City of Bartlett

A. Keith McDonald, Mayor

BOARD OF MAYOR AND ALDERMEN MEETING AGENDA

TUESDAY, JANUARY 9, 2018 - BARTLETT CITY HALL - 7:00 PM

INVOCATION

Opening Prayer by Jeffrey Rudy, Ellendale United Methodist

FUTURE MEETINGS

Bartlett Station Commission, January 10 at 7:30 a.m.

Parks and Recreation Advisory Board, January 11 at 7 p.m.

BPACC Advisory Board, January 16 at 6 p.m.

Bartlett Arts Council, January 16 at 6:30 p.m.

Design Review Commission, January 16 at 6:30 p.m.

Board of Education Work Session, January 18 at 7 p.m.

RECOGNITIONS

Official Business of the Day

MINUTES ACCEPTANCE

Minutes of the December 12, 2017 Board of Mayor and Aldermen Regular Meeting

PUBLIC HEARING

Individuals will have a maximum of three minutes to speak either for or against the item, with a total of 20 minutes for each side.

1. Ordinance 17-07, an ordinance to amend Title 17, Chapter 1, Sections 101, 102, and 105, and add Section 106 of the Codified Ordinances to address yard waste removal.

UNFINISHED BUSINESS

1 Third Reading of Ordinance 17-07, an ordinance to amend Title 17, Chapter 1, Sections 101, 102, and 105, and add Section 106 of the Codified Ordinances to address yard waste removal. (Mark Brown, Chief Administrative Officer)

2 **Second Reading of Ordinance 17-08, an ordinance to amend Title 11, Chapter 3, Section 306 of the Codified Ordinances of the City of Bartlett, Tennessee to amend the use of watercraft upon public, municipal waters. (Shan Criswell, Director of Parks and Recreation)** The public hearing is set for January 23, 2018.

CONSENT AGENDA

1 **Bid for Orion water meters. (Dick Phebus, Director of Finance)**

Recommend accepting the sole source bid National Meter for 907 Orion utility meters and accessories at a total cost of $123,805.50. Funds are available in Account 510.51100.945

2 **Authorization to purchase two properties through the Repetitive Loss Purchase program by Federal Emergency Management Agency. (Rick McClanahan, Director of Engineering)**

Request authorization to purchase properties at 3673 Thistle Valley and 2810 Alfaree, which have qualified for the Repetitive Loss Purchase Program by FEMA. Funding is 100 percent reimbursable by Federal, State and County governments. Funds available in Accounts 131.43100.780.08917 and 131.43100.780.0891.

3 **Planning Commission Report for December 2017. (Kim Taylor, Director of Planning and Economic Development)**

NEW BUSINESS

1 **Appoint and re-appoint members to City's Boards and Commissions. (A. Keith McDonald, Mayor)**

2 **Reappoint Scott Greer as City Chaplain. (A. Keith McDonald, Mayor)**

3 **Resolution 01-18, a resolution to approve an agreement between the State of Tennessee Department of Transportation and the City of Bartlett for the design and construction of Fletcher Creek Greenway, Phase III. (Rick McClanahan, Director of Engineering)**

OPEN DISCUSSION

ADJOURNMENT

City of Bartlett

A. Keith McDonald, Mayor

BOARD OF MAYOR AND ALDERMEN MEETING MINUTES

TUESDAY, DECEMBER 12, 2017 - BARTLETT CITY HALL - 7:00 PM

ATTENDANCE

Mayor A. Keith McDonald: Absent, Alderman W.C. Pleasant: Present, Alderman Emily Elliott: Present, Alderman David Parsons: Present, Alderman Bobby Simmons: Present, Vice Mayor Jack Young: Present, Alderman Paula Sedgwick: Present.

INVOCATION

Opening Prayer by Marty Tartera, New Hope Christian Church

FUTURE MEETINGS

Historic Preservation Commission, December 18 at 7 p.m.
Bartlett Arts Council, December 19 at 6:30 p.m.
Design Review Commission, December 19 at 6:30 p.m.
Board of Education, December 21 at 7 p.m.
City Beautiful Commission, January 4 at 6:30 p.m.
Industrial Development Commission, January 4 at 7 p.m.
Family Assistance Commission, January 8 at 6 p.m.
Bartlett Historical Society, January 8 at 7 p.m.
Planning Commission, January 8 at 7 p.m.
Bartlett Station Commission, January 10 at 7:30 a.m.

RECOGNITIONS

*****Official Business of the Day*****

MINUTES ACCEPTANCE

Minutes of the November 28, 2017 Board of Mayor and Aldermen Regular Meeting

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Bobby Simmons, Alderman
SECONDER:	Emily Elliott, Alderman
AYES:	Pleasant, Elliott, Parsons, Simmons, Young, Sedgwick

UNFINISHED BUSINESS

1 **Second Reading of Ordinance 17-07, an ordinance to amend Title 17, Chapter 1, Sections 101, 102, and 105, and add Section 106 of the Codified Ordinances to address yard waste removal. (Mark Brown, Chief Administrative Officer)**The public hearing is set for January 9, 2018.

RESULT:	**APPROVED ON SECOND READING [UNANIMOUS] Next: 1/9/2018 7:00 PM**
MOVER:	Bobby Simmons, Alderman
SECONDER:	W.C. Pleasant, Alderman
AYES:	Pleasant, Elliott, Parsons, Simmons, Young, Sedgwick

CONSENT AGENDA

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	W.C. Pleasant, Alderman
SECONDER:	Bobby Simmons, Alderman
AYES:	Pleasant, Elliott, Parsons, Simmons, Young, Sedgwick

1 **Special event permit for the Winter Cross Country Series Races. (Jim Brown, Director of Code Enforcement)**
The event will be held on Sundays, January 28 and February 18, 2018 from 2 to 4 p.m. at Nesbit Park.

2 **Bid for Fly Space Exterior Wall at Bartlett Performing Arts and Conference Center. (Dick Phebus, Director of Finance)**
Recommend accepting the lowest bid from Dan Walker at a cost of $99,000 plus a contingency amount of $15,000 for a total cost of $114,000. Funds are available in Account 311.48311.780.59118.

3 **Proposal for Americans with Disabilities Act Transition Plan. (Rick McClanahan, Director of Engineering)**
Recommend accepting the proposal from Kimley Horn to identify and quantify costs of City facilities' major ADA deficiencies. The final cost to the City will be $30,000 thanks to an 80/20 grant. Funds are available 311.31148311.780.455.

4 **Planning Commission Report for November 2017. (Kim Taylor, Director of Planning and Economic Development)**

5 **Treasurer's Report for October 2017. (Dick Phebus, Director of Finance)**

NEW BUSINESS

1 **Appeal of the Design Review Commission's denial of the proposed third tenant identification wall sign for Red Wing Shoes, located at 2916 Kate Hyde Blvd. (Kim Taylor, Director of Planning and Economic Development)**

Ms. Taylor explained that Red Wing Shoes currently has a wall sign on the south side and the west side of the building, in addition to a sign on the multi-tenant sign at the intersection of Highway 64 and Kate Hyde Blvd. The request is for an additional wall sign on the north side of the building facing the shared access drive with Wal-Mart.
Based on the building's linear frontage, the business can have 35 square feet of signage. Its current signage is 30.17 sq. ft. The request for a third wall sign would increase the total signage to 56.11 square feet. Red Wing Shoes was offered a compromise of placing a four-square-foot logo on the north side of its building, but chose to appeal the Design Review Commission's decision instead. The Commission denied the request because it exceeds the amount of signage allowed by ordinance.

Alderman Elliott, the Board's liaison to the Design Review Commission, reiterated that Red Wings' request exceeds the ordinance amount allowed. She added that the Commission has not allowed other businesses in this area to exceed the ordained signage amount.

The applicant's representative Marilyn Brennan with Egan Sign, located at 1100 Berkshire Blvd, Wyomissing, Pennsylvania, explained that when the sign plan was first created, it did not take into account the high volume of traffic coming from the north side of the building. She stated that potential customers driving south on Kate Hyde will not see a sign for the store until they are past it, and past a point they can turn onto the property since there is a hard median dividing the street. Ms. Brennan stated that the impetus for the additional wall sign request is safety. The building is sandwiched between Panera Bread and East Coast Wings, and the position of the store and concern for driver safety caused a need for third wall sign. Typically Red Wing Shoes only has two wall signs.

Alderman Pleasant said while he wants to help Red Wing, he doesn't believe its right to help this business and to have denied previous businesses for the same request. Ms. Brennan responded that she understands the dilemma, but this request is not for additional advertising, but for safety due to traffic patterns.

Vice Mayor Young voiced his frustration that Red Wing refused the logo compromise, and chose to appeal.

Alderman Elliott said she didn't think Red Wings' sign situation was unique in that many businesses, particularly on Kirby-Whitten Road, have only one sign on the front of their business because they are in a strip center and customers only have one chance to see it. She encouraged Ms. Brennan to accept the compromise on behalf of her client.

Alderman Simmons asked if Red Wing Shoes is really concerned about Wal-Mart customers seeing the sign. He said if the business wanted those customers to notice the store, Red Wing would've accepted the logo compromise. He asked if the company could move the sign later if they decide placement would be better on the north side of the building. Alderman Elliott and Ms. Taylor said the company could move the sign with administrative approval and completing another sign permit.

Alderman Parsons pointed out that neither wall sign states that it is a shoe store, so if a customer isn't already familiar with Red Wing Shoes, they won't know what the store sells. He added that an additional 21 square foot of signage is not a reasonable request.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Emily Elliott, Alderman
SECONDER:	Paula Sedgwick, Alderman
AYES:	Pleasant, Elliott, Parsons, Simmons, Young, Sedgwick

2 Resolution 50-17, a resolution to donate approximately 20 acres of real property located at 3375 Appling Road to the State of Tennessee for the purpose of building a Tennessee College of Applied Technology campus. (Mark Brown, Chief Administrative Officer)

Mr. Brown explained that the City wishes to donate 20 acres of land at the corner of Brother and Appling to the State of Tennessee Board of Regents for a Tennessee College of Applied Technology campus. The Board approved the land purchase July 11, 2017.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	David Parsons, Alderman
SECONDER:	Emily Elliott, Alderman
AYES:	Pleasant, Elliott, Parsons, Simmons, Young, Sedgwick

3 **First Reading of Ordinance 17-08, an ordinance to amend Title 11, Chapter 3, Section 306 of the Codified Ordinances of the City of Bartlett, Tennessee to amend the use of watercraft upon public, municipal waters. (Shan Criswell, Director of Parks and Recreation)** The public hearing to be set for January 23, 2018.

Mrs. Criswell explained that the current ordinance only prohibits motorized watercraft, but not kayaks, canoes or other similar vehicles. This change will prohibit all watercraft from municipal waters.

RESULT:	**APPROVED ON FIRST READING [UNANIMOUS]**	**Next: 1/9/2018 7:00 PM**
MOVER:	Emily Elliott, Alderman	
SECONDER:	David Parsons, Alderman	
AYES:	Pleasant, Elliott, Parsons, Simmons, Young, Sedgwick	

OPEN DISCUSSION

Assistant Fire Chief Danny Baxter spoke on the occasion of his last Board of Mayor and Aldermen meeting. Chief Baxter will retire from the City of Bartlett after 31 years of service on December 31, 2017. He expressed gratitude to Mayor McDonald for appointing him Assistant Fire Chief and adding him to his management team 11 years ago. He thanked the aldermen for their support. He thanked Fire Chief Terry Wiggins for his support and patience. The thanked the department directors, his coworkers and all the employees he's served with; Chief Baxter said it has been a team effort and he will think of those with fondness.

Each of the Aldermen wished the citizens a Merry Christmas.

ADJOURNMENT

Meeting adjourned at 7:37 PM

W.C. Pleasant, Register to the Board of Mayor and Alderman	A. Keith McDonald Mayor

Board of Mayor and Aldermen
6400 Stage Road
Bartlett, TN 38134

SCHEDULED

ORDINANCE (ID # 2259)

Meeting: 01/09/18 07:00 PM
Department: Administration
Category: Amendment
Prepared By: Stefanie McGee
Initiator: Mark Brown
Sponsors:
DOC ID: 2259

Ordinance 17-07, an ordinance to amend Title 17, Chapter 1, Sections 101, 102, and 105, and add Section 106 of the Codified Ordinances to address yard waste removal.

WHEREAS, residents are removing and disposing of increased natural yard waste than in years past, and

WHEREAS, it is the intent and purpose of the City of Bartlett to collect such waste in a timely and cost-efficient manner, and

WHEREAS, the increase in yard waste removal has caused a strain the Public Works' staff, equipment, and budget, and

WHEREAS, amendments to the Codified Ordinances will alleviate these strains and continue to allow the City to serve its citizens in the best manner possible, and

NOW THEREFORE BE IT HEREBY ORDAINED that the Board of Mayor and Aldermen amend Title 17, Chapter 1, Sections 101, 102, and 105 by repealing and replacing each in its entirety and adding Section 106 as follows:

17-101 Yard Waste Removal.

All residences within the City of Bartlett will receive yard waste collection service. Citizens have the option to purchase a yard waste cart from the Public Works Department for yard/natural debris. Bagged debris and yard waste carts will be collected during weekly garbage collection.

Larger yard waste, such as tree limbs, shrubs or bushes, will be collected weekly when placed in piles of 12 cubic yards or less. Piles should be placed curbside away from structures such as mailboxes, fire hydrants, and utility poles. Additionally, no loose yard debris should be placed near drainage ditches, gutters, storm drains, or on the street pavement or sidewalk.

During autumn and winter seasons, leaves may be placed loose (unbagged) in a dome-shaped pile no more than five feet from the street surface and not on the sidewalk. Debris should never be placed on the road way. Loose leaf collection times will not likely coincide with weekly garbage collection.

~~17-101. Notice to remove. Upon the failure of any owner or property within the city to remove rubbish or refuse from his property and dispose of it in accordance with the law, it~~

~~shall be the duty of the sanitation department of the public works division to serve a notice on the owner of such property to clean the property, within five (5) days of the service of such notice. Such notice may be served personally on the owner of the property, may be mailed to the last known address on such owner by registered or certified mail or may be posted on the property on which such refuse exists. Service of notice by any of the above methods shall be due notice to such owner.~~

17-102 Excess Yard Waste.

If more than 12 cubic yards of yard waste is set out for a single pickup, the Public Works Department will notify the resident that the amount is in excess of City ordinance. Upon notice of excess, the resident will have five business days to remove the excess yard waste. Such notice may be served personally on the owner of the property, may be mailed to the last known address on such owner by registered or certified mail or may be posted on the property on which such refuse exists. Service of notice by any of the above methods shall be due notice to such owner.

Citizens have three options to remove excess yard waste within the five-business-day time frame:

1) Hire a professional contractor to remove the excess yard debris.
2) Personally transport the yard debris to the City's Solid Waste facility at a time pre-arranged with Solid Waste Division.
3) Contact the City's Solid Waste Division for a cost estimate to pick up the excess yard waste. Cost will be based on the current average commercial rate, and/or set by resolution. It is subject to change in the City's annual budget ordinance.

~~17-102. Removal. (1) In addition to the fine referred to in § 17-105 upon failure of any owner of lots or lands in the city to clean the property described in the notice mentioned in § 17-101 within five (5) days thereof, the sanitation department is authorized and directed to have such work done and a statement of the costs thereof shall be filed with the director of budget and finance or his designee. A lien is hereby declared on such property for all costs and expenses incurred by the city. (2) Upon receipt of the statement of costs of cleaning property by city forces or by contract pursuant to this section, the director of budget and finance or his designee may transmit a true copy thereof to the city attorney, who shall forthwith institute suit or take such other proceedings as may be necessary to enforce the lien on such property. (3) All uncollected costs for the current year shall be certified to the city treasurer on or be the duty of the city treasurer to collect, as a special tax, the amount so certified at the time city taxes levied against properties from which the refuse was removed for the next succeeding year are collected. The cost of cleaning property by city forces or by contract pursuant to this section, is hereby declared to be a special tax to be collected as general taxes levied by the city.~~

17-105 Exceptions.

When a Federal or State emergency is declared, this ordinance shall be suspended until such time as the declaration expires or the mayor determines that sufficient order has been restored.

The mayor may provide for the collection and removal of garbage and rubbish from any place or premise at times in addition to those when regular collection service is provided. The mayor shall have the authority to provide for the collection and removal of garbage above and beyond the extent of any contract in time of an emergency.

~~17-105. Penalty. Failure to carry out the provisions of this chapter shall be considered a misdemeanor subject to a fine not less than five dollars ($5.00) or more than fifty dollars ($50.00).~~

17-106. Violation/Penalty.

If excess yard waste is not redressed in the time frame and manner as set within this Chapter, the resident may receive a citation to Shelby County Division 14 General Sessions Court for enforcement of City Ordinances involving environmental violations.

SEVERABILITY - Should any provision or part of this Ordinance be rendered void or unenforceable by any court of law, statute or other authority, the rest and remainder of this Ordinance shall remain in full force and effect.

EFFECTIVE DATE - This Ordinance shall be effective from and after its final passage, the public welfare requiring it.

First Reading: November 28, 2017

Second Reading: December 12, 2017

Third Reading: January 9, 2018

W. C. Pleasant, Register to the Board of Mayor and Aldermen

A. Keith McDonald, Mayor

Stefanie McGee, City Clerk

HISTORY:

11/28/17 Board of Mayor and Aldermen APPROVED ON FIRST READING
Next: 12/12/17

Chief Administrative Officer Mark Brown stated that earlier this year the Board held a work session to discuss how to address the excessive amount of residential yard waste. The Board and administration wanted to avoid adding several additional crews and equipment due to high costs.

This ordinance increases the amount of yard waste to be picked up to 12 cubic yards, nearly double the current amount. It also adds a process if the property owner places more than 12 cubic yards at the curb at one time. Either the City will pick it up for an additional fee, the resident can drop it off, or hire a contractor to remove it. This amendment also added that the mayor could make exceptions to the ordinance and can set different procedures during an emergency.

12/12/17 Board of Mayor and Aldermen APPROVED ON SECOND READING
Next: 01/09/18

17-101 Yard Waste Removal.

All residences within the City of Bartlett will receive yard waste collection service. Citizens have the option to purchase a yard waste cart from the Public Works Department for yard/natural debris. Bagged debris and yard waste carts will be collected during weekly garbage collection.

Larger yard waste, such as tree limbs, shrubs or bushes, will be collected weekly when placed in piles of 12 cubic yards or less. Piles should be placed curbside away from structures such as mailboxes, fire hydrants, and utility poles. Additionally, no loose yard debris should be placed near drainage ditches, gutters, storm drains, or on the street pavement or sidewalk.

During autumn and winter seasons, leaves may be placed loose (unbagged) in a dome-shaped pile no more than five feet from the street surface and not on the sidewalk. Debris should never be placed on the road way. Loose leaf collection times will not likely coincide with weekly garbage collection.

17-102 Excess Yard Waste.

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Citizens have three options to remove excess yard waste within the five-business-day time frame:

1) Hire a professional contractor to remove the excess yard debris.
2) Personally transport the yard debris to the City's Solid Waste facility at a time pre-arranged with Solid Waste Division.
3) Contact the City's Solid Waste Division for a cost estimate to pick up the excess yard waste. Cost will be based on the current average commercial rate, and/or set by resolution. It is subject to change in the City's annual budget ordinance.

17-103. Trash receptacles or garbage can areas to be enclosed or screened.

(1) This receptacle can either be designed and hidden into the scheme of structure of the building itself, or be constructed as a durable enclosure in accordance with design standards adopted by the city and available in the city planning department.
(2) On all commercial building sites where the building was constructed prior to 1979, with no enclosed area for trash receptacles, the dumpsters or other trash receptacles shall be located behind the building setback line and hidden from street view when it is possible to do so. In the event the owner or tenant feels that this is not possible, the design and review commission shall review the site for possible alternatives.

(3) On all commercial building sites where construction has taken place since 1979, and trash receptacle areas were approved at the time site plan approval was obtained and approved by the design review commission, the trash receptacle area shall be maintained according to the original site plan approval. In the event that a trash receptacle area was not addressed for any reason on the original site plan approval, then in that event, these building locations shall be required to comply with this section as if it were a new structure.

(4) All temporary dumpsters located at building construction sites and all dumpsters placed for the special purpose of collecting recyclable material are exempt from all provisions of this section.

17-104. Curbside garbage carts regulated.

(1) The ninety (90) gallon wheeled garbage carts are to be placed at the curb by 7:00 A.M. on the homeowners scheduled collection day and the carts shall not be placed at the curb sooner than 7:00 P.M. the day before collection day. The cart is not to be placed in the road. If there is no curb at the residence then the cart is placed at the end of the driveway or along the roadside.

(2) The garbage carts are to be returned to a location behind the front of the residence by 7:00 A.M. of the morning following the scheduled day of pickup.

(3) Penalty for failure to comply shall be up to a fifty dollar ($50.00) fine with each day being a separate offense.)

17-105 Exceptions.

When a Federal or State emergency is declared, this ordinance shall be suspended until such time as the declaration expires or the mayor determines that sufficient order has been restored.

The mayor may provide for the collection and removal of garbage and rubbish from any place or premise at times in addition to those when regular collection service is provided. The mayor shall have the authority to provide for the collection and removal of garbage above and beyond the extent of any contract in time of an emergency.

17-106. Violation/Penalty.

If excess yard waste is not redressed in the time frame and manner as set within this Chapter, the resident may receive a citation to Shelby County Division 14 General Sessions Court for enforcement of City Ordinances involving environmental violations.

Board of Mayor and Aldermen
6400 Stage Road
Bartlett, TN 38134

SCHEDULED

ORDINANCE (ID # 2262)

Meeting: 01/09/18 07:00 PM
Department: Parks and Recreation
Category: Amendment
Prepared By: Stefanie McGee
Initiator: Shan Criswell
Sponsors:
DOC ID: 2262

Ordinance 17-08, an ordinance to amend Title 11, Chapter 3, Section 306 of the Codified Ordinances of the City of Bartlett, Tennessee to amend the use of watercraft upon public, municipal waters.

NOW THEREFORE BE IT HEREBY ORDAINED that the Board of

Mayor and Aldermen amend Title 11, Chapter 3, Section 306 as follows:

11-306. *Water* ~~Motorized~~ crafts, boats, etc. on any city-owned lake, pond, detention basin or other public waterways prohibited.

(1) No person shall bring into or operate any ~~motorized~~ watercraft, excluding remote controlled model watercraft, upon any public waters, ponds, detention basins or any other publicly owned or managed waterway, ~~unless a permit is obtained from the City of Bartlett Chief of Police~~. *The mayor shall have the authority to allow exceptions.*

(2) Penalty. Violations of this section shall be a misdemeanor and subject to misdemeanor fines and penalties.

SEVERABILITY - Should any portion or part of this Ordinance be rendered void or unenforceable by any Court of law, statute or other authority, the rest and remainder of this Ordinance shall remain in full force and effect.

EFFECTIVE DATE This Ordinance shall become effective after its final passage, the public welfare requiring it.

First Reading: December 12, 2017

Second Reading: January 9, 2018

Third Reading: January 23, 2018

W. C. Pleasant, Register to the Board of Mayor and Aldermen

A. Keith McDonald, Mayor

Stefanie McGee, City Clerk

HISTORY:

12/12/17 Board of Mayor and Aldermen APPROVED ON FIRST READING
Next: 01/09/18

Mrs. Criswell explained that the current ordinance only prohibits motorized watercraft, but not kayaks, canoes or other similar vehicles. This change will prohibit all watercraft from municipal waters.

Board of Mayor and Aldermen
6400 Stage Road
Bartlett, TN 38134

SCHEDULED

AGENDA ITEM

Meeting: 01/09/18 07:00 PM
Department: Finance
Category: Bid
Prepared By: Dick Phebus
Department Head: Dick Phebus

Bid for Orion water meters.

On November 7, 2017 the City of Bartlett requested a quote on 907 Orion utility meters from sole source vendor, National Meter. The City of Bartlett received the quote, including installation and accessories, for $136.50 each or a total amount of $123,805.50.

We recommend the bid be awarded to National Meter for a total price of $123,805.50. Funds are available in Account 510.51100.945.

National Meter bought United Utilities, from which the vendor the City previously purchased these meters.

Thank you for your consideration.

NATIONAL
METER & AUTOMATION

QUOTATION

5215 Linbar Drive, Suite 201
Nashville, TN 37211
Phone: 615.459.8288
Fax: 615.459.8898

DATE: November 7, 2017
QUOTED BY: Theresa
CUSTOMER EMAIL:
Don Ervin

BILL TO: City of Bartlett

SHIP TO:

SALESPERSON	PAYMENT TERMS	SHIPPING METHOD	SHIPPING TERMS	SUBJECT TO REVIEW
DJ	Net 30 Days	Best Way	FOB Nashville, TN	12-31-17

FOR ROUTE 64

QTY	Product Description	UNIT PRICE	AMOUNT
227	M25, 5/8" RETROFIT HRE Encoder, 8-Dial, USG, ORION CE FH DP PIT TRANSMITTER, 3' LEAD, KNUCKLE MOUNTING KIT, PL/PS, TORX.	$136.50	$30,985.50

SUBTOTAL	$ 30,985.50
SALES TAX	-
FREIGHT	Add
TOTAL	$ 30,985.50

Sales Tax: To be quoted at time of order

Est. Lead Time: 4 to 6 weeks ARO

THANK YOU FOR YOUR BUSINESS!!

This quotation is an offer subject to the Terms and Conditions available on our website:

www.nationalmeter.com/legal

NATIONAL
METER & AUTOMATION

QUOTATION

5215 Linbar Drive, Suite 201
Nashville, TN 37211
Phone: 615.459.8288
Fax: 615.459.8898

DATE: November 7, 2017
QUOTED BY: Theresa
CUSTOMER EMAIL:
Don Ervin

BILL TO: City of Bartlett

SHIP TO:

SALESPERSON	PAYMENT TERMS	SHIPPING METHOD	SHIPPING TERMS	SUBJECT TO REVIEW
DJ	Net 30 Days	Best Way	FOB Nashville, TN	12-31-17

FOR ROUTE 59

QTY	Product Description	UNIT PRICE	AMOUNT
523	M25, 5/8" RETROFIT HRE Encoder, 8-Dial, USG, ORION CE FH DP PIT TRANSMITTER, 3' LEAD, KNUCKLE MOUNTING KIT, PL/PS, TORX.	$136.50	$71,389.50

SUBTOTAL	$ 71,389.50
SALES TAX	-
FREIGHT	Add
TOTAL	$ 71,389.50

Sales Tax: To be quoted at time of order

Est. Lead Time: 4 to 6 weeks ARO

THANK YOU FOR YOUR BUSINESS!!

This quotation is an offer subject to the Terms and Conditions available on our website:

www.nationalmeter.com/legal

NATIONAL
METER & AUTOMATION

QUOTATION

5215 Linbar Drive, Suite 201
Nashville, TN 37211
Phone: 615.459.8288
Fax: 615.459.8898

DATE: November 15, 2017
QUOTED BY: Theresa
CUSTOMER EMAIL:
Don Ervin

BILL TO: City of Bartlett

SHIP TO:

SALESPERSON	PAYMENT TERMS	SHIPPING METHOD	SHIPPING TERMS	SUBJECT TO REVIEW
DJ	Net 30 Days	Best Way	FOB Nashville, TN	12-31-17

FOR ROUTE 47

QTY	Product Description	UNIT PRICE	AMOUNT
65	M25, 5/8" RETROFIT HRE Encoder, 8-Dial, USG, ORION CE FH DP PIT TRANSMITTER, 3' LEAD, KNUCKLE MOUNTING KIT, PL/PS, TORX.	$136.50	$8,872.50

SUBTOTAL	$ 8,872.50
SALES TAX	-
FREIGHT	Add
TOTAL	$ 8,872.50

Sales Tax: To be quoted at time of order
Est. Lead Time: 4 to 6 weeks ARO

THANK YOU FOR YOUR BUSINESS!!
This quotation is an offer subject to the Terms and Conditions available on our website:
www.nationalmeter.com/legal

NATIONAL
METER & AUTOMATION

QUOTATION

5215 Linbar Drive, Suite 201
Nashville, TN 37211
Phone: 615.459.8288
Fax: 615.459.8898

DATE: November 15, 2017
QUOTED BY: Theresa
CUSTOMER EMAIL:
Don Ervin

BILL TO: City of Bartlett

SHIP TO:

SALESPERSON	PAYMENT TERMS	SHIPPING METHOD	SHIPPING TERMS	SUBJECT TO REVIEW
DJ	Net 30 Days	Best Way	FOB Nashville, TN	12-31-17

FOR ROUTE 52

QTY	Product Description	UNIT PRICE	AMOUNT
92	M25, 5/8" RETROFIT HRE Encoder, 8-Dial, USG, ORION CE FH DP PIT TRANSMITTER, 3' LEAD, KNUCKLE MOUNTING KIT, PL/PS, TORX.	$136.50	$12,558.00

Sales Tax: To be quoted at time of order

Est. Lead Time: 4 to 6 weeks ARO

SUBTOTAL	$ 12,558.00
SALES TAX	-
FREIGHT	Add
TOTAL	$ 12,558.00

THANK YOU FOR YOUR BUSINESS!!

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www.nationalmeter.com/legal

Board of Mayor and Aldermen
6400 Stage Road
Bartlett, TN 38134

SCHEDULED

AGENDA ITEM

Meeting: 01/09/18 07:00 PM
Department: Engineering
Category: Purchase
Prepared By: Dena Hathaway
Department Head: Rick McClanahan

Authorization to purchase two properties through the Repetitive Loss Purchase program by Federal Emergency Management Agency.

Two houses have qualified for repetitive loss purchase by FEMA. Appraisals have been performed, and offers are ready to be made for the following amounts:

3673 Thistle Valley	up to $162,000 based on appraisal
2810 Alfaree	up to $127,000 based on appraisal

The federal government will pay 75 percent, the State 12.5 percent and the owner will pay 12.5 percent in a reduction in purchase price as the local match.

These costs are reimbursable to the City by FEMA, the State and the County Housing Department. Funding available in Account 131.43100.780.08917 for Thistle Valley and Account 131.43100.780.0891 for Alfaree.

Board of Mayor and Aldermen
6400 Stage Road
Bartlett, TN 38134

SCHEDULED

AGENDA ITEM

Meeting: 01/09/18 07:00 PM
Department: Planning and Economic Development
Category: Report
Prepared By: Sam Harris
Department Head: Kim Taylor

Planning Commission Report for December 2017.

NEW BUSINESS
Site Plan

1. **Kroger V456 Parking Lot Expansion, 7615 Highway 70 (Harvey Matheny, Pickering Firm)**

INTRODUCTION: Mr. Harvey Matheny with the Pickering Firm, is requesting Planning Commission approval of a site plan for the Kroger parking lot expansion. The subject property is located at 7615 Hwy 70, within the "C-H" Highway Business Zoning District.

BACKGROUND: On March 4, 1998, the Planning Commission approved a site plan for Kroger on a 9.57-acre lot. The approved site plan included a 341 space parking lot. Some parking spaces were removed due to the addition of the Kroger gas station approved by Planning Commission on June 6, 2000. Currently, there are 230 existing parking spaces on the site.

DISCUSSION: The specific request by the applicant is for the approval of a site plan for an additional 95 space parking lot and a landscape median next to the pharmacy drive-through window. The existing parking lot will be restriped to add to handicap accessible spaces and 1-van accessible space near the main entrance into Kroger. The parking lot addition can be accessed by the existing driveways within the Appling Crossing Subdivision development. The specifics of the site plan are as follows:

Site Data	
Site Area:	1-acre (adjacent parking lot)
Total Required Parking Spaces: Shopping Centers: 4 spaces per 1,000 sq. ft. =238	238
Total Proposed Parking Spaces: Existing parking spaces: 230	95 (325 total)
Handicap Accessible: Existing: 5 Proposed: 9	9- Handicap Accessible Required (1-Van Accessible space)
Regular:	316
Total Building Area:	59,346-square feet
Greenspace/Open-space:	40% (35% required)

Approved with conditions of staff and amendments submitted at the meeting.

Master Plans

2. Willow Ridge Subdivision, South side of Old Brownsville Rd west of Ellendale Rd (Rusty Norville, P.E., Civil Engineering Solutions LLC)

INTRODUCTION: Mr. Rusty Norville with Civil Engineering Solutions, LLC is requesting Planning Commission approval of a Master Plan for the Willow Ridge Subdivision. The subject property is located south of Old Brownsville Road, on the west side of Wellsgate Subdivision within the "RS-15" Residential Zoning District.

DISCUSSION: The specific request by the applicant is for the approval of a Master Plan to subdivide the 23.98-acre into residential lots that comply with the "RS-15" Residential Zoning District. Storm-water detention ponds will be located on the property for drainage. Access points to the subdivision will be from Old Brownsville Road and through the Wellsgate Subdivision utilizing Wells Grove Drive.

Approved with conditions of staff.

3. Convenience Store and Fuel Station Subdivision , NE Corner of North Germantown Rd & Highway 70 (John McCarty, McCarty Granberry Engineering)

INTRODUCTION: Mr. John McCarty with McCarty Granberry Engineering is requesting Planning Commission approval of a Master Plan for the Covenience Store and Fuel Station Subdivision. The subject property is located on the northeast corner of the intersection of Highway 70 and North Germantown Road. It is within the "SC-1" Planned Unit Commercial zoning district.

BACKGROUND: The subject property is a 2.14-acre site to be subdivided from an existing 10.44-acre lot.

DISCUSSION: The specific request by the applicant is for the approval of a master plan to subdivide the 2.14-acre lot into a 2-lot commercial subdivision. Lot 1 will be 1.42-acres, and the proposed location for a gas station with convenience store and an attached 3-tenant retail center. Lot 2 will be 0.72-acres. Access to both lots will be from a proposed curb cut off Highway 70 and a curb cut off Germantown Road. Other features of the development include a streetscape landscape buffer, underground detention on lot 1, and a stream buffer on lot 2 for the TDEC "blue stream" that runs along the east property line.

Deferred application to the January Planning Commission meeting.

Board of Mayor and Aldermen
6400 Stage Road
Bartlett, TN 38134

SCHEDULED

AGENDA ITEM

Meeting: 01/09/18 07:00 PM
Department: Board of Mayor and Aldermen
Category: Appointment
Prepared By: Jeanie Underwood
Department Head: A. Keith McDonald

Appoint and re-appoint members to City's Boards and Commissions.

BARTLETT STATION COMMISSION

NAME	TERM EXPIRES	NEW/ RE-APPOINT
Barre, Melissa	12/31/2023	Re-appoint
Griffith-Coleman, Sue	12/31/2023	Re-appoint
Marbry, Marty	12/31/2023	Re-appoint
Parsons, David	12/31/2018	New Appointment (replacing Paula Sedgwick)
Wiemer, David	12/31/2019	New Appointment (replacing Adrienne Huntley)

BEER BOARD

NAME	TERM EXPIRES	NEW/ RE-APPOINT
Davenport, Jr., Richard L.	12/31/2019	Re-appoint
Massey, Lindsey	12/31/2019	Re-appoint

BOARD OF ZONING APPEALS

NAME	SPECIAL NOTES	TERM EXPIRES	NEW/ RE-APPOINT
Abernathy, Russ	Planning Commission Member	12/31/2020	Re-appoint
Hunt, David	Citizen Member	12/31/2020	Re-appoint

BPACC ADVISORY BOARD

NAME	TERM EXPIRES	NEW/ RE-APPOINT
Faulks, Anne	12/31/2020	Re-appoint
Smith, Shirley	12/31/2020	Re-appoint
Willis, Dale	12/31/2020	New Appointment (replacing David Wiemar)
ADVISORS		
Sedgwick, Paula	12/31/2020	New Appointment (replacing David Parsons)

CITY BEAUTIFUL COMMISSION

NAME	TERM EXPIRES	NEW / RE-APPOINT
Bledsoe, Joe	12/31/2018	Re-appoint
Browning, Bill	12/31/2018	Re-appoint
Guenin, Mark	12/31/2018	Re-appoint
Howe, Linda	12/31/2018	Re-appoint
Keane, Carolyn	12/31/2018	New Appointment (replacing Debbie Ross)
Keith, Donald	12/31/2018	Re-appoint
Martin, Mike	12/31/2018	New Appointment (replacing Becky Sykes)
Moore, Tommie Jean (Chairman)	12/31/2018	Re-appoint
Page, Michelle	12/31/2018	Re-appoint
Parks, Kenneth	12/31/2018	Re-appoint
Ray, Wayne	12/31/2018	Re-appoint
Rieman, Laurie	12/31/2018	Re-appoint
Rieman, Tom	12/31/2018	Re-appoint
Robertson, Kathleen	12/31/2018	Re-appoint
Thompson, Danny	12/31/2018	Re-appoint
Winemiller, Karen	12/31/2018	Re-appoint

CODE APPEALS BOARD

NAME	TERM EXPIRES	NEW/ RE-APPOINT
Williams, Warrie	12/31/2019	Re-appoint

DESIGN REVIEW COMMISSION

NAME	SPECIAL NOTES	TERM EXPIRES	NEW/ RE-APPOINT
Canup, Tyler	Lighting engineer	12/31/2019	New Appointment (replacing Michael Terry)
Carlson, Dean	Engineer	12/31/2019	Re-appoint
Evans, Greg	Mechanical Design/Industrial Maintenance	12/31/2019	New Appointment (replacing Joe Ozegovich)
Payne, Jason	Electrician	12/31/2019	Re-appoint

FAMILY ASSISTANCE COMMISSION

NAME	TERM EXPIRES	NEW/ RE-APPOINT
Farley, Michael	12/31/2020	Re-appoint
Shores, Lori	12/31/2020	Re-appoint

GRIEVANCE REVIEW BOARD

NAME	SPECIAL NOTES	TERM EXPIRES	NEW/ RE-APPOINT
Bo Maharrey	Administrative Representative (Admin.,Parks, Court, BPACC)	12/31/2018	Re-appoint
Jeremy Maser	Public Safety Representative (Fire, EMS, Police, Codes)	12/31/2018	New Appointment (replacing Chris Armstrong)
Jonathan Jewell	Public Works/Utilities/Engineering Representative	12/31/2018	Re-appoint
Charlene Mitchell	Citizen	12/31/2018	Re-appoint
Ted Rasbach	Citizen	12/31/2018	Re-appoint
Jack Young Alderman Position 5 Chairman	Alderman	12/31/2018	Re-appoint

HISTORIC PRESERVATION COMMISSION

NAME	SPECIAL NOTES	TERM EXPIRES	NEW/ RE-APPOINT
Ferrell, Debbie	Member of Bartlett Historical Society	12/31/2022	Re-appoint
Johnson, Nikia	Citizen Member	12/31/2022	Re-appoint

INDUSTRIAL DEVELOPMENT BOARD

NAME	TERM EXPIRES	NEW/ RE-APPOINT
Goforth, Charles	1/25/2022	Re-appoint
McElya, Mike	1/25/2022	Re-appoint
Morris, Bob	1/25/2022	Re-appoint

PARKS AND REC. ADVISORY BD.

NAME	TERM EXPIRES	NEW/ RE-APPOINT
Alexander, John	12/31/2018	New Appointment (replacing Jonathon Smith)
Lyon, Dennis	12/31/2020	Re-appoint
Nipp, Bob	12/31/2020	Re-appoint
Woodall, Melissa	12/31/2020	Re-appoint

PLANNING COMMISSION

NAME	TERM EXPIRES	NEW/ RE-APPOINT
Caughman, III James (Jay)	12/31/2020	Re-appoint
Kaiser, Paul	12/31/2020	Re-appoint
Lamb, James D.	12/31/2020	Re-appoint

Board of Mayor and Aldermen
6400 Stage Road
Bartlett, TN 38134

SCHEDULED

AGENDA ITEM

Meeting: 01/09/18 07:00 PM
Department: Board of Mayor and Aldermen
Category: Appointment
Prepared By: Stefanie McGee
Department Head: A. Keith McDonald

Reappoint Scott Greer as City Chaplain.

Board of Mayor and Aldermen
6400 Stage Road
Bartlett, TN 38134

SCHEDULED

RESOLUTION (ID # 2269)

Meeting: 01/09/18 07:00 PM
Department: Engineering
Category: Amendment
Prepared By: Becky Bailey
Initiator: Rick McClanahan
Sponsors:
DOC ID: 2269

Resolution 01-18, a resolution to approve an agreement between the State of Tennessee Department of Transportation and the City of Bartlett for the design and construction of Fletcher Creek Greenway, Phase III.

WHEREAS, the City of Bartlett has received notice from the Tennessee Department of Transportation of intent to enter into an agreement between the Department and the City for the purpose of design and construction of a multi-modal greenway known as Fletcher Creek Greenway, Phase 3; and

WHEREAS, the City of Bartlett desires to complete the Fletcher Creek Greenway project and therefore agrees to enter into said agreement; and

WHEREAS, the estimated total project cost for NEPA (Environmental) and Design portions of the project is $100,000.00 with the City of Bartlett's 20 percent local match estimated to be $20,000.00. The construction portion of the project has not yet been funded and is estimated at a total cost of $281,250.00; and

NOW THEREFORE BE IT RESOLVED By the Board of Mayor and Aldermen that the City of Bartlett agrees to enter into this agreement with the Tennessee Department of Transportation and requests the Mayor to take necessary steps to secure this funding.

Adopted this 9th day of January 2018.

____________________ _______________________________

W.C. Pleasant, Register to the Board of Mayor and Aldermen

A. Keith McDonald, Mayor

Attest: ______________________________
Stefanie McGee, City Clerk

Agreement Number: 170151

Project Identification Number: 126787.00

Federal Project Number: TAP-M-9419(11)

State Project Number: 79LPLM-F0-576
79LPLM-F1-577
79LPLM-F3-578

State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this __________ day of _________, 20___ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and City of Bartlett (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

Fletcher Greenway - Phase 3: Design and construction of an off-road bike/walking trail from the existing greenway to Appling Road.

A. PURPOSE OF AGREEMENT

A.1 Purpose:

a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

b) In the event this Agreement includes a Safe Routes to School Grant for non-infrastructure activities, a Detailed Grant Budget as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") shall provide line-item amounts as applicable only to expenses incurred during the period between the effectual date of this Agreement and the completion date shown in Section B.2(a) hereof. However, Notice to Proceed to Construction must be obtained as referenced in Section B.1(c). Expenditures, reimbursements, and payments under this Grant Agreement shall adhere to the Grant Budget. The Agency may vary from a Grant Budget line-item amount by up to fifteen percent (15%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Agreement amount detailed in the Grant Budget and provided that written approval of any such variance is received prior to the expenditure. The percentage of expenditure for non-infrastructure work versus infrastructure work also cannot be changed. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Agreement.

A.2 Modifications and Additions:

a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

a)

	Responsible Party	Funding Provided by: Agency or Project
Preliminary Engineering by:	**Agency**	**Project**
Environmental Clearance by:	**Agency**	**Project**
Right-of-Way by:	**Agency**	**Agency**
Utility Coordination by:	**Agency**	**Agency**
Construction by:	**Agency**	**Agency**

b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.

c) If this Agreement is funded with any Enhancement funds, then the Agency shall provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed with the Construction Phase by **July 1, 2020**. If the Agency does not provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed with the Construction Phase by the aforesaid date, then the Department may terminate this Agreement in accordance with Section D.23.

d) A full time employee of the Agency shall supervise the herein described and assigned phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

B.2 Completion Date:

a) The Agency shall complete the herein assigned phases of the Project on or before **July 1, 2022**. The Department shall have no obligation to reimburse the Agency for expenditures after the aforesaid completion date. An extension of the aforesaid completion date of this Agreement may only be effected by a written amendment to the Agreement, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement. Otherwise, without an extension of the aforesaid completion date of this Agreement, the Department shall have no obligation to reimburse the Agency for expenditures after the aforesaid completion date.

B.3 Environmental Regulations:

a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.

b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.

B.4 Plans and Specifications

a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.

b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.

1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.

c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.

b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.

c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.

d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its contractor or agent during the Construction phase of the Project.

e) In the event this Agreement involves the use of Enhancement funds to acquire land for the purpose of preserving historic battlefield sites, and the Agency is a private, non-profit organization, the Agency shall transfer the land acquired to, or grant a conservation easement for the benefit of, a state agency or other governmental agency in perpetuity in accordance with the Agency's application.

B.6 Approval of the Construction Phase

a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.

d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.

e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.

b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:

1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.

2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

B.9 Railroad

a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

B.10 Safe Routes to School Requirements

a) If the herein described project is funded with Safe Routes to School (SRTS) funds, Section B.10 shall apply.

b) The Agency shall provide pre and post Parent Surveys and Student Tally Sheets for each school under this Agreement:

1) The Pre Parent Surveys and Student Tally Sheets are to be completed and returned with this Agreement.

2) The Post Parent Surveys and Student Tally Sheets are to be sent no later than six (6) months from the completion of the infrastructure as defined herein with the final reimbursement request.

3) The final reimbursement shall not be paid until the Post Parent Surveys and Student Tally Sheets are received by the Department.

4) These surveys and tallies are to be completed on those specific forms sent to the Agency with the detailed instruction letter. (Required forms and instructions are available at: www.saferoutesindo.org/resources)

c) The Agency shall obtain prior approval from the Department before purchasing any equipment and/or products under this Agreement. If prior approval is received, procurement shall be made on a competitive basis, in accordance with applicable state and local laws and regulations provided that the procurement conforms to applicable federal law and the standards identified in 49CFR18.36.

d) The Agency shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Agreement. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification, approved by the Local Programs Development Manager, for such decision and non-competitive procurement. Further, if such reimbursement is to be made with funds derived wholly or partially from federal sources, the determination of cost shall be governed by and reimbursement shall be subject to the Agency's compliance with applicable federal procurement requirements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A..

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.

c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.

b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the

Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.

c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

d) In the event this Agreement involves the use of Enhancement funds to acquire land for the purpose of preserving historic battlefield sites, and the Agency is a private, non-profit organization, the Department will reimburse the Agency for only 90% of the federal share of eligible costs until such time as the Agency transfers the land, or a conservation easement therein, to a state agency or another governmental agency as provided in Section B.5 (e).

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**
The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**
There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**
The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**
There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**
The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the “State Comprehensive Travel Regulations,” as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency 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 Agreement. The Agency 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.2 General Compliance with Federal, State, and Local Law:

a) The Agency 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 Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.

b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

a) This Agreement 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 Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, 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 Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then The Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

c) In the event the Project is located on State Highway Right-of-Way, the Agency shall have the sole responsibility - at its own expense - of maintaining and keeping the project in good repair and in a safe and clean condition, including picking up litter that may accrue at the site.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

a) **DBE Policy:**
It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.

b) **DBE Obligation:**
The Agency and its contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

a) In accordance with the Tennessee Department of Transportation regulations governing contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subcontractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

a) **Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.

5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.

6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility

and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.

8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;

2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and

4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

a) The Agency warrants that no 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 Agency in connection with any work contemplated or performed relative to this Agreement.

b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of it's subcontracts, the following provision:

1) "No 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 Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

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

a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.

b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subcontractors performing work on the Project and all other records of the Agency and subcontractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

a) The Agency shall permit, and shall require its contractor, subcontractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.

b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any contractor, subcontractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

a) In the event that an Agency expends $500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.

b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.

c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

b) In the event that the Project herein described includes the state highway system, the Department may rescind its authorization for the location of the Project upon state highway right-of-way at any time by giving the Agency at least ninety (90) days advance written notice thereof, and the Agency shall be obligated to close the Project to public use and remove it at the Agency's expense and restore the premises to the satisfaction of the Department by or before the effective date of such termination.

D.23 Termination for Cause:

a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.

b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.

c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.

b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.

c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.

d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

a) The obligations of the parties to this Agreement 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, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Costs:

a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc

b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

b) In the event the Agency is a private, non-profit organization, the liability of the Agency shall not be subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq.

D.33 Deposits:

a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.

1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis

until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount		**Open to Public and Vehicular Traffic**
$1.00 - $200,000	=	5 Years
>$200,000 - $500,000	=	10 Years
>$500,000 - $1,000,000	=	20 Years

b) Projects over $1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

c) In the event this Agreement is funded with Roadscapes funds, the facility on which this Project is being developed shall remain open to the public for not less than ten (10) years.

d) In the event this Agreement involves the use of Enhancement funds to acquire land for the purpose of preserving historic battlefield sites, and the Agency is a private, non-profit organization, the Agency shall transfer the land acquired, or grant a conservation easement therein, to a state agency or other governmental agency in perpetuity in accordance with the Agency's application.

D.37 Federal Funding Accountability and Transparency Act:

a) **If the Project is funded with federal funds the following shall apply:**

1) The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170 and 2 CFR Part 25. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF BARTLETT		STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION	
By: ______________________	____________	By: ______________________	____________
A. Keith McDonald **Mayor**	**Date**	**John C. Schroer** **Commissioner**	**Date**
APPROVED AS TO FORM AND LEGALITY		APPROVED AS TO FORM AND LEGALITY	
By: ______________________	____________	By: ______________________	____________
Ed McKenney, Jr. **Attorney**	**Date**	**John Reinbold** **General Counsel**	**Date**

EXHIBIT "A"

CONTRACT NO.: 170151 **PROJECT IDENTIFICATION NO.: 126787.00**

PROJECT DESCRIPTION: Fletcher Greenway - Phase 3: Design and construction of an off-road bike/walking trail from the existing greenway to Appling Road. The purpose of the project is not location dependent. The purpose of the project shall be accomplished in accordance with the project application, budget, and/or scope of work on which approval of the project was based and AASHTO standards. The application, budget, and /or scope of work may be amended from time to time and when amended will serve as the revised project standard.

CHANGE IN COST: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

TYPE OF WORK: Bicycle and Pedestrian Facilities

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-N	M-TAP (M3E1)	80%	0%	20%	$ 50,000.00
PE-D	M-TAP (M3E1)	80%	0%	20%	$ 50,000.00
CONST	LOCAL	0%	0%	100%	$ 281,250.00

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds if the use of said Federal and/or State funds is ruled ineligible at any time.

LEGISLATIVE AUTHORITY: Section 1122 of the Moving Ahead for Progress I the 21st Century Act (MAP-21) established TAP in 23 U.S.C. 213.

PROJECT FUNDING AND SCOPE LIMITATIONS: Once the project is completed per the application and description above, all remaining federal funds will revert to the Department. Project scope revisions and /or additions outside the enhancement activity are prohibited. Limited project scope revisions consistent with the awarded activity must be reviewed and approved by the Department.

TDOT ENGINEERING SERVICES (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to ensure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction Inspection.

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.