and to Owner and Engineer.

25. Strike Paragraph 5.05.C in its entirety and replace with the following:

- C. *Engineer's Review:* Engineer will as soon as feasible review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

26. Strike Paragraph 5.05.E.2 in its entirety and replace with the following:

- 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a written, duly authorized, and signed Change Order.

27. Strike Paragraph 5.06.C in its entirety and replace with the following:

- C. Contractor must make all reasonable efforts to discover and locate any Hazardous Environmental Conditions at the site that may present a danger to persons or property exposed thereto in connection with the Work at the site. Contractor is liable for any damages caused by any Hazardous Environmental Conditions that Contractor knew or, or by the exercise of reasonable efforts should have known of, and any damages caused by reason of any Hazardous Environmental Conditions created, known to, or encountered by Contractor, its Subcontractors, Supplier, or anyone else for whom Contractor is responsible. Within 24 hours of the time when Contractor discovers any Hazardous Environmental Conditions, Contractor will follow the procedures set forth in Paragraph 5.06.E. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

28. Strike Paragraph 5.06.G in its entirety and replace with the following:

- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Nothing in this Paragraph obligates Owner or Contractor to indemnify the other from and against the consequences of the other's own negligence.

29. Strike Paragraph 5.06.I in its entirety and replace with the following:

- I. To the fullest extent permitted by Laws and Regulations, the party to this Contract who created or was responsible for the Hazardous Environmental Condition shall indemnify and hold harmless the other party to this Contract, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (i) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by the party(ies) to be indemnified hereunder or by anyone for whom party(ies) to be indemnified hereunder is responsible. Nothing in this Paragraph 5.06.I shall obligate the party to this Contract who created or was responsible for the Hazardous Environmental Condition to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

30. Strike Paragraph 6.01.A in its entirety and replace with the following:

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount of 100% of the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.

31. Strike Paragraph 6.01.D in its entirety and replace with the following:

- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall immediately upon learning of the bankruptcy or insolvency notify Owner and Engineer and shall, within 10 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

32. Strike Paragraph 6.02.A in its entirety and replace with the following:

- A. Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions Addendum A.

33. Modify Paragraph 6.02.B as follows:

Strike the words "Owner or" in the first sentence.

34. Strike Paragraph 6.02.D in its entirety and replace with the following:

- D. [Intentionally omitted]

35. Modify Paragraph 6.02.E as follows:

Strike the words “or Contractor” in the first sentence.

36. Strike Paragraph 6.02.F in its entirety and replace with the following:

F. If Contractor does not purchase or maintain all of the insurance required of such party by the Contract, Owner shall notify Contractor in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

37. Strike Paragraph 6.02.H in its entirety and replace with the following:

H. Without prejudice to any other right or remedy, if Contractor has failed to obtain required insurance, Owner may elect to obtain equivalent insurance to protect Owner and Contractor’s interests at the expense of Contractor and the Contract Price shall be adjusted in order for Owner to recover the full cost of the insurance so obtained.

38. Strike Paragraph 6.06.B in its entirety and replace with the following:

B. Owner waives all rights against Contractor and Subcontractors and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:

1. [Intentionally left blank]
2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06. This Paragraph applies solely to pre-completion insurance policies and Owner may claim subrogation to coverages provided for damages caused by Contractor and Subcontractors, or officers, directors, members, partners, employees, agents, consultants and subcontractors of each.

39. Strike Paragraph 6.07.A in its entirety and replace with the following:

A. Any insured loss under the builder’s risk and other policies of insurance required by Paragraph 6.05 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 6.07.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.

40. Strike Paragraph 6.07.B in its entirety and replace with the following:

B. Proceeds for such insured losses under the builder’s risk and other policies of insurance required by Paragraph 6.05 shall be made payable by the insurer to Owner, or if paid to another Party to this Contract, shall be immediately signed over to the benefit of Owner. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to

Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers.

41. Strike Paragraph 7.01 in its entirety and replace with the following:

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent, as provided under Paragraph 2.04.B., who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

42. After Paragraph 7.02.B, add the following:

- C. Contractor shall be responsible for the cost of any overtime pay or other expense incurred by the Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

43. Strike Paragraph 7.03.B in its entirety and replace with the following:

- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. Contractor agrees to assign to Owner at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work, and Contractor further agrees to perform the Work in such a manner as to preserve any and all manufacturer's warranties. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

44. Strike Paragraph 7.05.B in its entirety and replace with the following:

- B. *Engineer's Evaluation and Determination:* Engineer will be allowed an average of seven days, or such other reasonable period of time as Owner determines is required to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts,

including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

45. Strike Paragraph 7.06.A in its entirety and replace with the following:

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. No later than 14 days after the execution of the Agreement by Contractor and Owner, Contractor shall furnish Owner and Engineer, in writing, with (1) the name, trade, and subcontract amount for each Subcontractor and (2) the names of all persons or entities proposed as manufacturers of the products identified in the specifications (including those who are to furnish materials or equipment fabricated to a special design) and, where applicable, the name of the installing Subcontractor.

46. Strike Paragraph 7.08.A in its entirety and replace with the following:

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Contractor shall pay all charges of utility owners for connections for providing service to the Work, and Owner shall pay all charges of such utility owners for costs related to providing post-construction service to the Work.

47. After Paragraph 7.09.A, add the following:

- B. Should Owner be exempt from payment of sales and compensating use taxes of the State on all materials to be incorporated into the Work.
 - 1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 - 2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

48. Strike Paragraph 7.10.B in its entirety and replace with the following:

- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action.

49. Strike Paragraph 7.12.D in its entirety and replace with the following:

- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must

comply while at the Site, to which Owner may interpose reasonable objections that are not beyond a general right to order, inspect, make suggestions, or prescribe alterations or deviations or in any way accept or cause liable for site safety to shift from the sole responsibility of Contractor to either Owner or Engineer to any degree.

50. Strike Paragraph 7.15.A in its entirety and replace with the following:

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof as soon as is feasible. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

51. Strike Paragraph 7.17.A in its entirety and replace with the following:

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective.

52. Strike Paragraph 7.18.A in its entirety and replace with the following:

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting in whole or in part from any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

53. Strike Paragraph 8.03.D in its entirety and replace with the following:

- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) as soon as reasonably possible attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim as expediently as possible by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all

costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference. In no event shall Contractors actions as described in this Paragraph result in an increase in the Contract Price or Contract Times.

54. Strike Paragraph 9.03.A in its entirety and replace with the following:

- A. Owner shall furnish the data required of Owner in accordance with the Contract Documents.

55. Strike Paragraph 10.03.A in its entirety and replace with the following:

- A. If Owner and Engineer have agreed that Engineer will act as Owner's Project Representative, Engineer shall act as its Resident Project Representative and designate a specific person with Engineer's firm to serve as the Resident Project Representative to represent Owner at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority, which shall include the authority to transmit instructions, receive information, render decisions relative to the Contract Documents, and otherwise act in place of the Engineer, subject to the Supplementary Conditions providing otherwise and the limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions. In the event Owner designates a representative or agent other than Engineer or Engineer's agent, Engineer shall not be liable for decisions rendered by such Owner or Owner's Representative.

56. Strike Paragraph 10.07.A in its entirety and replace with the following:

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith. However, should Owner choose to self-perform the duties and responsibilities of Engineer, or should Owner chooses to designate another party to fulfill these duties and responsibilities, (i) Contractor shall accept all actions and decisions of Owner or Owner's designated party as if and to the same extent it would were the Engineer fulfilling these duties and responsibilities under the Contract; and (ii) Engineer shall not be liable for decision rendered by Owner or Owner's Representative

57. Strike Paragraph 11.01.A.1.b in its entirety.

58. Strike Paragraph 11.01.A.3 in its entirety and replace with the following:

- 3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the

Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order should instead, have been issued as a Change Order, because that Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein. Engineer will obtain not later than one week after issuing a given Field Order, and if possible before Contractor performs work under the Field Order, the signature of Contractor on each Field Order. This signature confirms that Contractor is not entitled to any change in the Contract Price or the Contract Times. Engineer should obtain the signature of Contractor on all Field Orders issued.

59. Strike Paragraph 11.02.A in its entirety and replace with the following:

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall proceed with the Work involved; or, in the case of a deletion in the Work, cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

60. Strike Paragraph 11.04.C.2.a in its entirety and replace with the following:

- a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, Contractor's fee shall be 15%;

61. Strike Paragraph 11.04.C.2.c in its entirety and replace with the following:

- c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that Contractor's fee shall be based on: (i) a fee of 15% of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (ii) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27% of the costs incurred by the Subcontractor that actually performs the work;

62. Strike Paragraph 11.05.A in its entirety and replace with the following:

- A. The Contract Times may only be changed by agreement only through a written and executed Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

63. After Paragraph 11.05.B add the following:

- C. All time limits stated in the Contract Documents are of the essence of the Agreement. Contractor acknowledges and understands that (i) Owner has a need for the completed Work, shortly after the date set forth in the Agreement by which substantial completion is to be achieved for the public good and to protect public funds; and (ii) failure by Contractor to complete the Work in accordance with the construction schedule will cause significant damages to Owner, including, without limitation, public health, safety, and welfare, as well as the undue diminishment of public funds.

64. Strike Paragraph 11.01.A.1.B in its entirety.**65. Strike Paragraph 11.06.A.2 in its entirety and replace with the following:**

- 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 60 days after receipt of the Contractor's supporting data, will recommend to the Owner that the Owner either deny or approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor and Funding Agency (if there is one). If Engineer does not take action on the Change Proposal within 60 days, then either Owner or Contractor may, at any time thereafter, submit a letter to the other party indicating that as a result of Engineer's inaction, the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

66. Strike Paragraph 11.06.A.3 in its entirety and replace with the following:

- 3. *Binding Decision:* Engineer's decision on issues other than changes in Contract Price or changes in Contract Times will be final and binding upon Contractor, unless Owner or Contractor appeals the decision by filing a claim under Article 12.

67. In Paragraph 11.07.A delete the following:

"in accordance with a Work Change Directive"

68. After Paragraph 11.07.B add the following:

- C. An agreed Change Order that adjusts the Contract Price, or the Contract Time, or both, shall be accomplished only by a written and executed Change Order. Accordingly, no course of conduct or dealings between the parties, no expressed or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any alterations or additions to the Work shall be the basis of any claim for an increase in any amount due under the contract documents or in any time period provided for in the Contract Documents, unless executed as a Change Order under Paragraph 10.03. Any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Price and the Contract Times. In the event a Change Order increases the Contract Price, Contractor shall include the Work covered by such Change Order in applications for payments as if such Work were originally part of the Agreement. No individual employer, agent, or representative of Owner is authority to waive this requirement of compliance with the requirement of this Section.

69. Strike Paragraph 12.01.B in its entirety and replace with the following:

- B. *Submittal of Claim.* The party submitting a Claim shall deliver it directly to the other party to the Contract as soon as practicable, and in no event more than 30 calendar days, after the start of the event giving rise thereto, and in the case of appeals regarding Change Proposals within 14 calendar days of the decision under appeal. The party submitting the Claim shall also furnish a copy to Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

70. Strike Paragraph 13.01.B.1 in its entirety and replace with the following:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized in writing by Owner.

71. Strike Paragraph 13.01.B.4 in its entirety and replace with the following:

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work, but only to the extent authorized and approved in writing by Engineer.

72. Strike Paragraph 13.01.B.5.c in its entirety and replace with the following:

- c. Construction Equipment and Machinery:
- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor will be paid at a rate shown for such equipment in the "The Rental Rate Blue Book for Construction Equipment" published by Equipment Watch, Prism Business Media. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs. Costs will include the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading,

assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, shall cease to accrue when the use thereof is no longer necessary for the changed Work. Equipment or machinery with a value of less than \$1,000 will be considered small tools.

73. Strike Paragraph 13.03.E.1 in its entirety and replace with the following:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement (the quantity of an item will be deemed to differ materially and significantly, without limitation, if it exceeds or falls short of the estimated quantity by more than 25 percent);

74. Strike Paragraph 14.02.F in its entirety and replace with the following:

- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted in a reasonable time, but in no case more than seven days.

75. Strike Paragraph 14.03.D in its entirety and replace with the following:

- D. *Correction, or Removal and Replacement:* Using best efforts and as soon as feasible, but in no event more than three days after receipt of written notice of defective Work, Contractor shall begin correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective, and shall continue to undertake corrections without delay or adjustment to Contract Price or Contract Times.

76. Strike Paragraph 14.05.C.2 in its entirety and replace with the following:

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction, unless Contractor fails to provide written notice as required in Paragraph 14.02.F. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

77. After Paragraph 15.01.B.3 add the following:

4. Each Application for Payment shall be accompanied by the following, all in a form and substance satisfactory to the Owner:
 - a. In addition to the current Contractor's lien waiver, a duly executed and acknowledged sworn statement showing all Subcontractors and material suppliers with whom the Contractor has entered into Subcontracts, the amount of each such Subcontract, the amount requested for each Subcontractor and Supplier who is to be paid any sum under the Application for Payment, and the amount to be paid to the Contractor from such progress payment, together with similar sworn statements from all such Subcontractors and Suppliers;

- b. Duly executed waivers of mechanics' and material suppliers' liens from all Subcontractors and, when appropriate, from material Suppliers and lower-tier Subcontractors, establishing payment or satisfaction of payment of all amounts requested of the Contractor on behalf of such entities or persons in any previous application for payment; and
 - c. All information and materials required to comply with the requirements of the Contract Documents or reasonably requested by the Owner or the Engineer. If required by the Owner's title insurer, if any, the Contractor shall execute a personal gap undertaking in form and substance satisfactory to such title insurer.
- 5. Contractor shall also comply with the following specific requirements:
 - a. The aggregate cost of materials stored off site shall not exceed \$10,000 at any time without written approval of Owner.
 - b. Title to such materials shall be vested in Owner, as evidenced by documentation satisfactory in form and substance to Owner and Owner's construction lender, including, without limitation, recorded financing statements, UCC filings, and UCC searches.
 - c. With each application for payment, Contractor shall submit to Owner a written list identifying each location where materials are stored off the project site and the value of materials at each location. Contractor shall procure insurance satisfactory to Owner for materials stored off the project site in an amount not less than the total value thereof.
 - d. The consent of any surety shall be obtained, to the extent required by the surety, or Owner prior to payment for any materials stored off the project site. e. Representatives of Owner and the lender shall have the right to make inspections of the storage areas for any materials stored off site at any time.
 - f. Such materials shall be (1) protected from diversion, destruction, theft, and damage to the satisfaction of Owner and lender; (2) specifically marked for use on the project; and (3) segregated from other materials at the storage facility.

78. After Paragraph 15.01.C.6.e add the following:

- f. Liability for liquidated damages has been incurred by Contractor
- g. Contractor has failed to pay for damages to existing underground utilities as required by the Tennessee One Call Law.

79. After Paragraph 15.02.A add the following:

- 1. Contractor further expressly undertakes to defend Owner and Engineer, at Contractor's sole expense, against any actions, lawsuits, or proceedings brought against Owner, Engineer, or any third party as a result of liens filed against the Work, the site of any of the Work, the project site and any improvements thereon, payments due Contractor, or any portion of the property of Owner, Engineer, or third party. Contractor hereby agrees to indemnify and hold Owner, Engineer, and third parties harmless against any such liens or claims of lien and agrees to pay any judgment or lien resulting from any such action, lawsuit, or proceeding.

2. Owner shall release any payments withheld due to a lien or claim of lien, if Contractor obtains security acceptable to Owner or a lien bond that is (a) issued by a surety acceptable to Owner; (b) in form and substance satisfactory to Owner; and (c) in an amount not less than two hundred percent (200%) of such lien claim. Provided, however, Contractor shall not be relieved of any responsibilities or obligations under this paragraph, by obtaining a bond or other acceptable security, including, without limitation, the duty to defend and indemnify Owner and Engineer. The cost of any premiums incurred in connection with such bonds and securities shall be the responsibility of Contractor and shall not be part of, or cause any adjustment to, the Contract Price.
3. Contractor agrees to waive, to the fullest extent allowed by applicable law, any right that it may have to assert a mechanic's or other lien against the Project or the Site and any improvements thereon, including, without limitation, the Work itself. Furthermore, Contractor will cause a similar provision, waiving to the fullest extent allowed by applicable law all rights to a mechanic's or other lien against the property, to be included in all of its Subcontracts, any sub-subcontracts, and all contracts with material Suppliers.
4. Notwithstanding the foregoing, Owner reserves the right to settle any disputed Subcontractor's, mechanic's or material Supplier's lien claim by payment to the lien claimant or by such other means as Owner, in Owner's sole discretion, determines is the most economical or advantageous method for settling the dispute. Contractor shall promptly reimburse Owner, upon demand, for any payment so made.

80. Strike Paragraph 15.03.B in its entirety and replace with the following:

- B. At a time Engineer determines to be reasonable, after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel, and living expenses, will be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

81. Strike Paragraph 15.03.E in its entirety and replace with the following:

- E. After Substantial Completion the Contractor shall without delay begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

82. Strike Paragraph 15.05.A in its entirety and replace with the following:

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will within five business days make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

83. Strike Paragraph 15.08.A in its entirety and replace with the following:

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall immediately, without cost to Owner and in accordance with Owner's written instructions:
1. correct the defective repairs to the Site or such other adjacent areas;
 2. correct such defective Work;
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

84. Strike Paragraph 15.08.B in its entirety and replace with the following:

- B. If Contractor does not immediately comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

85. Strike Paragraph 15.08.C in its entirety and replace with the following:

- C. In special circumstances where a particular item of equipment is placed in continuous service solely for the benefit of Owner before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

86. Strike Paragraph 16.02.A.1 in its entirety and replace with the following:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to have Contractor's authorized representative required by Paragraph 2.04.B available as reasonably needed (including the repeated absence of such authorized representative for two business days consecutively or more at a time), failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);

87. Strike Paragraph 16.03 in its entirety and replace with the following:

- A. Owner may, at any time, terminate the Contract in whole or in part for Owner's convenience and without cause. Termination by Owner under this paragraph shall be by a notice of

termination delivered to Contractor specifying the extent of termination and the effective date.

- B. Upon receipt of a notice of termination for convenience, Contractor shall immediately, in accordance with instructions from Owner, proceed with performance of the following duties regardless of delay in determining or adjusting amounts due under this paragraph:
 - (1) Cease operations as specified in the notice;
 - (2) Place no further orders and enter into no further subcontracts for materials, labor, services, or facilities except as necessary to complete continued portions of the Contract;
 - (3) Terminate all subcontracts and orders to the extent they relate to the Work terminated;
 - (4) Proceed to complete the performance of Work not terminated; and
 - (5) Take actions that may be necessary, or that Owner may direct, for the protection and preservation of the terminated Work.
- C. Upon such termination, Contractor shall recover as its sole remedy payment of the percentage of the Contract Price equal to the percentage of the work performed satisfactorily and not previously paid for. Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, anticipated profits or revenue or other economic loss arising out of or resulting from such termination.
- D. Owner shall be credited for: (1) payments previously made to Contractor for the terminated portion of the Work; (2) claims that Owner has against Contractor under the Contract; and (3) the value of the materials, supplies, equipment, or other items that are to be disposed of by Contractor that are part of the Contract Price.

88. Strike Paragraph 16.04 in its entirety and replace with the following:

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 60 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 30 days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 60 days to pay Contractor any sum finally determined to be due, Contractor may, seven business days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

89. Add Paragraph 17.02 as follows:

17.02 *Dispute Resolution.* Any dispute subject to resolution under this Article and any other claim or dispute regarding the Contract Documents shall be resolved in accordance with the process set forth in Addendum B of these Supplementary Conditions.

ADDENDUM A

Schedule of Insurance

CONTRACTOR'S INSURANCE REQUIREMENTS

Contractor must, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Exhibit.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Agreement requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers' compensation and employers liability insurance, providing the following coverages, limits and endorsements:

1. Commercial General Liability Insurance.

- 1.1 The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU (explosion, collapse, and underground), and products and completed operations, with a combined single limit of liability of not less than \$2,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$2,000,000 applicable solely to the Work, and meeting all other requirements of this Exhibit.
- 1.2 The general liability insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.
- 1.3 Each general liability policy must be endorsed or written to:
 - a. Include the per project aggregate endorsement;
 - b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");
 - c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;
 - d. Includes a severability of interest clause; and
 - e. Waive all rights of recovery against the Additional Insureds.

2. Workers' Compensation Insurance. Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

3. **Auto Liability Insurance**

- 3.1 Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.
- 3.2 This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.
- 3.3 This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

4. **Environmental Liability.** Contractor must secure, pay for, and maintain Contractor's Pollution Liability (CPL) coverage, including mold coverage, in an amount not less than \$1,000,000 and endorsing the Owner as an Additional Insured. Contractor must also provide to the Owner proof of Contractor's Pollution Legal Liability (PLL) for sites owned or operated by Contractors and by any Subcontractors handling hazardous or potentially hazardous materials. Environmental liability coverage may be part of a package policy.

5. **Professional Liability.** Contractor must secure, pay for, and maintain professional liability coverage in the amount of not less than \$1,000,000 on a form acceptable to the Owner and with tail coverage of not less than two years.

6. **Umbrella Coverage.** Contractor must secure, pay for, and maintain professional liability coverage in the amount of not less than \$5,000,000 on a form acceptable to the Owner. Umbrella coverage must not be limited to excess coverage that merely follows form of underlying coverages.

7. **Equipment Property Insurance.** Contractor must secure, pay for, and maintain all-risk insurance as necessary and without exceptions in order to protect the Owner against loss of owned, non-owned, rented, or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor, its Subcontractors, or Lower Tier Entities and any construction material in transit (unless shipped FOB destination Project Site or (Incoterm) DAP Project site) or materials stored in any location other than the Site.

8. **Builder's Risk.** Unless otherwise instructed by the Owner, Contractor will secure a completed value, all-risk Builder's Risk policy in manuscript form acceptable to Owner for the Project (not merely the Work), including appropriate, as determinate by the Owner, coverages, coverage amounts and limits, deductibles, and exclusions. The Owner must be a named insured and the policy may not terminate until Substantial Final Completion or a certificate of occupancy applicable to the entire property is issued, whichever is latest.

9. **Waiver of Subrogation.** Contractor hereby waives, and will require each of its Subcontractors and Lower Tier Entities to waive, all rights of subrogation under all policies against the Owner and other Additional Insureds for losses or damages covered by any policy of insurance. Contractor, Subcontractors, and Lower Tier Entities must provide notice of waiver to all insurance carriers.

10. **Term of Coverage**

- 10.1 The products and completed operations liability coverage required by this Agreement must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Agreement (the "Completed Operations Term").

- 10.2 If at any time during the Completed Operations Term Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.
- 10.3 Contractor will furnish certificates of insurance and other evidence that the Owner may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.
- 10.4 All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

11. Subcontractor and Lower-Tier Entities Insurance Requirements

- 11.1 Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:
 - a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$ 1,000,000 per occurrence, and \$ 1,000,000 as the annual aggregate limit; and
 - b. Timely furnish to the Owner proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.
 - c. The Lower Tier Entities' general liability policy must also be endorsed to provide the policy must be primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.
 - d. The Owner has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

12. Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

- 12.1 Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;
- 12.2 Provide that attorney's fees are outside of the policy's limits;
- 12.3 Include the Project per aggregate endorsement;
- 12.4 Waive all rights of subrogation against the Owner;
- 12.5 Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the Owner; and

- 12.6 Be otherwise satisfactory to the Owner. The Owner agrees to consider alternatives to the requirements imposed by this Exhibit but only to the extent that the Owner is satisfied the insurance is not commercially available to the insured. In such event, the Owner has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the Owner be a loss-payee under the policy.

13. Certificates and Endorsements

- 13.1 Within 10 days after the execution of this Agreement, Contractor must provide the Owner with certificates and endorsements;
- 13.2 Upon the Owner request, Contractor must provide the Owner with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Exhibit together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of coverage potentially available to the Owner under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the Owner.
- 13.3 If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

- 14. Reduction in Coverage.** Contractor must promptly inform the Owner of any reduction of coverage resulting from revised limits, claims paid, or both and must require its Subcontractors and Lower Tier Entities to promptly inform Contractor of same. The Owner has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

15. Suppliers and Materialmen Coverages

- 15.1 Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.
- 15.2 With respect to any equipment, machinery or other goods for which the Owner or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the Owner and Contractor as loss payee as their interests appear.

16. Condition Precedent to Starting Work

- 16.1 Prior to, and as a condition of its right to begin performing any Work on the Site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the Owner certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the Owner that the required insurance is in place; together with the

original of each bond required under this Agreement. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the Owner to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

- 16.2 The Owner is under no obligation or duty to make any such inquiry and the Owner is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The Owner's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.
17. **Additional Proofs of Insurance.** Contractor must, within 10 days after request, provide the Owner with certified copies of all policies and endorsements obtained in compliance with this Agreement.
18. **Indemnity.** The fact that Contractor and its Subcontractors are required by this Agreement to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the Owner and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.
19. **Interpretation.** In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Agreement, the terms of this Exhibit will govern.

ADDENDUM B

DISPUTE RESOLUTION PROCEDURES

1. Disputes

- 1.1 Each Dispute arising out of or related to this Agreement (including Disputes regarding any alleged breaches of this Agreement) must be initiated and decided under the provisions of this Exhibit.
- 1.2 Contractor and the Owner will each designate in writing to the other Party, from time to time, a member of senior management who is authorized to attempt to expeditiously resolve any Dispute relating to the subject matter of this Agreement in an equitable manner.
- 1.3 A Party initiates a Dispute by delivery of written Notice to the members of management designated by the respective parties under Section 1.2 hereof.
- 1.4 The parties must:
 - a. Attempt to resolve all Disputes promptly, equitably and in a good faith manner, and
 - b. Provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such Dispute.
- 1.5 With respect to matters concerning Change Orders for modification of the Guaranteed Maximum Price or Project Schedule, Contractor must first follow the provisions of any Claim procedure established by the Contractor Agreement before seeking relief under these Procedures.

2. Emergency Arbitration

- 2.1 If the parties are unable to accomplish resolution of a Dispute, the expedited resolution of which either Party considers necessary to prevent or mitigate a material delay to the critical path of the Construction Services (a "Time Sensitive Dispute") within two days after the Time Sensitive Dispute has been initiated by a Party, either Party may thereafter seek emergency relief before an emergency arbitrator (the "Emergency Arbitrator") appointed as follows:
 - a. The parties will exercise best efforts to pre-select an Emergency Arbitrator within 20 days after entering into this Agreement;
 - b. If the Emergency Arbitrator has not been selected at the time a Party delivers Notice of a Time Sensitive Dispute, the parties will each select a representative within one day after the Notice is delivered and the two representatives will then select the Emergency Arbitrator by the third day following delivery of the Notice.
 - c. The Emergency Arbitrator must be an attorney with at least 10 years' experience with commercial construction legal matters in Tennessee, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 The Emergency Arbitrator will conduct a hearing and render a written determination on the Dispute to both parties within five business days of the matter being referred to him or her, all in accordance with Rules O-1 to O-8 of the American Arbitration Association ("AAA")

Commercial Rules-Optional Rules for Emergency Protection Commercial Rules (“AAA Emergency Rules”)

- 2.3 Although the hearing will be conducted using AAA rules, unless both parties agree otherwise, this dispute process will not be administered by the AAA but will be conducted by the parties in accordance with these procedures.
- 2.4 If, however, an Emergency Arbitrator has not selected within three days after delivery of the Notice, either Party may upon three days additional notice, thereafter seek emergency relief before the AAA, in accordance with the AAA Emergency Rules, provided that the Emergency Arbitrator meets the qualifications set forth above.
- 2.5 All proceedings to arbitrate Time Sensitive Disputes will be conducted in Rutherford, Davidson, or Williamson counties, Tennessee.
- 2.6 Presentation, request for determination (i.e., a Party’s prayer), and the Emergency Arbitrators decision will adhere to the procedures required in Section 3.5 hereof.
- 2.7 The finding of the Emergency Arbitrator with respect to any Time Sensitive Dispute will be binding upon the parties on an interim basis during progress of the Construction Services, subject to review *de novo* by arbitration after the Project Substantial Completion Date.
- 2.8 The time and extent of discovery will be as determined by the Emergency Arbitrator.
 - a. Discovery orders of the Emergency Arbitrator will consider the time sensitivity of the matter and the parties desire to resolve the issue in the most time and costs efficient manner;
 - b. The parties are obligated to cooperate fully and completely in the provision of documents and other information, including joint interviews of individuals with knowledge such that the matter moves toward resolution in the most time and costs efficient manner and the Emergency Arbitrator is empowered to fashion any equitable penalty against a Party that fail to meet this obligation

3. Non-Emergency Arbitration

- 3.1 Except as provided in Section 5 hereof, any Dispute that is either a non-emergency Dispute that has not been resolved by negotiation, or a *de novo* review of an emergency arbitration will be decided by binding arbitration by a panel of three arbitrators in accordance with, but not necessarily administered by, the Construction Industry Rules of the AAA.
 - a. The parties each select an arbitrator within 15 days after Notice that a Party desire to resolve a dispute by arbitration.
 - b. The two arbitrators then each select a third arbitrator.
 - c. The arbitrator(s) must meet the qualifications of Emergency Arbitrators as provided in Section 2 hereof.
- 3.2 The arbitrators do not have the authority to consider or award punitive damages as part of the arbitrators' award.
- 3.3 In connection with such arbitration, each Party is entitled to conduct up to five depositions, and, no less than 90 days prior to the date of the arbitration hearing, each Party will deliver

to the other Party copies of all documents in the delivering Party's possession that are relevant to the dispute.

- 3.4 The arbitration hearing must be held within 150 days of the appointment of the arbitrators.
- 3.5 At the arbitration hearing, each Party will argue its position to the arbitrators in support of one proposed resolution to the dispute (a "Proposed Resolution").
 - a. Each Party's Proposed Resolution must be fully dispositive of the dispute.
 - b. The arbitrators must select one of Proposed Resolution by majority consent and are not free to fashion any alternative resolutions.
 - c. The parties must submit their Proposed Resolution of the matter to the arbitrators and the other Party 15 days prior to the date set for commencement of the arbitration proceeding.
 - d. The decision of the arbitrators will be forwarded to the parties within 15 days after the conclusion of the arbitration hearing.
 - e. The decision of the arbitration panel is final and binding on the parties and may be entered in any court of competent jurisdiction for the purpose of securing an enforceable judgment.
 - f. All costs and expenses associated with the arbitration, including the reasonable legal fees and costs incurred by the prevailing Party, must be paid by the Party whose position was not selected by the arbitrators.

- 4. **Continuing Work.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of the Work during any Dispute resolution or arbitration proceedings, and the Owner will continue to make payment to Contractor in accordance with the Contractor Agreement.

5. **Exceptions**

- 5.1 Neither the Owner nor Contractor are not be required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defenses in any action that is commenced by a third-party who is not obligated by contract to arbitrate disputes with the Owner and Contractor.
- 5.2 The Owner or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice (but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Tennessee law), without the necessity of initiating or exhausting the procedures of this Exhibit.
- 5.3 This Exhibit does not apply to, and may not be construed to require arbitration of, any claims, actions or other process undertaken, filed, or issued by the City of Murfreesboro Building Safety Department, Code Compliance Department, Police Department, Fire Department, or any other agency of the Owner (the City) acting in its governmental permitting, for the benefit of public health, safety, and welfare, or other regulatory capacity.
- 5.4 In connection with any arbitration, the arbitrators do not have the authority to, and may not enforce, any provision of the Federal or Tennessee Rules of Civil Procedure.

ADDENDUM A

Schedule of Insurance

CONTRACTOR'S INSURANCE REQUIREMENTS

Contractor must, as a material obligation to the City and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Addendum.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Agreement requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers compensation and employers liability insurance, providing the following coverages, limits and endorsements:

1. Commercial General Liability Insurance.

The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU, and products and completed operations, with a combined single limit of liability of not less than \$2,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$2,000,000 applicable solely to the Work, and meeting all other requirements of this Addendum.

The general liability insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.

Each general liability policy must be endorsed or written to:

- a. Include the per project aggregate endorsement;
- b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");
- c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;
- d. Includes a severability of interest clause; and
- e. Waive all rights of recovery against the Additional Insureds.

- 2. Workers' Compensation Insurance.** The Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance, with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

Auto Liability Insurance

Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.

This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.

This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

Builder's Risk. Contractor will secure a completed value, all-risk Builder's Risk policy in manuscript form acceptable to City for the Project (not merely the Work), including appropriate, as determinate by the City, coverages, coverage amounts and limits, deductibles, and exclusions. The City must be a named insured and the policy may not terminate until Substantial Final Completion or a certificate of occupancy applicable to the entire property is issued, whichever is latest.

Equipment Property Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary and without exceptions in order to protect the City against loss of owned, non-owned, rented, or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor, its Subcontractors, or Lower Tier Entities and any construction material in transit (unless shipped FOB destination Project Site or (Incoterm) DAP Project site) or materials stored in any location other than the Site.

Waiver of Subrogation. Contractor hereby waives, and will require each of its Subcontractors and Lower Tier Entities to waive, all rights of subrogation under all policies against the City and other Additional Insureds for losses or damages covered by any policy of insurance. Contractor, Subcontractors, and Lower Tier Entities must provide notice of waiver to all insurance carriers.

Term of Coverage

The products and completed operations liability coverage required by this Agreement must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Agreement (the "Completed Operations Term").

If at any time during the Completed Operations Term Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.

Contractor will furnish certificates of insurance and other evidence that the City may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.

All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

Subcontractor and Lower-Tier Entities Insurance Requirements

Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:

- a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages,

endorsements, terms of coverage and other provisions as are required of Contractor under by this Addendum, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$ 1,000,000 per occurrence, and \$ 1,000,000 as the annual aggregate limit; and

- b. Timely furnish to the City proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Addendum.
- c. The Lower Tier Entities' general liability policy must also be endorsed to provide the policy must be primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.
- d. The City has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;

Have a deductible not exceeding \$10,000 unless otherwise agreed upon by the City;

Provide that attorney's fees are outside of the policy's limits and be unlimited;

Include the Project per aggregate endorsement;

Waive all rights of subrogation against the City;

Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the City; and

Be otherwise satisfactory to the City. The City agrees to consider alternatives to the requirements imposed by this Addendum but only to the extent that the City is satisfied the insurance is not commercially available to the insured. In such event, the City has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the City be a loss-payee under the policy.

Certificates and Endorsements

Within 10 days after the execution of this Agreement, Contractor must provide the City with certificates and endorsements;

Within 10 days after execution of each Subcontract (but in all events prior to such Subcontractor commencing Services), Contractor must provide the City with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Addendum together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of

coverage potentially available to the City under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the City.

If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

Reduction in Coverage. Contractor must and must require its Subcontractors and Lower Tier Entities to promptly inform the City of any reduction of coverage resulting from revised limits, claims paid, or both. The City has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

Suppliers and Materialmen Coverages

Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.

With respect to any equipment, machinery or other goods for which the City or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the City and Contractor as loss payee as their interests appear.

Condition Precedent to Starting Work

Prior to, and as a condition of its right to begin performing any Work on the Site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the City certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the City that the required insurance is in place; together with the original of each bond required under this Agreement. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the City to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

The City is under no obligation or duty to make any such inquiry and the City is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The City's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Addendum.

Additional Proofs of Insurance. Contractor must, within 10 days after request, provide the City with certified copies of all policies and endorsements obtained in compliance with this Agreement.

Indemnity. The fact that Contractor and its Subcontractors are required by this Agreement to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the City and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.

Interpretation. In the event of any inconsistency between the provisions of this Addendum and those of the other provisions of the Agreement, the terms of this Addendum will govern.

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Page 1 of 4

S T A T E**O F****T E N N E S S E E**

(Rev. 05-16-16)

(Rev. 04-01-19)

(Rev. 11-08-19)

(Rev. 3-2-23)

January 1, 2021

SPECIAL PROVISION**REGARDING****PAYMENT ADJUSTMENT FOR BITUMINOUS MATERIAL**

This Special Provision covers the method of payment adjustment for bituminous materials.

100% Virgin Bituminous Material

A payment adjustment will be made to compensate for increases and decreases of 5% or more in the contractor's bituminous material cost. The normal bid items in the contract covering the bituminous material shall not be changed. Payment adjustments (+/-) shall be paid under "Payment Adjustment for Bituminous Material" and calculated as described herein:

A "Basic Bituminous Material Index" will be established by the Tennessee Department of Transportation prior to the time the bids are opened. This "Basic Bituminous Material Index" is the average of the current quotations on P.G. 64-22 from suppliers furnishing asphalt cement to contractors in the State of Tennessee. These quotations are the cost per ton f.o.b. supplier's terminal.

The "Basic Bituminous Material Index" for this project is \$ 655.45 per ton.

The "Monthly Bituminous Material Index" is also established on the first day of each month by the same method. A payment adjustment shall be made provided the "Monthly Bituminous Material Index" varies 5% or more (+/-) from the "Basic Bituminous Material Index".

Where the price index varies 5% or more (+/-), the payment adjustment will be made as follows:

$$PA = [Ic - Ib] \times T$$

Where:

PA =	Price Adjustment for Adjustment Month
Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
T =	Tons bituminous material for Adjustment Month

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Payment adjustment will be applied to all asphalt cement, asphalt emulsion, or bituminous material used for paving on this project.

Upon the expiration of the allocated working time, as set forth in the original contract or as extended by Change Order, payment adjustments for bituminous material will continue to be made when the "Monthly Bituminous Material Index" varies 5% or more (+/-) from the "Basic Bituminous Material Index".

The calculation of the bituminous payment adjustment shall be made using the "Monthly Bituminous Material Index" or the "Bituminous Material Index for Contract Completion Date" in accordance with the following formulas:

The "Bituminous Material Index for Contract Completion Date" is the Monthly Bituminous Material Index in effect on the allocated Contract Completion Date or on the completion date as extended by Change Order.

The "Monthly Bituminous Material Index" is **less** than the "Bituminous Material Index for Contract Completion Date".

$$PA = [Ic - Ib] \times T$$

The "Monthly Bituminous Material Index" is **greater** than the "Bituminous Material Index for Contract Completion Date".

$$PA = [Icd - Ib] \times T$$

Where:

PA =	Price Adjustment for Adjustment Month
Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
Icd =	Bituminous Material Index for Contract Completion Date (or as extended by Change Order)
T =	Tons

FOR REFERENCE ONLY

SiteManager or spreadsheet calculates the price adjustment based on the actual amount of asphalt cement (residue) in the emulsion using the following percentages:

-tack coats and shoulder sealants (e.g., SS-1, SS-1h, CSS-1, Css-1h)	63% residue
-prime coats (e.g., AE-P)	54% residue
-scrub seals and microsurfacing (e.g., CQS-1HP)	65% residue
-chip seals (e.g., CRS-2, CRS-2P)	69% residue
-hot in-place recycle (ARA-3P)	63% residue

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Mixes Containing Recycled Bituminous Material

The quantity of virgin asphalt cement in tons subject to payment adjustment in recycled mixes shall be the product of the total tons of each mix multiplied by the difference between (1) the percent of asphalt cement specified for bidding purposes and (2) the percent of asphalt cement obtained from the recycled asphaltic material (RAP) used in each mix. No payment adjustment under this special provision for increases and decreases in the contractor's cost for virgin asphalt cement in recycled mixes will be allowed for asphalt cement content in excess of the percent specified for bidding purposes, as all payment adjustments for asphalt cement in the mix design of recycled mixes in excess of the percent of asphalt cement specified for bidding purposes will be made in accordance with the Standard Specifications.

No payment adjustment for bituminous material containing RAP shall be made unless the "Monthly Bituminous Material Index" varies 5% or more (+/-) from the "Basic Bituminous Material Index" indicated in this Special Provision.

Where the price index varies 5% or more (+/-), the payment adjustment will be made as follows:

$$PA = \frac{[Ic - Ib] \times [BA - RA]}{100} \times Tm$$

PA =	Price Adjustment for Adjustment Month
Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
BA =	Percent asphalt specified for bidding purposes
RA =	Percent asphalt obtained from recycled asphaltic material used in each mix
Tm =	Tons asphalt mix for adjustment month

Upon the expiration of the allocated working time, as set forth in the original contract or as extended by Change Order, payment adjustments for bituminous material containing RAP will continue to be made when the "Monthly Bituminous Material Index" varies 5% or more (+/-) from the "Basic Bituminous Material Index".

The calculation of the bituminous payment adjustment shall be made using the "Monthly Bituminous Material Index" or the "Bituminous Material Index for Contract Completion Date" in accordance with the following formulas:

The "Bituminous Material Index for Contract Completion Date" is the Monthly Bituminous Material Index in effect on the allocated Contract Completion Date or on the completion date as extended by Change Order.

SP109B**SP109B**

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The “Monthly Bituminous Material Index” is **less** than the “Bituminous Material Index for Contract Completion Date”.

$$PA = [Ic - Ib] \times \frac{[BA - RA]}{100} \times Tm$$

The “Monthly Bituminous Material Index” is **greater** than the “Bituminous Material Index for Contract Completion Date”.

$$PA = [Icd - Ib] \times \frac{[BA - RA]}{100} \times Tm$$

Where:

PA =	Price Adjustment for Adjustment Month
Ib =	Basic Bituminous Material Index
Ic =	Monthly Bituminous Material Index
Icd =	Bituminous Material Index for Contract Completion Date (or as extended by Change Order)
BA =	Percent asphalt specified for bidding purposes
RA =	Percent asphalt obtained from recycled asphaltic material used in each mix
Tm =	Tons asphalt mix for adjustment month

Street List

STREET NAME	FROM	TO
Middle Tenn Blvd	MLK Blvd	SE Broad St
Throne St	Regenwood Dr	Banner Dr
Veterans Pkwy	96 hwy	Blackman rd
Saratoga Dr	Manchester hwy	end
St Johns Dr	Sulphur Springs Rd	end
Rutherford blvd	Greenland Dr	Main St
Greenland Dr	Rutherford Blvd	Middle Tenn Blvd
Battleground Dr	Northfield Blvd	Avon Rd
Pitts Ln	Dejarnette Ln	Northfield Blvd
Old Lascassas Hwy	Greenland Dr	Rutherford Blvd
St Andrews Dr	Cason trl	HWY 99
Cason Ln	Cason trl	HWY 99
Veterans Pkwy	Burnknob rd	840 Bridge
Dejarnette Ln	Kingsgate Dr	96 Hwy
Northfield Blvd	Broad St	Jones Blvd
Rutherford blvd	Broad St	Bradyville Pk
Middle Tenn Blvd	Church St	Broad St
Main St	Rutherford Blvd	Middle Tenn Blvd
Square Area		
Cherry Ln	Memorial Blvd	End of Soccer park
Lytle St	Highland Ave	Spring St
Riverrock Blvd	Maybrook Ct	HWY 99

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
303-01	Mineral Aggregate, Type A Base, Grading D	300	TON	\$20.00	\$6,000.00
307-01.08	Asphalt Concrete Mix (PG64-22)(BPMB) Grading B-M2	500	TON	\$89.00	\$44,500.00
307-01.09 (1)	Asphalt Concrete Mix (PG64-22)(BPMB) Grading B-M2	500	TON	\$65.00	\$32,500.00
307-01.15	ACS Mix (PG64-22) (BPMLC-HM) Grading CS	250	TON	\$112.00	\$28,000.00
307-01.01	Asphalt Concrete Mix (PG64-22) (BPMB-HM) Grading A	50	TON	\$98.00	\$4,900.00
307-02.01	Asphalt Concrete Mix (PG70-22) (BPMB-HM) Grading A	50	TON	\$108.00	\$5,400.00
307-02.02	Asphalt Cement (PG70-22)(BPMB-HM) Grading A-S	17.5	TON	\$115.00	\$2,012.50
307-02.03	Aggregate (BPMB-HM) Grading A-S Mix	482.5	TON	\$89.00	\$42,942.50
307-02.08	Asphalt Concrete Mix (PG70-22)(BPMB) Grading B-M2	500	TON	\$95.00	\$47,500.00
403-01	Bituminous Material for Tack Coat (TC)	35	TON	\$950.00	\$33,250.00
403-05.01	Bituminous Material (Fog Seal) (Roadway/Shoulder)	3	TON	\$800.00	\$2,400.00
411-01.10	ACS Mix (PG-64-22) Grading D	6000	TON	\$120.00	\$720,000.00
411-01.13 (2)	ACS Mix (PG-64-22) Grading D Roadway	1000	TON	\$89.00	\$89,000.00
411-01.14	ACS Mix (PG-64-22)Grading E Roadway	5000	TON	\$100.00	\$500,000.00
411-01.15 (3)	ACS Mix (PG-64-22) Grading E Roadway (Small Quantity)	250	TON	\$110.00	\$27,500.00
411-02.10	ACS Mix (PG-70-22) Grading D	12000	TON	\$125.00	\$1,500,000.00
411-04	Crack Sealant	500	LB	\$8.00	\$4,000.00
411-33.34	Stamped Asphalt Pattern	12000	SF	\$17.90	\$214,800.00
411-51.10	Infrared Patch Repair (Asphalt)	1500	SF	\$3.50	\$5,250.00
415-01.01	Cold Planing Bituminous Pavement (Based on 1.5 inch	17000	TON	\$24.00	\$408,000.00
712-01	Traffic Control	40	Day	\$2,000.00	\$80,000.00
716-05.01	Painted Pavement marking (4" Line)	1	LM	\$1,650.00	\$1,650.00
716-05.05	Painted Pavement Marking (Stop Line)	150	LF	\$15.75	\$2,362.50
716-05.06	Painted Pavement Marking (Turn Lane Arrow)	10	EACH	\$13.15	\$131.50
716-05.11	Painted Pavement Marking (Straight Arrow)	10	EACH	\$13.15	\$131.50
716-05.21	Painted Pavement Marking (4" Dotted Line)	100	LF	\$.55	\$55.00
716-05.22	Painted Pavement Marking (Longitudinal Crosswalk)	300	LF	\$31.50	\$9,450.00
	Total				\$3,811,735.50

Line Item	Description	Quantity	Unit of Me	Unit Cost	Total
1	Manhole Type	120	EACH	\$485.00	\$58,200.00
2	Manhole Type Plated	185	EACH	\$730.00	\$135,050.00
3	Valve Box Type	120	EACH	\$460.00	\$55,200.00
4	Valve Box Type Plated	165	EACH	\$700.00	\$115,500.00
5	Inlet Type	5	EACH	\$485.00	\$2,425.00
6	Inlet Type Plated	5	EACH	\$730.00	\$3,650.00
	Total				\$370,025.00

Line Item	Description	Quantity	Unit of Me	Unit Cost	Total
1	Champion 710 Motor Grader or Equal	200	Hours	\$150.00	\$30,000.00
2	CAT 289 Skid Steer or Equal	200	Hours	\$50.00	\$10,000.00
3	23,160 GVWR Dump Truck or Equal	200	Hours	\$110.00	\$22,000.00
4	Case 580 K Back Hoe or Equal	500	Hours	\$100.00	\$50,000.00
5	Broom Truck	500	Hours	\$75.00	\$37,500.00
	Total				\$149,500.00

GRAND TOTAL**\$4,331,260.50**

- (1) - Item to be priced as materials only. Owner will furnish transport, labor and installation.
 (2) - Item to be priced as materials only. Owner will furnish transport, labor and installation.
 (3) – Item to be used for small quantity jobs under 250 Tons.



P.O. Box 292 - 6015 Hwy 64E, Wartrace, TN 37183
Office (931) 389-9671 - Fax (931) 389-9775

April 24, 2024

Mr. Joe Ehelben
City of Murfreesboro
111 E. Vine St.
Murfreesboro, TN 37130

RE: Annual Paving Contract

Dear Mr. Ehelben

This letter is to serve as notice that Hawkins Asphalt Paving, LLC is requesting the renewal of the City of Murfreesboro annual Paving Contract for the upcoming year. Please feel free to contact me if you need any additional information from Hawkins Asphalt Paving, LLC.

I would further like to express that it has been a great pleasure working with you and the City of Murfreesboro throughout the duration of our contract and we hope to continue to be of service to the City for the upcoming term.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. Flippo', with a stylized flourish at the end.

Steven Flippo
Hawkins Asphalt Paving, LLC
Office Manager

No Items.

COUNCIL COMMUNICATION

Meeting Date: 06/05/2025

Item Title: Beer Permits
Department: Finance
Presented by: Erin Tucker, City Recorder
Requested Council Action:

Ordinance ☐
Resolution ☐
Motion ☒
Direction ☐
Information ☐

Summary

TCA 57-5-103 delegates the authority to regulate the sale, distribution, manufacture, or storage of beer to the City where the business is located.

Staff Recommendation

The applications from the following applicants meet requirements and are recommended to be approved. The permits will only be issued once the permits are approved by the City Council (Beer Board) and building and codes final inspections are passed for regular beer permits or a special event permit is approved for special event beer permits.

Regular Beer Permits

Name of Applicant	Name of Business	Address	Type of Permit	Type of Business	Reason
Rocha-Bautista Group LLC	Casa Tio's	4433 Veterans Pkwy Ste B	On-Premises	Restaurant	New Location
Gururaj Inc	Discount Tobacco Outlet	2510 S Church St Ste B	Off-Premises	Tobacco Store	Ownership Change
Las Trojas Murfreesboro TN LLC	Las Trojas Cantina Mexican Restaurant	3105 Medical Center Pkwy	On-Premises	Restaurant	New Location

Background Information

All applicants meet the requirements for issuing a beer permit per the City Code Chapter 4 Alcoholic Beverages with the exception of pending building and codes inspections for regular beer permits or pending special event permit for special event beer permits.

Council Priorities Served

Maintain public safety

Controlling the sale of beer within the City provides enforcement tools by the City for restrictions as to where beer is sold, ability to obtain the right to sell beer, time of beer sales and onsite consumption.

Attachments

Summaries of Request

Beer Application

Summary of information from the beer application:

Name of Business Entity/Sole Proprietor	Rocha-Bautista Group LLC
Name of Business	Casa Tio's
Business Location	4433 Veterans Pkwy Ste B
Type of Business	Restaurant
Type of Permit Applied For	On-Premises

Type of Application:

New Location	<u> X </u>
Ownership Change	<u> </u>
Name Change	<u> </u>
Permit Type Change	<u> </u>
Corporation	<u> </u>
Partnership	<u> </u>
LLC	<u> X </u>
Sole Proprietor	<u> </u>

5% or more Ownership

Name	Ana L. Bautista-Lopez
Age	47
Residency City/State	Murfreesboro/TN
Race/Sex	Hispanic/F
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly?	Yes
--	-----

Occupancy Application Approved?	No
--	----

The actual beer application is available in the office of the City Recorder.

***I request permission to issue the beer permit upon successful completion of all required building and codes inspections.

Beer Application

Summary of information from the beer application:

Name of Business Entity	Gururaj Inc
Name of Business	Discount Tobacco Outlet
Business Location	2510 S Church St Ste B
Type of Business	Tobacco Store
Type of Permit Applied For	Off-Premises

Type of Application:

New Location	<input type="checkbox"/>
Ownership Change	<input checked="" type="checkbox"/>
Name Change	<input type="checkbox"/>
Corporation or LLC	<input checked="" type="checkbox"/>
Partnership	<input type="checkbox"/>
Sole Proprietor	<input type="checkbox"/>

5% or more ownership:

Name	Nikulkumar M. Patel
Age	52
Residency City/State	Murfreesboro, TN
Race/Sex	White/M
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly? Yes

Occupancy Application Approved? No

The actual beer application is available in the office of the City Recorder.

***I request permission to issue the beer permit upon successful completion of all required building and codes inspections.

Beer Application

Summary of information from the beer application:

Name of Business Entity	Las Trojas Murfreesboro TN LLC
Name of Business	Las Trojas Cantina Mexican Restaurant
Business Location	3105 Medical Center Pkwy
Type of Business	Restaurant
Type of Permit Applied For	On-Premises

Type of Application:

New Location	<input type="checkbox"/>
Ownership Change	<input checked="" type="checkbox"/>
Name Change	<input type="checkbox"/>
Corporation or LLC	<input checked="" type="checkbox"/>
Partnership	<input type="checkbox"/>
Sole Proprietor	<input type="checkbox"/>

5% or more ownership:

Name	Miguel Martinez
Age	54
Residency City/State	Fayetteville, TN
Race/Sex	Hispanic/M
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Elvia Garcia
Age	51
Residency City/State	Fayetteville, TN
Race/Sex	Hispanic/F
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly?	Yes
--	-----

Occupancy Application Approved?	No
--	----

The actual beer application is available in the office of the City Recorder.

***I request permission to issue the beer permit upon successful completion of all required building and codes inspections.

No Items.

