

**RESOLUTION**

No. 2024/09/01

To the Members of the Hawkins County Board of Commission in Regular Session met this 23rd day of September 2024

**RESOLUTION IN REF: APPOINTMENT OF MARK DEWITTE AS CHAIRMAN OF THE HAWKINS COUNTY LEGISLATIVE BODY**

WHEREAS, the Chairman of the Hawkins County Legislative Body is now due for appointment, and Mark DeWitte, County Mayor and current Chairman of the Hawkins County Legislative Body is qualified to serve; now THEREFORE, BE IT RESOLVED that Mark DeWitte, County Mayor, be appointed as Chairman of the Hawkins County Legislative Body, with a term beginning September 23, 2024, until the fourth Monday in September 2025.

Introduced By Esq. Nancy Barker

Seconded By Esq. \_\_\_\_\_

Date Submitted 09-09-24

Nancy Barker  
County Clerk

ACTION: AYE NAY PASSED

Roll Call \_\_\_\_\_

Voice Vote \_\_\_\_\_

Absent \_\_\_\_\_

**COMMITTEE ACTION**

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

\_\_\_\_\_

Chairman \_\_\_\_\_

\_\_\_\_\_

**RESOLUTION**

No. 2024/09/02

To the HONORABLE MARK DEWITTE, Chairman, and Members of the Hawkins County Board of Commission in Regular Session met this 23rd day of September 2024

**RESOLUTION IN REF: APPOINTMENT OF NANCY BARKER AS CHAIRMAN PRO-TEMPORE OF THE HAWKINS COUNTY LEGISLATIVE BODY**

WHEREAS, the office of Chairman Pro-Tempore of the Hawkins County Legislative Body is now due for appointment, and Commissioner Nancy Barker is qualified to serve; now

THEREFORE, BE IT RESOLVED that Nancy Barker be appointed as Chairman Pro-Tempore of the Hawkins County Legislative Body, with a term beginning September 23, 2024, until the fourth Monday in September 2025.

Introduced By Esq. Tom Kern

Seconded By Esq. \_\_\_\_\_

Date Submitted 09-09-24

County Clerk Nancy Barker

ACTION: AYE NAY PASSED

Roll Call \_\_\_\_\_

Voice Vote \_\_\_\_\_

Absent \_\_\_\_\_

**COMMITTEE ACTION**

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

Chairman \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**RESOLUTION**

No. 2024/09/03

To the HONORABLE MARK DEWITTE, Chairman, and Members of the Hawkins County Board of Commission in Regular Session met this 23<sup>rd</sup> day of September 2024.

**RESOLUTION IN REF:      APPROVAL OF APPOINTMENTS OF COMMISSIONERS TO COMMITTEES FOR THE CURRENT FISCAL YEAR**

WHEREAS, the committees and members shown on the attached spreadsheet are being presented for approval by the Commission Chairman to the Hawkins County Commission; now

THEREFORE, BE IT RESOLVED that the committees and committee members as shown on the attached sheet are approved by the County Commission.

Introduced By Esq. \_\_\_\_\_  
Seconded By Esq. \_\_\_\_\_  
Date Submitted 09-09-24 \_\_\_\_\_  
Nancy H. Lewis \_\_\_\_\_  
County Clerk

ACTION:    AYE    NAY    PASSED  
Roll Call    \_\_\_\_\_  
Voice Vote    \_\_\_\_\_  
Absent        \_\_\_\_\_

**COMMITTEE ACTION**

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

\_\_\_\_\_

Chairman \_\_\_\_\_

\_\_\_\_\_



# RESOLUTION

No. 2024/09/04

To the HONORABLE Mark DeWitte, Chairman, and Members of the Hawkins County Board of Commission in Regular Session, met this 23rd day of September 2024.

**RESOLUTION IN REF:            APPROVAL OF COMMITTEES FOR HAWKINS COUNTY TN AS PER TCA CODE**

WHEREAS, the following committees are being presented for approval for Hawkins County Tennessee per TCA Code as follows:

**TCA 9-3-405**

**Audit**

1. Syble Vaughn Trent
2. Jeff Barrett
3. Charles Thacker
4. Chad Britton
5. Glenda Davis
6. Larry Clonce
7. Bobby Jinks

**TCA 57-5-105**

**Beer Board**

1. John Gibson
2. Jeff Barrett
3. Danny Alvis
4. Josh Gilliam
5. Jason Roach
6. Nancy Barker
7. Robbie Palmer

**TCA 68-221-1102**

**Environmental**

1. Syble Vaughan Trent
2. Jeff Barrett
3. Danny Alvis
4. Chad Britton
5. Glenda Davis
6. Larry Clonce
7. Bobby Jinks

**TCA 8-17-101-106**

**Ethics**

1. Chuck Smith
2. Roger Manis
3. John Gibson
4. Tom Kern
5. Nancy Barker

**TCA 67-5-2507**

**Delinquent Tax/Resale of Land**

1. Syble Vaughan Trent
2. Jeff Barrett
3. Danny Alvis
4. Chad Britton
5. Glenda Davis
6. Larry Clonce
7. Bobby Jinks

Introduced by Esq. Nancy Barker

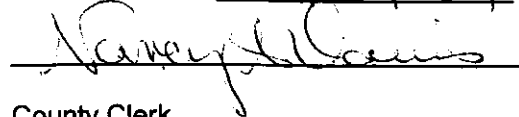
ACTION            AYE    NAY    PASSED

Seconded by Esq. \_\_\_\_\_

Roll Call            \_\_\_\_\_

Date Submitted 09-09-24

Voice Vote            \_\_\_\_\_



Absent                \_\_\_\_\_

County Clerk

COMMITTEE ACTION

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

\_\_\_\_\_

Mayor \_\_\_\_\_

\_\_\_\_\_

**RESOLUTION**

No. 2024/09/ 05

To the HONORABLE MARK DEWITTE, Chairman, and Members of the Hawkins County Board of Commission in Regular Session met this 23rd day of September 2024.

**RESOLUTION IN REF: APPROVAL TO AWARD A FIVE-YEAR ENGINEERING CONTRACT FOR PROFESSIONAL AIRPORT SERVICES TO HOLT CONSULTING**

WHEREAS, Pursuant to T.C.A. § 62-2-107, "If a public works project is expected to cost more than \$50,000 and involves architecture, engineering or landscape architecture, the plans, specifications and estimates for the project must be prepared by a registered architect, engineer, or landscape architect,"; and

WHEREAS, a request for qualifications was solicited for services to provide general consulting, funding procurement and grant administration, planning and programming, engineering design, architectural design, analysis and studies for the Hawkins County Airport, of which three were received; and

WHEREAS, all responses were graded by the required committee with Holt Consulting Company LLC of Knoxville, Tennessee scoring highest, the summary sheet of the grading is attached; and

WHEREAS, attached to this resolution is the contract and fee schedule from Holt Consulting Company LLC; now

THEREFORE, BE IT RESOLVED that County Mayor, Mark DeWitte, is authorized to sign the agreement and any and all documents for said contract with Holt Consulting Company LLC.

Introduced By Esq. Nancy Barker, Airport Committee Chairman

Seconded By Esq. \_\_\_\_\_

Date Submitted 09-09-24

Nancy Barker  
County Clerk

ACTION: AYE NAY PASSED

Roll Call \_\_\_\_\_

Voice Vote \_\_\_\_\_

Absent \_\_\_\_\_

**COMMITTEE ACTION**

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

Chairman \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN  
HAWKINS COUNTY  
AND  
HOLT CONSULTING COMPANY, LLC**

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**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN  
HAWKINS COUNTY  
AND  
HOLT CONSULTING COMPANY, LLC**

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THIS **AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2024 by and between the **HAWKINS COUNTY**, located at 150 East Washington Street, Rogersville, TN 37857, hereinafter referred to as the **OWNER**, and **HOLT CONSULTING COMPANY, LLC**, located at 2801 Devine Street, Suite 201, Columbia, SC 29205, herein after referred to as the **CONSULTANT**. This is the effective date of the **AGREEMENT**.

**WITNESSETH**

WHEREAS, the **OWNER** intends to initiate various design, engineering, and architectural projects and construct certain airfield, landside, and terminal improvements over the next five (5) years, in connection with the Airport Capital Improvement Plan, at the **Hawkins County Airport**, herein after referred to as the **PROJECT**, each of which will be described in future Work Authorizations; and,

WHEREAS, the **OWNER** desires to retain the services of the **CONSULTANT** for a period of five (5) years from the effective date of the **AGREEMENT** in accordance with the provisions of Federal Aviation Administration Advisory Circular No: 150/5100-14E dated September 30, 2014; and,

WHEREAS, the **OWNER** may require other general consulting services in the conduct of its business over the period of this **AGREEMENT**, which will be described in future Work Authorizations; and,

WHEREAS, the **CONSULTANT** has represented to the **OWNER** that it is qualified to perform the various described tasks and work of the projects, and, based upon **CONSULTANT's** representations, the **OWNER** desires to retain the services of the **CONSULTANT** to perform the work described herein.

NOW THEREFORE, for and in consideration of their mutual benefit, the parties hereto agree as follows:

The **CONSULTANT** shall, upon receipt of each duly executed Work Authorization, perform the work described in the Work Authorization in accordance with the attached Exhibits "A", "B", "C", "D", and "E" as may be required in said Work Authorizations. Each Work Authorization shall include the **CONSULTANT's** good faith estimate of allowable costs as described in Chapter 4 of Federal Aviation Administration Advisory Circular No: 150/5100-14E dated September 30, 2014.

The **OWNER**, in consideration of the performance of the **CONSULTANT's** undertakings under this **AGREEMENT**, pursuant to Work Authorizations fully executed by the **OWNER** and **CONSULTANT**, shall pay the **CONSULTANT** the consideration determined in each Work Authorization, which consideration shall constitute complete payment for all services furnished in connection with the work required to be performed under the Work Authorization.



The following Exhibits are attached to and made part of this **AGREEMENT**:

- A. "General Provisions for Program Management and General Consulting Services"
- B. "General Provisions for Planning and Environmental Services"
- C. "General Provisions for Engineering Services"
- D. "General Provisions for Architectural Design Services"
- E. "Duties, Responsibilities, and Limitations of Authority of Resident Project Representative"
- F. "Payments and Miscellaneous Provisions"
- G. "Mandatory Federal Provisions"
- H. "Sample Work Authorization Form"
- I. "Insurance Requirements"

This **AGREEMENT** shall apply to all projects initiated within five (5) years, more or less, after the date of this **AGREEMENT**.

This **AGREEMENT**, together with the Exhibits identified above and subsequent Work Authorizations constitutes the entire **AGREEMENT** between the **OWNER** and the **CONSULTANT** and supersedes all prior written or oral understandings. This **AGREEMENT** and said Exhibits may only be amended, supplemented, modified, or canceled by a duly executed written instrument. This **AGREEMENT** and said Exhibits hereafter shall be referred to as the **MASTER AGREEMENT**.

IN WITNESS WHEREOF, the parties hereto have made and executed this **AGREEMENT** as of the date first above written.

**HAWKINS COUNTY**

WITNESS: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**HOLT CONSULTING COMPANY, LLC**

WITNESS: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

## EXHIBIT A

### GENERAL PROVISIONS FOR PROGRAM MANAGEMENT AND GENERAL CONSULTING SERVICES

This is an exhibit attached to and made a part of the **AGREEMENT** between the **OWNER** and the **CONSULTANT** for Professional Services. For elements of the **PROJECT** described in the referenced **AGREEMENT**, the **CONSULTANT** shall perform Professional Services in accordance with acceptable architectural, engineering, and surveying practices. These services shall be the limits of the **CONSULTANT's** responsibility under this **AGREEMENT**.

These General Provisions set forth the general requirements for the performance of the various services for program management and general consulting required under this **AGREEMENT**. The **CONSULTANT** under each duly executed Work Authorization shall perform the scope of work required by such Authorization, and unless requirements to the contrary are specifically prescribed therein, shall perform the required services in accordance with the following requirements.

#### **SECTION I – PROGRAM MANAGEMENT AND GENERAL CONSULTING SERVICES**

- A. The services for program management respond to the complexities resulting from multi-project, multi-discipline, and long-range programs. Typical program management services can include:
1. Project formulation/programming,
  2. Project coordination,
  3. Master program scheduling,
  4. Consultant/subconsultant coordination,
  5. Funding and financial coordination assistance,
  6. Meeting preparation and documentation, and
  7. Technical assistance.
- B. The general consulting services to be provided under this section are undefined, general in nature, and only required periodically by the **OWNER**. Typical services anticipated might include:
1. Presentation preparation
  2. Coordination of meetings with local, state, and federal officials
  3. Site visits
  4. Facility inspection
  5. Obstruction surveys
  6. Property surveys
  7. Other services requested by the **OWNER** that are not otherwise directly associated with a current project

- C. Specific program management services will be reviewed in advance with the **OWNER** and set forth in each Work Authorization. FAA approval of scope will be obtained for FAA funded items and tasks.
- D. The amount of compensation and method of payment will be established when each Work Authorization is developed and presented for approval.

**SECTION II – MISCELLANEOUS PROVISIONS**

- 1. **Exhibit "F," Payments and Miscellaneous Provisions** specifies requirements for payments to **CONSULTANT, OWNER's** responsibilities, and other miscellaneous provisions, and **Exhibit "G"** specifies mandatory Federal provisions.

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## EXHIBIT B

### GENERAL PROVISIONS FOR PLANNING AND ENVIRONMENTAL SERVICES

This is an exhibit attached to and made a part of the **AGREEMENT** between the **OWNER** and the **CONSULTANT** for professional consulting services. For elements of the **PROJECT** described in the referenced **AGREEMENT**, the **CONSULTANT** shall perform professional services as hereinafter described, which shall include customary planning, environmental, and auxiliary services incidental thereto. These services, when performed in accordance with acceptable practices, shall be the limits of the **CONSULTANT's** responsibility under this **AGREEMENT**.

These General Provisions set forth the general requirements for the performance of the various services for planning and environmental projects required under this **AGREEMENT**. The **CONSULTANT** under each duly executed Work Authorization shall perform the scope of work required by such Authorization, and unless requirements to the contrary are specifically prescribed therein, shall perform the required services in accordance with the following requirements.

#### SECTION I – SERVICES

- A. Basic and Special Services for planning projects will be reviewed in advance with the **OWNER** and set forth in each Work Authorization. FAA approval of scope will be obtained for FAA funded items and tasks.
- B. The amount of compensation and method of payment will be established when each planning Work Authorization is developed and presented for approval.
- C. At the written request of the **OWNER**, the **CONSULTANT** shall accomplish such special services as required by the **OWNER** to complete the **PROJECT**. At the option of the **OWNER**, special services may be provided by the **OWNER** through contracts with other professionals or may be provided by the **CONSULTANT**. When the **CONSULTANT** is requested to provide special services, such services may be provided by the **CONSULTANT's** own forces or through subcontracts with other professionals. However, contracts with other professionals for special services must have the approval of the **OWNER** before the work is initiated. (**OWNER's** approval of **CONSULTANT's** Work Authorization listing subconsultants and subconsultant fees will be considered approval of subconsultant's contract.) Special services which may be requested include, but are not necessarily limited to the following:
  - 1. Soils and materials investigations including test borings, laboratory testing of soils and materials, and related analyses and recommendations;
  - 2. Reproduction of additional copies of reports and other documents above the specified number described in each Work Authorization;
  - 3. The accomplishment of special surveys and investigations, such as aerial photography and mapping, traffic volume data collection, and the preparation of special reports and drawings as may be requested or authorized in writing by the **OWNER** in connection with the **PROJECT**;

4. Land surveys as necessary to establish property boundaries required for property acquisition purposes or preparation of property maps; and,
5. Special environmental studies including biotic studies, historical and archeological studies, noise studies and other related work.

## **SECTION II – MISCELLANEOUS PROVISIONS**

1. **Exhibit "F," Payments and Miscellaneous Provisions** specifies requirements for payments to **CONSULTANT, OWNER's** responsibilities, and other miscellaneous provisions, and **Exhibit "G"** specifies mandatory Federal provisions.

**THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK.**

## EXHIBIT C

### GENERAL PROVISIONS FOR ENGINEERING SERVICES

This is an exhibit attached to and made a part of the **AGREEMENT** between the **OWNER** and the **CONSULTANT** for professional consulting services. For elements of the **PROJECT** described in the referenced **AGREEMENT** which are primarily engineering projects, the **CONSULTANT** shall perform professional services as hereinafter described, which shall include customary civil, structural, mechanical, and electrical engineering services. These services, when performed in accordance with acceptable engineering practices, shall be the limits of the **CONSULTANT's** responsibility under this **AGREEMENT**.

These General Provisions set forth the general requirements for the performance of the various services for development projects required under this **AGREEMENT**. The **CONSULTANT** under each duly executed Work Authorization shall perform work required to accomplish the intent of such work authorization, and unless otherwise specifically prescribed therein, shall perform the required services in accordance with the following requirements.

#### **SECTION I – BASIC SERVICES**

A. Basic Engineering Services will generally be completed in four (4) phases:

1. Preliminary Design Phase
2. Final Design Phase
3. Bidding Phase
4. Construction Phase

The general types of services to be performed in each phase are described herein. However, typical services may be changed or deleted as required for each project. Additional services may be added as mutually agreed upon between **OWNER** and **CONSULTANT**. Such additions, changes, or deletions will be outlined in each Work Authorization.

B. Preliminary Design Phase

This phase involves those activities required for defining the scope of a project and establishing preliminary requirements. Items of work for this phase of a project include:

1. Conferring with the **OWNER** on project requirements, finances, schedules, early phases of the **PROJECT**, and other pertinent matters; and meeting with concerned agencies and parties on matters affecting the **PROJECT**.
2. Advising **OWNER** as to the necessity of providing or obtaining from others, data or services of the types described in Section II such as, but not limited to field surveys, soil borings, aerial mapping, and laboratory testing. At **OWNER's** option, services may be provided by the **OWNER** through direct contracts with other professionals or may be provided by the **CONSULTANT** in accordance with Exhibit "E", **Payments and Miscellaneous Provisions**, Section I.2.
3. Developing design schematics, sketches, project recommendations and preliminary layouts, and cost estimates.

C. Final Design Phase

After authorization to proceed with the Final Design Phase, **CONSULTANT** shall, on the basis of the accepted Preliminary Design documents and the construction budget authorized by **OWNER**:

1. Prepare necessary engineering reports and recommendations,
2. Prepare detailed plans, specifications, and cost estimates,
3. Print and provide necessary copies for in-house production of engineering drawings and contract specifications,
4. Advise **OWNER** of any adjustments to the preliminary estimate of probable construction costs caused by changes in general scope, extent or character or design requirements of the **PROJECT**, or market conditions. Furnish to **OWNER** a revised opinion of probable construction costs based on the Final Drawings and Specifications,
5. Prepare for review and approval by **OWNER**, its legal counsel and other advisors, necessary bidding information, bidding forms, the conditions of the contract, and the form of **AGREEMENT** between the **OWNER** and Contractor, and
6. Distribute documents for approvals to FAA, **OWNER**, State, and other regulatory agencies.

D. Bidding Phase

After authorization to proceed with the Bidding Phase, **CONSULTANT** shall:

1. Assist the **OWNER** in advertising for and obtaining bids for each separate prime contract for construction, materials, equipment, and services; and, where applicable, maintain a record of prospective bidders to whom bidding documents have been issued, and receive and process deposits for bidding documents.
2. Assist the **OWNER** in conducting a pre-bid conference for each separate prime contract to share pertinent bidding and technical information and requirements with prospective bidders.
3. Issue addenda as appropriate to interpret, clarify or expand the bidding documents.
4. Distribute sets of bidding documents to prospective bidders and plan offices during the Bidding Phase.
5. Attend the bid opening, prepare bid tabulation sheets, and assist **OWNER** in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment, and services.

E. Construction Phase

1. The **CONSULTANT's** responsibility to provide Basic Services for the Construction Phase under this **AGREEMENT** commences with the award of each contract for construction and terminates at the earlier of the issuance by the **OWNER** of the final Certificate for Payment or 30 days after the date of Substantial Completion of the Work, but, if so stated by Work Authorization, may be extended under the terms of **Section II "Special Services."**
2. **CONSULTANT** shall attend and administer the preconstruction conference.
3. Visits to site and observation of construction: In connection with observations of the work of contractor(s) while it is in progress:
  - a. **CONSULTANT** shall make visits to the site at intervals appropriate to the various stages of construction as **CONSULTANT** deems necessary in order to observe as an experienced and qualified design professional the progress of the various aspects of contractor(s)' work. Based on information obtained during such visits and on such observations, **CONSULTANT** shall endeavor to determine in general if such work is proceeding in accordance with the contract documents and **CONSULTANT** shall keep **OWNER** informed of the progress of the work.
  - b. If **OWNER** requests more extensive site representation than is described in 3.a above, **CONSULTANT** will provide a Resident Project Representative(s) as a Special Service.
  - c. **CONSULTANT** shall not during such visits or as a result of such observations of contractor(s)' work in progress, supervise, direct or have control over contractor(s)' work nor shall **CONSULTANT** have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the work of contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s) furnishing and performing their work. Accordingly, **CONSULTANT** can neither guarantee the performance of the construction contracts by contractor(s) nor assume responsibility for contractor(s)' failure to furnish and perform their work in accordance with the contract documents.
4. Defective Work: During such visits and on the basis of such observations, **CONSULTANT** may disapprove of or reject contractor(s)' work while it is in progress if **CONSULTANT** believes that such work will not produce a completed **PROJECT** that conforms generally to the contract documents or that it will prejudice the integrity of the design concept of the **PROJECT** as reflected in the contract documents.
5. Interpretations and Clarifications: **CONSULTANT** shall issue necessary interpretations and clarifications of the contract documents and in connection therewith prepare work directive changes and change orders as required.



6. Shop Drawings: **CONSULTANT** shall review and approve (or take other appropriate action in respect of) shop drawings, samples, and other data which contractor(s) are required to submit, but only for conformance with the design concept of the **PROJECT**. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.
7. Substitutes: **CONSULTANT** shall evaluate and determine the acceptability of substitute materials and equipment proposed by contractor(s), but subject to the provision of Section II, paragraph 13 of this Exhibit C.
8. Inspections and Tests: **CONSULTANT** shall have authority, as **OWNER's** representative, to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testing(s), and approvals required by laws, rules, regulations, ordinances, codes, orders, or the contract documents (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the contract documents).
9. Disputes Between Owner and Contractor: **CONSULTANT** shall act as initial interpreter of the requirements of the contract documents and judge of the acceptability of the work thereunder and make decisions on all claims of **OWNER** and contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the contract documents pertaining to the execution and progress of the work. **CONSULTANT** shall not be liable for the results of any such interpretations or decisions rendered in good faith.
10. Applications for Payment: Based on **CONSULTANT's** on-site observations as an experienced and qualified design professional, on information provided by the Resident Project Representative and on review of applications for payment and the accompanying data and schedules:
  - a. **CONSULTANT** shall determine the amounts owing to contractor(s) and recommend in writing payments to contractor(s) in such amounts. Such recommendations of payment will constitute a representation to **OWNER**, based on such observations and review, that the work has progressed to the point indicated, and that, to the best of **CONSULTANT's** knowledge, information and belief, the quality of such work is generally in accordance with the contract documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the contract documents and to any other qualifications stated in the recommendation). In the case of unit price work, **CONSULTANT's** recommendations of payment will include determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the contract documents).

- b. By recommending any payment, **CONSULTANT** will not thereby be deemed to have represented that exhaustive, continuous, or detailed reviews or examinations have been made by **CONSULTANT** to check the quality or quantity of contractor(s)'s work as it is furnished and performed beyond the responsibilities specifically assigned to **CONSULTANT** in this **AGREEMENT** and the Contract documents. **CONSULTANT's** review of contractor(s)' work for the purposes of recommending payments will not impose on **CONSULTANT** responsibility to supervise, direct or control such work or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto or contractor(s) compliance with laws, rules, regulations, ordinances, codes or orders applicable to their furnishing and performing the work. It will also not impose responsibility on **CONSULTANT** to make any examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the contract price, or to determine that title to any of the work, materials or equipment has passed to **OWNER** free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between **OWNER** and contractor that might affect the amount that should be paid.
11. Contractor(s)' Completion Documents: **CONSULTANT** shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by contractor(s) in accordance with the contract documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests and approvals the results certified indicate compliance with, the contract documents); and shall transmit them to **OWNER** with written comments.
12. Inspections: **CONSULTANT** shall conduct an inspection to determine if work is substantially complete and a final inspection to determine if the completed work is acceptable to **OWNER**, FAA and other governing agencies so that **CONSULTANT** may recommend, in writing, final payment to contractor(s) and may give written notice to **OWNER** and contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in sub-paragraph E.10.b of this Exhibit C, Section I.
13. Limitation of Responsibilities: **CONSULTANT** shall not be responsible for the act or omissions of any contractor, or of any subcontractor or supplier, or any of the contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except **CONSULTANT's** own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in the foregoing sub-paragraphs E.1. through E.12. inclusive, shall be construed to release **CONSULTANT** from liability for failure to properly perform duties and responsibilities assumed by **CONSULTANT** in the contract documents.

## SECTION II – SPECIAL SERVICES

### Services Requiring Authorization in Advance

If authorized in writing by **OWNER**, **CONSULTANT** shall accomplish such special services of the following types which are not considered normal or customary Basic Services except where specifically provided for otherwise in the Work Authorizations. At **OWNER's** option, services may be provided by the **OWNER** through direct contracts with other professionals or may be provided by the **CONSULTANT**. When the **CONSULTANT** is requested to provide special services, such services may be provided by the **CONSULTANT's** own forces or through subcontracts with other professionals; however, contracts with other professionals for special services must have the approval of the **OWNER** before the work is initiated (**OWNER** approval of **CONSULTANT's** Work Authorization listing subconsultant's and subconsultant fees will be considered approval of subconsultant's contract.) Special services will be paid for by **OWNER** as indicated in each Work Authorization in addition to the compensation for Basic Services described herein.

1. Preparation of applications and supporting documents for governmental grants, loans, or advances in connection with the **PROJECT**; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the **PROJECT** of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the **PROJECT**.
2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by **OWNER**; commonly referred to as A/E survey (Architectural/Engineering survey).
3. Services resulting from significant changes in the general scope, extent or character of the **PROJECT** or its design including, but not limited to, changes in size, complexity, **OWNER's** schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or contract documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to causes beyond **CONSULTANT's** control.
4. Providing renderings or models for **OWNER's** use.
5. Preparing to serve or serving as a **CONSULTANT** or witness for **OWNER** in any litigation, public hearing or other legal or administrative proceeding involving the **PROJECT** (except as agreed to under Basic Services in Section I of this Exhibit C).
6. Soils and material investigations including test borings, laboratory testing of soils and materials, related analyses, and recommendations.
7. Quality assurance testing during construction.
8. Furnishing services of a Resident Project Representative to assist **CONSULTANT** in observing performance of the work of contractor(s).
9. Preparation of Disadvantaged Business Enterprise Program.

10. Cost accounting services, grant administration, and grant closeout.
11. Reproduction and postage of reports, contract documents and specifications to FAA, **OWNER**, contractor, regulatory agencies, prospective bidders, and plan rooms.
12. Services in connection with work directive changes and change orders to reflect changes requested by **OWNER** if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.
13. Services in revising drawings and specifications occasioned by the acceptance or substitutions proposed by contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by contractor.
14. Services resulting from delays beyond the control of **CONSULTANT**.
15. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or negligent work of any contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, (4) default by any contractor, or (5) other causes beyond **CONSULTANT's** control.
16. Evaluating an unreasonable or extensive number of claims submitted by contractor(s) or others in connection with the work.
17. Services after issuance to the **OWNER** of the final certificate for payment or in the absence of such certificate, more than 30 days after the date of Substantial Completion of the Work.
18. Provide assistance in the closing of any financial or related transaction for the **PROJECT**.
19. Provide assistance in connection with the refining and adjusting of any equipment or system.
20. Preparation of a set of reproducible record prints of drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by contractor(s) to **CONSULTANT** and which **CONSULTANT** considers significant.
21. Operational Phase Services:
  - a. Provide assistance in connection with the refining and adjusting of any equipment or system.
  - b. Assist **OWNER** in training **OWNER's** staff to operate and maintain the **PROJECT**.
  - c. Assist **OWNER** in developing systems and procedures for control of the operation and maintenance of and record keeping for the **PROJECT**.

### **SECTION III – MISCELLANEOUS PROVISIONS**

1. Exhibit "F," **Payments and Miscellaneous Provisions** specifies requirements for payments to **CONSULTANT**, **OWNER's** responsibilities, and other miscellaneous provisions, and Exhibit "G" specifies Federal Mandatory Provisions.

## EXHIBIT D

### GENERAL PROVISIONS FOR ARCHITECTURAL DESIGN SERVICES

This is an exhibit attached to and made a part of the **AGREEMENT** between the **OWNER** and the **CONSULTANT** for professional consulting services. For elements of the **PROJECT** which are primarily building improvements, described in the referenced **AGREEMENT**, the **CONSULTANT** shall perform professional services as hereinafter described, which shall include customary architectural, structural, mechanical, and electrical engineering services. These services, when performed in accordance with acceptable engineering and architectural practices, shall be the limits of the **CONSULTANT's** responsibility under this **AGREEMENT**.

These General Provisions set forth the general requirements for the performance of the various architectural services for projects required under this **AGREEMENT**. The **CONSULTANT** under each duly executed Work Authorization shall perform the scope of work required by such Authorization, and, unless requirements to the contrary are specifically prescribed therein, shall perform the required services in accordance with the following requirements.

#### SECTION I - BASIC SERVICES

A. Basic Architectural Services will generally be completed in five (5) phases:

1. Schematic Design Phase
2. Design Development Phase
3. Contract Document Phase
4. Bidding Phase
5. Construction Phase

The general types of services to be performed in each phase are described herein. However, typical services may be changed or deleted as required for each project. Additional services may be added as mutually agreed upon between **OWNER** and **CONSULTANT**. Such additions, changes, or deletions will be outlined in each Work Authorization.

B. Schematic Design Phase

1. The **CONSULTANT** shall review the program furnished by the **OWNER** to ascertain the requirements of the **PROJECT** and shall arrive at a mutual understanding of such requirements with the **OWNER**.
2. The **CONSULTANT** shall provide a preliminary evaluation of the **OWNER's** program, schedule, and construction budget requirements, each in terms of the other, subject to the limitations set forth in Exhibit F, paragraph II. A.
3. The **CONSULTANT** shall review with the **OWNER** alternative approaches to design and construction of the **PROJECT**.

4. Based on the mutually agreed upon program, schedule and construction budget requirements, the **CONSULTANT** shall prepare, for approval by the **OWNER**, schematic design documents consisting of drawings and other documents illustrating the scale and relationship of project components.
5. The **CONSULTANT** shall submit to the **OWNER** a preliminary estimate of construction cost based on current area, volume, or other unit costs.

C. Design Development Phase

1. Based on the approved schematic design documents and any adjustments authorized by the **OWNER** in the program, schedule or construction budget, the **CONSULTANT** shall prepare, for approval by the **OWNER**, design development documents consisting of drawings and other documents to fix and describe the size and character of the **PROJECT** as to architectural, structural, mechanical, and electrical systems, materials and such other elements as may be appropriate.
2. The **CONSULTANT** shall advise the **OWNER** of any adjustments to the preliminary estimate of construction cost.

D. Construction Documents Phase

1. Based on the approved design development documents and any further adjustments in the scope or quality of the **PROJECT** or in the construction budget authorized by the **OWNER**, the **CONSULTANT** shall prepare, for approval by the **OWNER**, construction documents consisting of drawings and specifications setting forth in detail the requirements for the construction of the **PROJECT**.
2. The **CONSULTANT** shall assist the **OWNER** in the preparation of the necessary bidding information, bidding forms, the conditions of the contract, and the form of **AGREEMENT** between the **OWNER** and the contractor.
3. The **CONSULTANT** shall advise the **OWNER** of any adjustments to previous preliminary estimates of construction cost indicated by changes in requirements or general market conditions.
4. The **CONSULTANT** shall assist the **OWNER** in connection with the **OWNER's** responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the **PROJECT**.

E. Bidding Phase

After authorization to proceed with the Bidding Phase, **CONSULTANT** shall:

1. Assist the **OWNER** in advertising for and obtaining bids for each separate prime contract for construction, materials, equipment, and services; and, where applicable, maintain a record of prospective bidders to whom bidding documents have been issued, attend pre-bid conferences, and receive and process deposits for bidding documents.
2. Issue addenda as appropriate to interpret, clarify or expand the bidding documents.
3. Consult with and advise **OWNER** as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called "contractor(s)") for those portions of the work as to which such acceptability is required by the bidding documents.
4. Consult with **OWNER** concerning and determine the acceptability of substitute materials and equipment proposed by contractor(s) when substitution prior to the award of contracts is allowed by the bidding documents.
5. Attend the bid opening, prepare bid tabulation sheets, and assist **OWNER** in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment, and services.
6. Furnish sets of bidding documents to contractor bidding and plan offices during the Bidding Phase. The number of documents and their distribution will be specified in the Work Authorization(s).

F. Construction Phase

1. The **CONSULTANT's** responsibility to provide Basic Services for the Construction Phase under this **AGREEMENT** commences with the award of the contract for construction and terminates at the earlier of the issuance to the **OWNER** of the final Certificate for Payment or the original date established for Substantial Completion of the Work but may be extended under the terms of Section II "Special Services."
2. The **CONSULTANT** shall provide administration of the contract for construction as set forth below, unless otherwise provided in this **AGREEMENT**.
3. **CONSULTANT** shall attend preconstruction conference.

4. Visits to site and observation of construction: In connection with observations of the work of contractor(s) while it is in progress:
  - a. **CONSULTANT** shall make visits to the site at intervals appropriate to the various stages of construction as **CONSULTANT** deems necessary to observe as an experienced and qualified design professional, the progress and quality of the various aspects of contractor(s)' work. Based on information obtained during such visits and on such observations, **CONSULTANT** shall endeavor to determine in general if such work is proceeding in accordance with the contract documents and **CONSULTANT** shall keep **OWNER** informed of the progress of the work.
  - b. If **OWNER** requests more extensive site representation than is described in F.4 (a) above, **CONSULTANT** will provide a Resident Project Representative(s) as a Special Service.
  - c. **CONSULTANT** shall not, during such visits or as a result of such observations of contractor(s)' work in progress, supervise, direct or have control over contractor(s)' work nor shall **CONSULTANT** have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the work of contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s) furnishing and performing their work. Accordingly, **CONSULTANT** can neither guarantee the performance of the construction contracts by contractor(s) nor assume responsibility for contractor(s)' failure to furnish and perform their work in accordance with the contract documents.
5. Defective Work: During such visits and on the basis of such observations, **CONSULTANT** may disapprove of or reject contractor(s)' work while it is in progress if **CONSULTANT** believes that such work will not produce a completed **PROJECT** that conforms generally to the contract documents or that it will prejudice the integrity of the design concept of the **PROJECT** as reflected in the contract documents.
6. Interpretations and Clarifications: **CONSULTANT** shall issue necessary interpretations and clarifications of the contract documents and in connection therewith prepare work directive changes and change orders as required.
7. Shop Drawings: **CONSULTANT** shall review and approve (or take other appropriate action in respect of) shop drawings, samples, and other data which contractor(s) are required to submit, but only for conformance with the design concept of the **PROJECT** and compliance with the information given in the contract documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.
8. Substitutes: **CONSULTANT** shall evaluate and determine the acceptability of substitute materials and equipment proposed by contractor(s), but subject to the provision of Section II, paragraph 37 of this Exhibit D.



9. Inspections and Tests: **CONSULTANT** shall have authority, as **OWNER's** representative, to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testing(s), and approvals required by laws, rules, regulations, ordinances, codes, orders, or the contract documents (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the contract documents).
10. Disputes: **CONSULTANT** shall act as initial interpreter of the requirements of the contract documents and judge of the acceptability of the work thereunder and make decisions on all claims relating to the acceptability of the work or the interpretation of the requirements of the contract documents pertaining to the execution and progress of the work.
11. Applications for Payment: Based on **CONSULTANT's** on-site observations as an experienced and qualified design professional, on information provided by the Resident Project Representative and on review of applications for payment and the accompanying data and schedules:
  - a. **CONSULTANT** shall determine the amounts owing to contractor(s) and recommend in writing payments to contractor(s) in such amounts. Such recommendations of payment will constitute a representation to **OWNER**, based on such observations and review, that the work has progressed to the point indicated, and that, to the best of **CONSULTANT's** knowledge, information and belief, the quality of such work is generally in accordance with the contract documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the contract documents and to any other qualifications stated in the recommendation). In the case of unit price work, **CONSULTANT's** recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the contract documents).

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

12. Contractor(s)' completion documents: **CONSULTANT** shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by contractor(s) in accordance with the contract documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests and approvals the results certified indicate compliance with, the contract documents); and shall transmit them to **OWNER** with written comments.
13. Inspections: **CONSULTANT** shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that **CONSULTANT** may recommend, in writing, final payment to contractor(s) and may give written notice to **OWNER** and the contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph F.11.b.
14. Limitation of responsibilities: **CONSULTANT** shall not be responsible for the act or omissions of any contractor, or of any subcontractor or supplier, or any of the contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except **CONSULTANT's** own employees and agents) at the site or otherwise furnishing or performing any of the contractor(s)' work; however, nothing contained in paragraphs F.1 through F.13 inclusive, shall be construed to release **CONSULTANT** from liability for failure to properly perform duties and responsibilities assumed by **CONSULTANT** in the contract documents.

## **SECTION II – SPECIAL SERVICES**

### Services Requiring Authorization in Advance

If authorized in writing by **OWNER**, **CONSULTANT** shall accomplish such special services of the following types which are not considered normal or customary Basic Services except where specifically provided for otherwise in the Work Authorizations. At **OWNER's** option, services may be provided by the **OWNER** through direct contracts with other professionals or may be provided by the **CONSULTANT**. When the **CONSULTANT** is requested to provide special services, such services may be provided by the **CONSULTANT's** own forces or through subcontracts with other professionals. However, contracts with other professionals for special services must have the approval of the **OWNER** before the work is initiated, however **CONSULTANT** shall remain responsible for work of subconsultant's. Special services will be paid for by **OWNER** in addition to the compensation for Basic Services described herein.

1. Preparation of pre-applications and/or applications and supporting documents for governmental grants, loans, or advances in connection with the **PROJECT**; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the **PROJECT** of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the **PROJECT**.

2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by **OWNER**; commonly referred to as A/E survey.
3. Services resulting from significant changes in the general scope, extent or character of the **PROJECT** or its design including, but not limited to, changes in size, complexity, **OWNER's** schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or contract documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to causes beyond **CONSULTANT's** control.
4. Providing renderings or models for **OWNER's** use.
5. Preparing documents for alternate, separate, or sequential bids requested by **OWNER** after receipt of original bids and for contractor(s)' work which is not executed or documents for out-of-sequence work.
6. Investigations involving detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the **PROJECT**; evaluating processes available for licensing and assisting **OWNER** in obtaining process licensing; detailed quantity surveys of material, equipment and labor, and audits for inventories required in connection with construction performed for **OWNER**.
7. Services resulting from the award of more separate prime contracts for construction, materials, equipment, or services for the **PROJECT** than are contemplated by an approved Work Authorization, and services resulting from the arranging for performance by persons other than the principal prime contractors of services for the **OWNER** and administering **OWNER's** contracts for such services.
8. Providing any type of property surveys or related engineering services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveys and staking to enable contractor(s) to proceed with their work and providing land surveys and other special field surveys.
9. Assistance in connection with bid protests, re-bidding or renegotiating contracts for construction, materials, equipment, or services.
10. Services during out-of-town travel required of **CONSULTANT** other than visits to the site as required by Section I.
11. Preparing to serve, or serving, as a **CONSULTANT** or witness for **OWNER** in any litigation, public hearing or other legal or administrative proceeding involving the **PROJECT** (except as agreed to under Basic Services in Section I of this Exhibit D).
12. Soils and Material Investigations including test borings, laboratory testing of soils and materials, related analyses, and recommendations.
13. Quality assurance testing during construction.
14. Furnishing services of a Resident Project Representative to assist **CONSULTANT** in observing performance of the work of contractor(s).

15. Preparation of Disadvantaged Business Programs.
16. Cost accounting services, grant administration, and grant closeout.
17. Reproduction of additional copies of reports, contract documents and specifications above the specified number furnished in Basic Services described in each Work Authorization.
18. Providing analyses of the **OWNER's** needs and programming the requirements of the **PROJECT**.
19. Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the **PROJECT**.
20. Providing services relative to future facilities, systems, and equipment.
21. Providing services to verify the accuracy of drawings or other information furnished by the **OWNER**.
22. Providing coordination of construction performed by separate contractors or by the **OWNER's** own forces and coordination of services required in connection with construction performed and equipment supplied by the **OWNER**.
23. Providing services in connection with the work of a construction manager or separate consultants retained by the **OWNER**.
24. Providing detailed estimates of construction cost.
25. Providing detailed quantity surveys or inventories of material, equipment, and labor.
26. Providing analyses of owning and operating costs.
27. Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings, and related equipment.
28. Providing services for planning tenant or rental spaces.
29. Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.
30. Preparing a set of reproducible record drawings showing significant changes in the work made during construction based on marked-up prints, drawings and other data furnished by the contractor to the **CONSULTANT**.
31. Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.
32. Providing services of consultants for other than architectural, structural, mechanical, and electrical engineering portions of the **PROJECT** provided as a part of Basic Services in Section I of Exhibit C.
33. Providing any other services not otherwise included in this **AGREEMENT** or not customarily furnished in accordance with generally accepted architectural practice.

34. Services in connection with work directive changes and change orders to reflect changes requested by **OWNER** if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.
35. Services in revising drawings and specifications occasioned by the acceptance or substitutions proposed by contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by contractor.
36. Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment, or energy shortages.
37. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or negligent work of any contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, and (4) default by any contractor.
38. Services in connection with any partial utilization of any part of the **PROJECT** by **OWNER** prior to Substantial Completion.
39. Evaluating an unreasonable or extensive number of claims submitted by contractor(s) or others in connection with the work.
40. Services after issuance to the **OWNER** of the final certificate for payment or in the absence of such certificate, more than 60 days after the date of Substantial Completion of the Work.

### **SECTION III – MISCELLANEOUS PROVISIONS**

1. **Exhibit "F," Payments and Miscellaneous Provisions** specifies requirements for payments to **CONSULTANT**, **OWNER's** responsibilities, and other miscellaneous provisions, and **Exhibit "G"** specifies mandatory Federal provisions.

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## EXHIBIT E

### DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE

This is an exhibit attached to and made a part of the **AGREEMENT** between the **OWNER** and the **CONSULTANT** for Professional Consulting Services. For elements of the **PROJECT** described in the referenced **AGREEMENT**, the **CONSULTANT** shall perform Resident Project Representative Services in accordance with the following:

- A. General: Resident Project Representative (**RPR**) will be the **CONSULTANT's** agent at the site, will act as directed by and under the supervision of **CONSULTANT**, and will confer with **CONSULTANT** regarding **RPR** actions. **RPR's** dealings in matters pertaining to the onsite work shall in general be only with the **CONSULTANT** and contractor, and dealings with subcontractors shall only be through or with the full knowledge of Contractor. Written communication with **OWNER** will be only through or as directed by **CONSULTANT**.
- B. Duties and Responsibilities of RPR:
1. Schedules: Review the progress schedule, schedule of shop drawing submissions, and schedule of values prepared by contractor and consult with the **CONSULTANT** concerning acceptability.
  2. Conferences and Meetings: Attend meetings with contractor such as preconstruction conferences, progress meetings and other conferences as required in consultation with **CONSULTANT** and notify those expected to attend in advance. Prepare and circulate copies of minutes thereof.
  3. Liaison:
    - a. Serve as the **CONSULTANT's** liaison with contractor, working principally through contractor's superintendent and assist him in understanding the intent of the contract documents. Assist the **CONSULTANT** in serving as the **OWNER's** liaison with the contractor when the contractor's operations affect the **OWNER's** onsite operations.
    - b. As requested by the **CONSULTANT**, assist in obtaining from the **OWNER** additional details or information, when required at the job site for proper execution of the work.
  4. Shop Drawings and Samples:
    - a. Record date of receipt of shop drawings and samples, receive samples which are furnished at the site by contractor, and notify the **CONSULTANT** of their availability for examination.
    - b. Advise the **CONSULTANT** and contractor or its superintendent immediately of the commencement of any work requiring a shop drawing or sample submission if the submission has not been approved by the **CONSULTANT**.

5. Review of Work, Rejection of Defective Work, Inspection, and Tests:
  - a. Conduct onsite observations of the work in progress to assist **CONSULTANT** in determining if the work is proceeding in accordance with the contract documents and that completed work will conform to the contract documents.
  - b. Report to the **CONSULTANT** whenever **RPR** believes that any work is unsatisfactory, faulty, or defective or does not conform to the contract documents or does not meet the requirements of any inspections, tests, or approval required to be made or has been damaged prior to final payment and advise the **CONSULTANT** when he believes work should be corrected or rejected or should be uncovered for observation or requires special testing, inspection, or approval.
  - c. Verify that tests, equipment, and systems startups and operating and maintenance training are conducted as required by the contract documents and in presence of the appropriate personnel, and that contractor maintains adequate records thereof; observe, record, and report to the **CONSULTANT** appropriate details relative to test procedures and startups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the **PROJECT**, record the results of these inspections, and report to **CONSULTANT**.
6. Interpretation of Contract Documents: Transmit to contractor, **CONSULTANT's** clarifications, and interpretations of the contract documents.
7. Modifications: Consider and evaluate contractor's suggestions for modifications in drawings or specifications and report them with **RPR's** recommendations to **CONSULTANT**. Transmit to contractor decisions as issued by **CONSULTANT**.
8. Records:
  - a. Maintain at the job site orderly files for correspondence, reports of job conferences, shop drawings and samples submissions, reproductions of original contract documents including all addenda, change orders, field orders, additional drawings issued subsequent to the execution of the contract, **CONSULTANT's** clarifications and interpretations of the contract documents, progress reports and other project related documents.
  - b. Keep a diary or logbook, recording hours on the job site, weather conditions, data relative to contractor's questions or extras or deductions, quantities of materials installed on the **PROJECT**, list of visiting officials and representatives of manufacturers, fabricators, suppliers, and distributors, daily activities, decisions, observations in general and specific observations in more detail as in the case of the observing test procedures. Send copies to the **CONSULTANT**.
  - c. Record names, addresses, and telephone numbers of all contractors, subcontractors, and major suppliers of materials and equipment.

9. Reports:
- a. Furnish to **CONSULTANT**, **OWNER**, and the Federal Aviation Administration periodic reports as required of the progress of the work and contractor's compliance with the approved progress schedule and schedule of shop drawing submissions.
  - b. Consult with the **CONSULTANT** in advance of scheduled major tests, inspections, or start of important phases of the work.
  - c. Report immediately to the **CONSULTANT** upon the occurrence of any accident.
  - d. Review and certify contractor's payroll submittals for compliance with federal law pertaining to classification and wage rates.
10. Payment Requests: Review applications for payment with contractor for compliance with the established procedure for their submission and forward them with recommendations to the **CONSULTANT**, noting particularly their relation to the schedule of values, work completed, and material and equipment delivered at the site but not incorporated in the work.
11. Certificates, Maintenance, and Operation Manuals: During the course of the work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by contractor are applicable to the items actually installed; and deliver this material to the **CONSULTANT** for his review and forwarding to **OWNER** prior to final acceptance of the work.
12. Completion:
- a. Before the **CONSULTANT** issues a Certificate of Substantial Completion, submit to contractor a list of observed items requiring completion or correction.
  - b. Conduct final inspection in the company of **CONSULTANT**, **OWNER**, and contractor and prepare a final list of items to be completed or corrected.
  - c. Verify that all items on final list have been completed or corrected and make recommendations to the **CONSULTANT** concerning acceptance.



C. Limitations of Resident Project Representative's Authority:

Except upon written instructions of the **CONSULTANT**, RPR:

1. Shall not authorize any deviation from the contract documents or approve any substitute materials or equipment.
2. Shall not exceed limitations of the **CONSULTANT's** authority as set forth in the contract documents.
3. Shall not undertake any of the responsibilities of contractor, subcontractors, or contractor's superintendent or expedite the work.
4. Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences, or procedures of construction unless such is specifically called for in the contract documents.
5. Shall not issue directions as to safety programs in connection with the work.
6. Shall not accept shop drawing or sample submittals from anyone other than contractor.
7. Shall not authorize the **OWNER** to occupy or utilize the **PROJECT** in whole or in part, without the approval of **CONSULTANT**.
8. Shall not participate in specialized field or laboratory tests, or inspections conducted by others except as specifically authorized by **CONSULTANT**.

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## EXHIBIT F

### PAYMENTS AND MISCELLANEOUS PROVISIONS

This is an exhibit attached to and made a part of the **AGREEMENT** between the **OWNER** and the **CONSULTANT** for professional consulting services.

#### SECTION I – PAYMENTS TO THE CONSULTANT

The **OWNER** agrees to compensate the **CONSULTANT** for services performed in accordance with one of the following methods as hereinafter set forth. It is further agreed that such compensation includes both direct and indirect costs chargeable to the **PROJECT** under generally accepted accounting principles.

The method of payment and the amount of payment for specified services shall be detailed in each Work Authorization. The receipt of an approved Work Authorization will constitute the **CONSULTANT's** Notice-to-Proceed.

Unless otherwise approved in writing, the **CONSULTANT** is not to undertake any work prior to the receipt of an approved Work Authorization executed by the **OWNER**.

1. Cost Plus Fixed Fee

Under this method of payment, the **CONSULTANT's** compensation will be equal to direct hourly cost times a factor to cover overhead plus direct non-salary expense and a fixed fee to cover profit. The cost may be more or less than estimated, but the fixed fee will neither increase nor decrease, unless there is a change in the scope, complexity, or duration of the work. In that event, the fixed fee would be subject to re-negotiation. Should the total cost be more than the estimated budget in an approved Work Authorization, a supplemental Work Authorization covering the additional costs of the particular task in question will be prepared by the **CONSULTANT** and submitted to the **OWNER** for review and approval.

2. Hourly Fee Schedule and Subconsultants

Under this method of payment, the **CONSULTANT's** compensation will be based on actual hours worked, by discipline, times the then current fee schedule, plus direct non-salary expenses, including the direct costs of subconsultants plus a lump sum administrative fee. **The hourly fee schedule will only be utilized for specific minor items of work performed as special services.**

3. Lump Sum

For work that can be defined and delineated in advance, payment to the **CONSULTANT** will be made on the basis of a lump sum. The agreed lump sum shall represent full payment for all payroll, overhead, profit, and other direct non-salary expenses as herein described. The lump sum will not increase nor decrease unless there is a change in the scope, complexity, or duration of the work. In that event, the lump sum would be subject to re-negotiation, and **CONSULTANT** will prepare and submit a supplemental Work Authorization for **OWNER** approval.

4. General:

Payments to the **CONSULTANT** on account of the above fees are payable upon receipt and are past due thirty (30) days after the date of invoices. Amounts not paid within 30 days of invoice date are delinquent and **OWNER** agrees to pay a late payment fee in the amount of 1% per month or the maximum late payment fee permitted by applicable law (whichever is less) on any unpaid amount for each month, or fraction thereof, that such payment is delinquent. Invoices shall be submitted periodically for the amount of work carried out in that period. The **OWNER** shall not retain any amounts due from the **CONSULTANT's** invoices, nor withhold said invoices pending FAA and/or other agency approval.

5. The Following Definitions Will Apply to the Payments for Services:

- a. Salary Cost - For purposes of this **AGREEMENT**, direct salary cost is defined as the current actual cost of salaries of personnel for the time directly chargeable to the **PROJECT**.
- b. Overhead - For the purpose of this **AGREEMENT**, overhead shall be calculated in accordance with Federal Acquisition Regulations. For billing under the cost-plus fixed fee method of payment, overhead as defined herein shall be direct salary cost times the current overhead rate of the **CONSULTANT** when the Work Authorization is signed.
- c. Direct Non-Salary Expenses - These expenses generally include items of expense directly chargeable to the **PROJECT** and substantiated by appropriate documentation. Typical items may include the cost of subconsultants, living and traveling expenses of employees, communications expense, postage, reproduction, identifiable supplies, and other items that can be identified with the **PROJECT**.

## SECTION II - MISCELLANEOUS PROVISIONS

A. Estimates:

- a. Since the **CONSULTANT** has no control over the cost of labor and materials or over competitive bidding and market conditions, the estimates of construction cost provided for herein are to be made on the basis of his experience and qualifications, but the **CONSULTANT** does not guarantee the accuracy of such estimates as compared to the contractor's bids or the **PROJECT** construction cost.

B. Extra Work:

- a. It is mutually understood and agreed that the **OWNER** will compensate the **CONSULTANT** for services resulting from significant changes in general scope of the **PROJECT** or its design, but not necessarily limited to, changes in size, complexity, project schedules, character of construction, revisions to previously accepted studies, reports, design documents for contract documents and for preparation of documents for separate bids, when such revisions are due to causes beyond the **CONSULTANT's** control and when requested and authorized by the **OWNER**. Compensation for such extra work when authorized by the **OWNER** shall be established in each Work Authorization. **CONSULTANT** shall promptly notify **OWNER** in writing of all extra work or cost variations on the **PROJECT** prior to undertaking said work.

C. Reuse of Documents:

- a. All documents including drawings and specifications prepared by the **CONSULTANT** pursuant to this **AGREEMENT** are instruments of service with respect to the **PROJECT**. They are not intended or represented to be suitable for reuse by **OWNER** or others on extensions of the **PROJECT** or on any other **PROJECT**. However, reproducible copies of drawings and copies of other pertinent data will be made available to the **OWNER** upon request, which may include paper or DVD copies. Any reuse without written verification will be at **OWNER's** sole risk and with no liability or legal exposure to **CONSULTANT**. Any such verification or adaptation will entitle **CONSULTANT** to further compensation at rates to be agreed upon by **OWNER** and **CONSULTANT**. Notwithstanding these provisions the **OWNER** shall be provided upon request a reproducible copy of any drawing produced under this **AGREEMENT** at the cost of reproduction and will be permitted full use of such documents subject to the limitations set forth herein.

D. Responsibility of the Consultant:

- a. The **CONSULTANT** shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the **CONSULTANT** under this **AGREEMENT**.
- b. Approval by the **OWNER** and other agencies of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the **CONSULTANT** of his responsibility for the technical adequacy of his work except as to matters involving peculiar conditions or uses of the property known to the **OWNER** or other agencies but not to the **CONSULTANT**.
- c. The **CONSULTANT** shall not be responsible for any time delays in the **PROJECT** caused by the loss or destruction of any portion of the **PROJECT** including, but not limited to, fire, theft, smoke, storm, vandalism, sudden or accidental damage from irregularities in electrical current or any other circumstance beyond the **CONSULTANT's** control.

E. Responsibility of Owner:

As a part to this **AGREEMENT**, the **OWNER** shall:

- a. Make available for the **CONSULTANT's** use all record drawings, maps, information as to unusual conditions or practices affecting the **CONSULTANT's** services, soil data, etc., that are readily available to the **OWNER**.
- b. Designate a person to act with authority on the **OWNER's** behalf and respond in a timely manner to submissions by the **CONSULTANT** providing approvals and authorizations as appropriate so that work may continue at a normal pace.
- c. Pay all costs associated with special services authorized by the **OWNER** and all costs associated with obtaining bids from contractors, including but not limited to cost of printing, postage, and public notice of advertisement.

- d. Furnish such accounting, insurance and legal counseling services as **OWNER** may require for this **PROJECT**. Obtain advice of an attorney, insurance counselor or other **CONSULTANTS** as **OWNER** deems appropriate for examination of the contract documents prepared by **CONSULTANT**.
- e. Pay all costs incidental to comply with requirements of the foregoing paragraphs a. through d.

F. Termination:

- a. This **AGREEMENT** may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this **AGREEMENT** through no fault of the terminating party provided that no such termination may be affected unless the other party is given:
  - i. Not less than 10 calendar days written notice of intent to terminate, and
  - ii. An opportunity for consultation with the terminating party prior to termination.
- b. This **AGREEMENT** may be terminated in whole or in part in writing by either party without cause on sixty (60) days written notice.
- c. Upon receipt of a termination notice, the **CONSULTANT** shall promptly discontinue all services affected (unless the notice directs otherwise) and deliver or otherwise make available to the **OWNER** all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the **CONSULTANT** in performing this **AGREEMENT**, whether completed or in process.
- d. If this **AGREEMENT** is terminated by either party, the **CONSULTANT** shall be paid for services rendered pursuant to this **AGREEMENT**. If termination of the **AGREEMENT** occurs at the conclusion of one phase and prior to authorization of the **OWNER** to begin the next phase, payment by the **OWNER** of the completed phase shall be considered full compensation due the **CONSULTANT**.

G. Audit: Access to Records:

- a. The **CONSULTANT** shall maintain books, records, documents, and other evidence directly pertinent to the work under this **AGREEMENT** in accordance with generally accepted accounting principles and practices. The **OWNER**, the Federal Aviation Administration, the Comptroller General of the United States, or any of their duly appointed representatives shall have access to any books, documents, papers, records, and other evidence for the purpose of examination, audit, excerpts, and transcriptions.
- b. Records described above shall be maintained and made available during the performance under this **AGREEMENT** and for a period of three years after the **OWNER** makes final payment and all other pending matters are closed.

H. Headings:

- a. The headings of the exhibits, sections, schedules, and attachments as contained in this **AGREEMENT** are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions in such exhibits, sections, schedules, and attachments.

I. Assignment:

- a. **CONSULTANT** acknowledges that its services are unique and personal and its rights under this **AGREEMENT** may not be assigned, or its duties or obligations delegated without the express written consent of **OWNER**.

J. Construction Means and Methods:

- a. **CONSULTANT** shall not be responsible for construction means, methods, techniques, sequences or procedures of construction contractors, or the safety precautions and programs incident thereto, and shall not be responsible for such contractors' failure to perform work in accordance with the contract documents.

K. Indemnification:

- a. **CONSULTANT** agrees to indemnify and hold harmless the **OWNER**, its agents, officers, and employees, their successors and assigns, individually and collectively, with respect to all claims, demands, or liability for any injuries to any person (including death) or damage to any property arising out of the activities of **CONSULTANT** based on negligent acts of the **CONSULTANT**, its officers, agents, or employees, and the **CONSULTANT** shall defend against all such claims and pay all expenses of such defense, including attorney fees, and all judgments based thereon; provided that his obligation shall not extend to any damage, injury, or loss due to negligence of the **OWNER**.

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## EXHIBIT G

### MANDATORY FEDERAL PROVISIONS

#### A. CIVIL RIGHTS ACT OF 1964, TITLE VI – CONTRACTOR CONTRACTUAL REQUIREMENTS

During the performance of this contract, the **CONSULTANT**, for itself, its assignees, and successors in interest (hereinafter referred to as the "**CONSULTANT**") agrees as follows:

**1.1 Compliance with Regulations.** The **CONSULTANT** shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

**1.2 Nondiscrimination.** The **CONSULTANT**, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The **CONSULTANT** shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

**1.3 Solicitations for Contracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the **CONSULTANT** for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor, subcontractor, or supplier shall be notified by the **CONSULTANT** of the **CONSULTANT's** obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

**1.4 Information and Reports.** The **CONSULTANT** shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the **OWNER** or the Federal funding agency to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the **CONSULTANT** is in the exclusive possession of another who fails or refuses to furnish this information, the **CONSULTANT** shall so certify to the **OWNER** or the Federal funding agency, as appropriate, and shall set forth what efforts it has made to obtain the information.

**1.5 Sanctions for Noncompliance.** In the event of the **CONSULTANT's** noncompliance with the nondiscrimination provisions of this contract, the **OWNER** shall impose such contract sanctions as it or the Federal funding agency may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the **CONSULTANT** under the contract until the **CONSULTANT** complies, and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

**1.6 Incorporation of Provisions.** The **CONSULTANT** shall include the provisions of foregoing paragraphs 1.1 through 1.5 in every contract and subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The **CONSULTANT** shall take such action with respect to any contract, subcontract or procurement as the **OWNER** or the Federal funding agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the **CONSULTANT** becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the **CONSULTANT** may request the **OWNER** to enter into such litigation to protect the interests of the **OWNER** and, in addition, the **CONSULTANT** may request the United States to enter into such litigation to protect the interests of the United States.

## **B. DISADVANTAGED BUSINESS ENTERPRISES**

- 1. Contract Assurance (§26.13)** - The **CONSULTANT** or any **SUBCONSULTANT** shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The **CONSULTANT** shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the **CONSULTANT** to carry out these requirements is a material breach of this contract, which may result in the termination of this **CONSULTANT** or such other remedy, as the recipient deems appropriate.
- 2. Prompt Payment (§26.29)** - The **CONSULTANT** agrees to pay each **SUBCONSULTANT** under this **AGREEMENT** for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the **CONSULTANT** receives from **OWNER**. The **CONSULTANT** agrees further to return retainage payments to each **SUBCONSULTANT** within ten (10) days after the **SUBCONSULTANT**'s work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the **OWNER**. This clause applies to both DBE and non-DBE **SUBCONSULTANTS**, contractors, and subcontractors.
- 3. Policy** - It is the policy of the US Department of Transportation (USDOT) that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this **AGREEMENT**. Consequently, the DBE requirements of 49 CFR Part 26 apply to this **AGREEMENT**.
- 4. DBE Obligation** – The **CONSULTANT** agrees to ensure that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds under this **AGREEMENT**. The **CONSULTANT** agrees to take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure the Disadvantaged Business Enterprises have the maximum opportunity to compete for contracts. The **CONSULTANT** or any **SUBCONSULTANT** shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract.

## **C. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

- 1.** No Federal appropriated funds shall be paid, by or on behalf of the **CONSULTANT**, 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 the making of any Federal grant and the amendment or modification of any Federal grant.



2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

#### **D. BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this **AGREEMENT** on the part of the **CONSULTANT** or their **SUBCONSULTANTS**, contractors or subcontractors may result in the suspension or termination of this **AGREEMENT** or such other action that may be necessary to enforce the rights of the parties of this **AGREEMENT**. The duties and obligations imposed by the **AGREEMENT** and any Contract Documents which become effective pursuant to this **AGREEMENT** and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

#### **E. RIGHTS TO INVENTIONS**

All rights to inventions and materials generated under this contract are subject to regulations issued by the Federal funding agency and the **OWNER** of the Federal grant under which this contract is executed.

#### **F. TRADE RESTRICTION CLAUSE**

The **CONSULTANT**, by execution of this **AGREEMENT**, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR),
- b. has not knowingly entered into any **AGREEMENT** for this **PROJECT** with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list, and
- c. has not procured any product nor contracted for the supply of any product for use on the **PROJECT** that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the **CONSULTANT** knowingly procures or contracts for the supply of any product or service of a foreign country on said list for use on the **PROJECT**, the Federal funding agency may direct through the **OWNER** cancellation of the **AGREEMENT** at no cost to the Government.

Further, the **CONSULTANT** agrees that it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts for this **PROJECT**. The **CONSULTANT** may rely on the certification of a prospective contractor unless it has knowledge that the certification is erroneous.

The **CONSULTANT** shall provide immediate written notice to the **OWNER** if the **CONSULTANT** learns that its certification or that of a contractor or subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. A contractor or subcontractor must agree to provide written notice to the **CONSULTANT** if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the **CONSULTANT** or a **SUBCONSULTANT** knowingly rendered an erroneous certification, the Federal funding agency may direct, through the **OWNER**, cancellation of the **AGREEMENT** for default at no cost to the Government. 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 provision. The knowledge and information of a **CONSULTANT** is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

#### **G. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

The **CONSULTANT** certifies, by acceptance of this **AGREEMENT**, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

#### **H. ACCESS TO RECORDS AND REPORTS**

The **CONSULTANT** shall maintain an acceptable cost accounting system. The **CONSULTANT** agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States, or any of their duly authorized representatives, access to any books, documents, papers, and records of the **CONSULTANT** which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts, and transcriptions. The **CONSULTANT** agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

#### **I. TERMINATION OF CONTRACT**

1. The **OWNER** may, by written notice, terminate this **AGREEMENT** in whole or in part at any time, either for the **OWNER's** convenience or because of failure to fulfill the **AGREEMENT** obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the **OWNER**.
2. If the termination is for the convenience of the **OWNER**, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
3. If the termination is due to failure to fulfill the **CONSULTANT's** obligations, the **OWNER** may take over the work and prosecute the same to completion by contract or otherwise. In such case, the **CONSULTANT** shall be liable to the **OWNER** for any additional cost occasioned to the **OWNER** thereby.

4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the **CONSULTANT** had not so failed, the termination shall be deemed to have been affected for the convenience of the **OWNER**. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause. The rights and remedies of the **OWNER** provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**J. AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520 - GENERAL CIVIL RIGHTS PROVISIONS**

The **CONSULTANT** assures that it will comply with pertinent statutes, Executive Orders, and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the **CONSULTANT** and any tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon.

In these cases, the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

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EXHIBIT H

WORK AUTHORIZATION FOR PROFESSIONAL SERVICES  
BETWEEN  
HAWKINS COUNTY  
AND  
HOLT CONSULTING COMPANY, LLC

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Project Location: \_\_\_\_\_ Project Number: \_\_\_\_\_

Project Name: \_\_\_\_\_

It is agreed to undertake the following work in accordance with the provisions of the Master Agreement for Professional Services dated \_\_\_\_\_ between the **HAWKINS COUNTY** and **HOLT CONSULTING COMPANY, LLC**.

Scope of Services: (Attachment A)

Method of Payment: (Attachment B)

(Example: Lump sum amount \$XX, XXX or not to exceed \$XX, XXX.)

(Attachment B shall include **CONSULTANT's** good faith estimate of Allowable Costs as described in Chapter 4 of Federal Aviation Administration Advisory Circular No. 150/5100-14E dated September 30, 2014.)

Agreed as to scope of services, time schedule, and budget:

For: **HOLT CONSULTING COMPANY, LLC**

For: **HAWKINS COUNTY**

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

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

Attachments: A – Scope of Services  
B – Budget

EXHIBIT I

INSURANCE REQUIREMENTS

The **CONSULTANT** shall maintain the following insurance for the duration of the **AGREEMENT**.

1. General Liability  
Each Occurrence - \$1,000,000.00, General Aggregate - \$2,000,000.00
  
2. Automobile Liability  
Combined Single Limit - \$1,000,000.00
  
3. Workers' Compensation  
As required by Statute and Employer's Liability with a \$500,000.00 Limit.
  
4. Professional Liability (Engineers)  
Claim-Made Basis, \$1,000,000.00 Per Claim and \$1,000,000.00 Aggregate.



CONSULTING COMPANY, LLC.

**Holt Consulting Company, LLC  
2024 Hourly Rate Schedule**

|                                 |                 |
|---------------------------------|-----------------|
| <b>Principal</b>                | <b>\$232.00</b> |
| <b>Senior Project Manager</b>   | <b>\$224.00</b> |
| <b>Project Manager</b>          | <b>\$183.00</b> |
| <b>Senior Engineer/Planner</b>  | <b>\$175.00</b> |
| <b>Engineer/Planner</b>         | <b>\$135.00</b> |
| <b>Designer</b>                 | <b>\$113.00</b> |
| <b>Technician</b>               | <b>\$97.00</b>  |
| <b>Technical Assistant</b>      | <b>\$73.00</b>  |
| <b>Administrative Assistant</b> | <b>\$65.00</b>  |

**Note:**

The above rates are based upon the overhead rate for projects that are 100% funded by the State of Tennessee. The overhead rate for other projects will be based upon the current audited overhead rate approved by the State of Tennessee. Holt Consulting Company reserves the right to adjust the rates annually to reflect inflationary increases. Reimbursable expenses such as mileage, reproduction, shipping costs, and permitting fees are not included in the rates shown above.

## CONSULTANT SELECTION EVALUATION FOR HAWKINS COUNTY AIRPORT

8/8/2024

| GMC                                     | COMMITTEE MEMBER EVALUATIONS |      |      |      |      |      | AVERAGE | WEIGHT | SCORE       |
|---|------------------------------|------|------|------|------|------|---------|--------|-------------|
|   | SD                           | JG   | NB   | MD   | MF   | MS   |         |        |             |
| Qualification/Competence                | 4.00                         | 3.00 | 3.00 | 2.00 | 3.00 | 3.00 | 3.00    | 30%    | 0.90        |
| Experience in Type                      | 4.00                         | 3.00 | 2.00 | 4.00 | 4.00 | 4.00 | 3.50    | 25%    | 0.88        |
| Time Frame Performance Capability       | 4.00                         | 3.00 | 2.00 | 3.00 | 5.00 | 3.00 | 3.33    | 25%    | 0.83        |
| Proximity of Firm to Project            | 3.00                         | 5.00 | 3.00 | 5.00 | 5.00 | 4.00 | 4.17    | 10%    | 0.42        |
| Availability of Resident Representative | 5.00                         | 3.00 | 2.00 | 4.00 | 3.00 | 3.00 | 3.33    | 5%     | 0.17        |
| Performance Record & EEO Policy         | 4.00                         | 3.00 | 5.00 | 3.00 | 5.00 | 4.00 | 4.00    | 5%     | 0.20        |
| <b>TOTAL</b>                            |                              |      |      |      |      |      |         |        | <b>3.39</b> |

| MICHAEL BAKER                           | COMMITTEE MEMBER EVALUATIONS |      |      |      |      |      | AVERAGE | WEIGHT | SCORE       |
|---|------------------------------|------|------|------|------|------|---------|--------|-------------|
|   | SD                           | JG   | NB   | MD   | MF   | MS   |         |        |             |
| Qualification/Competence                | 5.00                         | 2.00 | 2.00 | 2.00 | 2.00 | 2.00 | 2.50    | 30%    | 0.75        |
| Experience in Type                      | 4.00                         | 3.00 | 3.00 | 4.00 | 2.00 | 4.00 | 3.33    | 25%    | 0.83        |
| Time Frame Performance Capability       | 4.00                         | 3.00 | 1.00 | 2.00 | 4.00 | 3.00 | 2.83    | 25%    | 0.71        |
| Proximity of Firm to Project            | 3.00                         | 1.00 | 1.00 | 3.00 | 1.00 | 3.00 | 2.00    | 10%    | 0.20        |
| Availability of Resident Representative | 3.00                         | 2.00 | 2.00 | 2.00 | 1.00 | 2.00 | 2.00    | 5%     | 0.10        |
| Performance Record & EEO Policy         | 4.00                         | 3.00 | 5.00 | 2.00 | 5.00 | 3.00 | 3.67    | 5%     | 0.18        |
| <b>TOTAL</b>                            |                              |      |      |      |      |      |         |        | <b>2.78</b> |

| HOLT                                    | COMMITTEE MEMBER EVALUATIONS |      |      |      |      |      | AVERAGE | WEIGHT | SCORE       |
|---|------------------------------|------|------|------|------|------|---------|--------|-------------|
|   | SD                           | JG   | NB   | MD   | MF   | MS   |         |        |             |
| Qualification/Competence                | 4.00                         | 5.00 | 4.00 | 3.00 | 5.00 | 4.00 | 4.17    | 30%    | 1.25        |
| Experience in Type                      | 5.00                         | 4.00 | 5.00 | 5.00 | 5.00 | 4.00 | 4.67    | 25%    | 1.17        |
| Time Frame Performance Capability       | 4.00                         | 5.00 | 5.00 | 3.00 | 5.00 | 5.00 | 4.50    | 25%    | 1.13        |
| Proximity of Firm to Project            | 5.00                         | 3.00 | 5.00 | 5.00 | 5.00 | 5.00 | 4.67    | 10%    | 0.47        |
| Availability of Resident Representative | 5.00                         | 4.00 | 3.00 | 4.00 | 5.00 | 5.00 | 4.33    | 5%     | 0.22        |
| Performance Record & EEO Policy         | 4.00                         | 3.00 | 5.00 | 3.00 | 5.00 | 4.00 | 4.00    | 5%     | 0.20        |
| <b>TOTAL</b>                            |                              |      |      |      |      |      |         |        | <b>4.43</b> |

**RESOLUTION**

No. 2024/09/ 06

To the HONORABLE MARK DEWITTE, Chairman, and Members of the Hawkins County Board of Commission in Regular Session met this 23rd day of September 2024.

**RESOLUTION IN REF: APPROVAL OF PROVIDING FUNDING TO HAWKINS COUNTY EMS IN THE AMOUNT OF \$200,000 FROM RESTRICTED OPIOID FUNDS FOR PURCHASE OF TWO (2) AMBULANCE REMOUNTS**

WHEREAS, Hawkins County, Tennessee, covers a total of 500 square miles, with eleven major highways traversing through the county, two industrial parks, a county-owned public use airport, an explosives manufacturing facility, numerous railroads and other assorted factories and businesses located within its borders and has a population density of 110 persons per square mile, all of which are currently being provided Emergency Medical Services by Hawkins County EMS; and

WHEREAS, Hawkins County EMS has expressed to the county commission its need for additional ambulances and upkeep of its current fleet; and

WHEREAS, in the interest of continuation of the services provided by Hawkins County EMS and with acknowledgement of the importance of proper equipment to do so; now

THEREFORE, BE IT RESOLVED that Hawkins County will provide funding in the amount of \$200,000 to Hawkins County EMS to be used toward the purchase of two (2) ambulance remounts.

AND BE IT FURTHER RESOLVED that if Hawkins County EMS ceases operation within five (5) years of the purchase of the ambulance remounts the equipment is to become the property of Hawkins County. The funds indicated above shall be taken from Opioid Abatement funds, the purchase being allowable under the regulations of such funds.

Introduced By Esq. Jason Roach, Budget Comm Chair

ACTION: AYE NAY PASSED

Seconded By Esq. \_\_\_\_\_

Roll Call \_\_\_\_\_

Date Submitted 09-09-24

Voice Vote \_\_\_\_\_

[Signature]  
County Clerk

Absent \_\_\_\_\_

**COMMITTEE ACTION**

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

\_\_\_\_\_

Chairman \_\_\_\_\_

\_\_\_\_\_



RESOLUTION

No. 2024/09/07

To the HONORABLE MAYOR MARK DEWITTE, Chairman, and Members of the Hawkins County Board of Commission in Regular Session, met this 23rd day of September 2024.

RESOLUTION IN REF: AUTHORIZING HAWKINS COUNTY TO ALLOW THE TERRY LAW FIRM TO ENTER INTO LITIGATION ON ITS BEHALF AGAINST HOLSTON CONNECT IN REFERENCE TO FRANCHISE FEES NOT BEING PAID

WHEREAS, HolstonConnect operates a high speed fiber service which provides internet, telephone, and television to its subscribers in Hawkins County; and

WHEREAS, Video Service Providers are required to pay a 5% of gross revenues franchise fee to the municipalities and counties where they operate; and

WHEREAS, HolstonConnect has thus far refused to pay the franchise fee and because of this Hawkins County has lost a significant amount of revenue; and

WHEREAS, The Terry Law Firm from Morristown, Tennessee, is willing to represent Hawkins County in a contingency fee arrangement where Hawkins County would not pay any money unless the Terry Law Firm is successful in the litigation; and

WHEREAS, As detailed in the attached letter and contract, should the litigation be successful, Hawkins County would pay 25% of the total recovery plus expenses. The expenses would be divided pro rata with the Town of Bulls Gap and any other party represented by The Terry Law Firm; and

WHEREAS, the county attorney has reviewed the attached and is in agreement with it;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COMMISSION OF HAWKINS COUNTY, TENNESSEE, that County Mayor Mark DeWitte is authorized to execute the attached contract and any other necessary documents to participate in the litigation as detailed in the attached.

Introduced By Esq. Josh Gilliam

ACTION: AYE NAY PASSED

Seconded By Esq \_\_\_\_\_

Roll Call \_\_\_\_\_

Date Submitted 09-09-24

Voice Vote \_\_\_\_\_

County Clerk

COMMITTEE ACTION

By: [Signature]

\_\_\_\_\_

Mayor: \_\_\_\_\_

Mark DeWitte, Mayor

Attorneys:

Charles R. Terry  
1933 - 2009

Denise S. Terry  
F. Braxton Terry  
Jacquelyn G. Jones  
T. Dillon Parker  
Gabriel C. Stapleton

Legal Assistant:  
Chuck Terry

also admitted in SC



THE  
TERRY LAW FIRM

PERSONAL INJURY ATTORNEYS

*small town firm,  
big city know how*

116 East Main Street  
PO Box 724  
Morristown, TN 37815

423.586.5800

800.518.3779

Fax: 423.587.4714

[www.terry-lawfirm.com](http://www.terry-lawfirm.com)

August 7, 2024

Mr. Mark DeWitte  
Hawkins County Mayor  
150 E. Washington St.  
Rogersville, TN 37857

Via-email: [mark.dewitte@hawkinscountyttn.gov](mailto:mark.dewitte@hawkinscountyttn.gov)

**RE: HolstonConnect Franchise Fees**

Dear Mark:

This letter is in regard to our most recent discussion related to HolstonConnect and monies that are owed to Hawkins County. It is our belief that the amount of franchise fees currently owed by HolstonConnect to Hawkins County is substantial, potentially in the seven-figure range.

Other video service providers pay franchise fees to the municipalities and counties in which they operate. A "franchise fee" is a fee that all video service providers are required to pay under state law. The franchise fee is 5% of gross revenues earned by each video service provider. This means that 5% of all money that customers in unincorporated Hawkins County have paid to HolstonConnect since the time HolstonConnect began offering video services is owed to Hawkins County.

HolstonConnect has refused to pay the franchise fee. As a result, Hawkins County has lost a significant amount of revenue that it previously received from other video service providers, such as Comcast or Charter, based on the number of Hawkins Countians who switched from those providers (who do pay the franchise fees) to HolstonConnect (who does not pay the franchise fees).

As I explained, we have already filed one case against HolstonConnect on behalf of the Town of Bulls Gap. We are in the very early stages of litigation. This litigation will require time, money, effort, and a significant amount of legal experience to prosecute. We believe the case will likely be appealed after the initial verdict is rendered. We feel very comfortable in our position and believe we are highly likely to be successful.

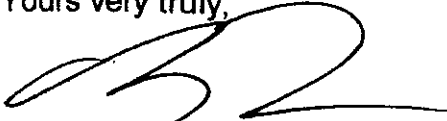
We are willing to represent Hawkins County in a contingency fee arrangement where Hawkins County would not have to pay us any money unless we are successful. Our standard fee in cases like this is 33% of the amount recovered plus expenses; however,

based on the fact that we are representing Bulls Gap already, we are willing to enter into a contingency fee agreement with Hawkins County for 25% of whatever the total recovery is plus expenses. Again, we would not ask for any monies to be paid to The Terry Law Firm unless we recover money for Hawkins County. Put another way, if we are not successful, Hawkins County will owe us nothing.

Following a favorable verdict and final resolution of this case, Hawkins County would continue to receive franchise fee payments quarterly from HolstonConnect. The Terry Law Firm would not seek a fee for any franchise fees owed to Hawkins County that accrue in any quarter after this case is concluded. In other words, 100% of the franchise fees owed to Hawkins County that become due after this case is concluded will go to Hawkins County.

With kindest personal regards, I remain

Yours very truly,

A handwritten signature in black ink, appearing to be 'F. Braxton Terry', written in a cursive style.

F. Braxton "Brack" Terry

FBT/dp

Enclosure: Contract of Employment

**CONTRACT OF EMPLOYMENT**

**RE: *Franchise Fee Litigation Against HolstonConnect, LLC and related parties***

**Hawkins County** hereby retains **The Terry Law Firm, P.C.** as its attorneys in this case and any cases arising out of this case or directly related to this case.

**The Terry Law Firm** agrees to advance all necessary costs, including cost of investigation, court costs, court reporters, depositions, witness fees and any other costs necessary for the proper prosecution of the case. **Hawkins County** agrees that if **The Terry Law Firm** obtains a recovery in this matter on behalf of **Hawkins County**, that any costs related to pursuing the case shall be deducted from **Hawkins County's** share of the recovery. Should **Hawkins County** recover nothing, **Hawkins County** will not owe any money to **The Terry Law Firm** for their time, fees, costs, and other expenses which they advance on behalf of **Hawkins County**.

In consideration of **The Terry Law Firm** acting as **Hawkins County's** attorneys in this matter, **Hawkins County** agrees to pay **The Terry Law Firm** twenty-five percent (25%) of any and all monies recovered by **The Terry Law Firm** on behalf of **Hawkins County** as a fee. This includes any monies that HolstonConnect, LLC and related parties pays to **Hawkins County** for franchise fees accruing in any quarter prior to the date of the final judgment.

**Hawkins County** hereby grants a power of attorney to **The Terry Law Firm** to execute any complaints, notices, and any other documents necessary to properly present this case. **Hawkins County** grants to **The Terry Law Firm** a lien on its cause of action to enforce the matters herein stated.

This the \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Mark DeWitte, County Mayor

\_\_\_\_\_  
F. Braxton Terry, Esq.  
T. Dillon Parker, Esq.  
The Terry Law Firm, P.C.  
116 E. MAIN STREET  
MORRISTOWN, TENNESSEE

## CASE OVERVIEW

The litigation against HolstonConnect will seek a declaratory judgment that HolstonConnect is a “video service provider” as that term is defined under the Competitive Cable and Video Services Act of 2008 (“the Act”). See T.C.A. § 7–59–301, *et seq.*

“Video service” is defined as the “provision of video programming . . . through wireline facilities located, at least in part, in the public rights-of-way without regard to delivery technology, including internet protocol technology.”<sup>1</sup> “Video programming” is defined by the Act, in pertinent part, as “programming provided by, or generally considered comparable to programming provided by a television broadcast station[.]”<sup>2</sup>

Under the Act, a video service provider must obtain a “franchise” from either: (1) the State of Tennessee; or (2) the municipalities and counties in which it wishes to operate.<sup>3</sup>

A franchise “is an authorization from a government entity to construct or operate a cable system in the public rights-of-way.” *City of Knoxville v. Netflix, Inc.*, 656 S.W.3d 106, 108 (Tenn. 2022). The justification for requiring a franchise is the “need to regulate and receive compensation for the use of public rights-of-way.” *Netflix*, 656 S.W.3d at 108 (internal citation omitted).

By obtaining a state-issued franchise, a video service provider is required, each quarter, to pay 5% of its gross revenues derived from: (1) subscribers located within a municipality or unincorporated area of a county;<sup>4</sup> and (2) advertising revenue (the advertising revenue is paid to each municipality and county on a pro rata basis).<sup>5</sup> This payment is required to be made directly to the counties and municipalities, not to the State of Tennessee.<sup>6</sup> There is no mechanism whereby the State ensures that the franchise fee payments are made—it is up to each county and municipality to ensure payment is made.

Prior to 2017, electric cooperatives were not allowed to sell television service to their customers. In 2017, the General Assembly enacted legislation allowing electric cooperatives to provide broadband internet, telephone, and video service within a cooperative’s native service area.<sup>7</sup> Part of that legislation specifically provides that electric cooperatives are *not* exempt from the requirement to obtain a franchise pursuant to the Competitive Cable and Video Services Act.<sup>8</sup>

***In 2018, HolstonConnect applied for and obtained a franchise to provide video services from the State of Tennessee.*** Within its application, Holston Connect stated that it was “seek[ing] a state-issue[d] certificate of franchise authority ***to provide video***

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<sup>1</sup> T.C.A. § 7-59-303(19)

<sup>2</sup> T.C.A. § 7-59-303(18)

<sup>3</sup> T.C.A. § 7-59-304

<sup>4</sup> T.C.A. § 7-59-306(a)

<sup>5</sup> T.C.A. § 7-59-306(b)

<sup>6</sup> T.C.A. § 7-59-306(c)(1)

<sup>7</sup> 2017 Pub. Acts, c. 228, § 6, eff. April 24, 2017

<sup>8</sup> T.C.A. § 65-25-102(3)

**services** within its electric service territory.”<sup>9</sup> If HolstonConnect was *not* a video service provider, it would not have needed to apply for a franchise. HolstonConnect applied for a franchise because it was required to do so before it could legally sell television packages.

Even though HolstonConnect obtained a franchise, it refuses to pay the franchise fees it owes to the municipalities and counties in which it operates. HolstonConnect claims that it is not a video service provider.

If the Court enters a declaratory judgment that HolstonConnect is a “video service provider,” then HolstonConnect will be required to pay all franchise fees it should have been paying since it began offering services. It will also be required to pay franchise fees each quarter into the future.

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<sup>9</sup> See Application of HolstonConnect, LLC to the Tennessee Public Utilities Commission (a copy is available upon request)

**RESOLUTION**

No. 2024/09/ 08

To the HONORABLE MARK DEWITTE, Chairman, and Members of the Hawkins County Board of Commission in Regular Session met this 23rd day of September 2024.

**RESOLUTION IN REF:        AUTHORIZE THE USE OF SURGOINSVILLE VOLUNTEER FIRE DEPARTMENT FOR FIRE SERVICE COVERAGE OF PHIPPS BEND INDUSTRIAL PARK PER THE ATTACHED DOCUMENT OF AGREEMENT**

WHEREAS, Phipps Bend Industrial Park requires a fire department that is capable of first response in case of fire or other emergency as required by industries in the park; and

WHEREAS, through September 30, 2024, that coverage was provided by the Church Hill Fire Department (CHFD), which has opted not to continue to provide further first response coverage for Phipps Bend Industrial Park with CHFD wishing to end their calendar year annual contract one-quarter of a year early; and

WHEREAS, the Surgoinsville Volunteer Fire Department (SVFD) has agreed to take on the responsibility of fire coverage beginning September 1, 2024, and will respond first to fires within Phipps Bend Industrial Park; and

WHEREAS, SVFD has a sufficient fire protection rating to provide such coverage and a physical station very near the entrance to the Park; now

THEREFORE, BE IT RESOLVED that per the attached agreement SVFD will receive \$25,000 per calendar year over and above their annual contribution from Hawkins County to provide this fire protection, the amount to be reviewed each subsequent year during the budgeting process; and now

BE IT FURTHER RESOLVED that County Mayor Mark DeWitte be given the authority to sign and execute the attached agreement with Surgoinsville Volunteer Fire Department.

Introduced By Esq. Josh Gilliam

Seconded By Esq. \_\_\_\_\_

Date Submitted 09-09-24

Nancy H. Lewis  
County Clerk

ACTION:    AYE    NAY    PASSED

Roll Call \_\_\_\_\_

Voice Vote \_\_\_\_\_

Absent \_\_\_\_\_

**COMMITTEE ACTION**

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

Chairman \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**AGREEMENT TO PROVIDE FIRE FIGHTING SERVICE TO  
PHIPPS BEND INDUSTRIAL PARK**

Pursuant to T.C.A. Section 6-54-601

THIS AGREEMENT made as of the \_\_\_\_\_ day of September, 2024 by and between The City of Surgoinsville, Tennessee, hereinafter referred to as First Party/First Responder, and Hawkins County, Tennessee, and the Hawkins County Industrial Development Board, hereinafter referred to as Second Parties.

WHEREAS, First Party does hereby contract with Second Parties to perform the following, to-wit: To be a first responder in accordance with all fire department rules and regulations to the Phipps Bend Industrial Park located in Hawkins County, Tennessee, subject to the terms and conditions as hereinafter set out, to-wit:

1. The City of Surgoinsville agrees to provide fire protection to properties located outside the municipality within the Phipps Bend Industrial Park.
2. The fire department of the City of Surgoinsville agrees to answer any fire call to the area defined in Paragraph 1 and will, to the best of its ability, respond with suitable firefighting apparatus, equipment, and personnel who will render all assistance possible in the saving of life and property. The failure to furnish the service agreed upon because of weather, road conditions, the unavailability of equipment or personnel in connection with the fighting of other fires, or for any other good reason shall not be taken as a breach of this Agreement. The decision of the Chief of the Fire Department or other fire department officer in charge not to respond to a Phipps Bend fire call, or to return to the City of Surgoinsville because of an emergency within the city limits of the City of Surgoinsville, shall be final. The Hawkins County Industrial Board and Hawkins County, Tennessee, agree to not make a claim against the city of Surgoinsville for loss or damage of any kind whatever resulting from any failure to prevent or extinguish any fire, whether the loss or damage is caused by negligence of the officers, agents, or employees of the City or its fire department or otherwise.  
The City will make no claim against the Hawkins County Industrial Development Board or Hawkins County, Tennessee, on account of damage to the property of the city while in the fire service of the County and will carry Workers' Compensation Insurance protecting itself against personal injury damage claims of its fire fighters for personal injuries sustained while providing service in the County. The City will protect itself against claims resulting from the negligent acts of the fire fighters in the employ of the City, in compliance with those amounts of liability established in Tennessee Code Annotated, Section 29-20-101, et. Seq.
3. First Responder must have a fire rating of 6 or less at all times during the term of this agreement.
4. The majority of all firemen must have a Tennessee Basic Fire Training Certification from the State of Tennessee.



5. First Responder must establish pre-plans for all industries in the Phipps Bend Industrial Park to include meetings with the industries and inspecting the premises with a full plan submitted for each industry with respect to fire prevention, detection, treatment, and other matters related thereon. These plans shall be reviewed at least annually and may be modified as necessary.
6. The majority of the firemen must receive a certificate from the State of Tennessee showing that they have been certified with respect to the Hazardous Material Response Training requirements.
7. First Responder must keep and maintain (or acquire if necessary) a Certificate of Recognition by the State of Tennessee to operate as a fire department.
8. First Party must show written compliance with the above requirements at any time upon request but at least annually.
9. In consideration of the aforesaid conditions, Second Party, Hawkins County, Tennessee, agrees to appropriate to First Responder by and through the Hawkins County Industrial Development Board the sum of \$25,000 annually to be used by First Responder for general fire purposes as First Responder sees fit. The \$25,000 shall be paid in quarterly installments of \$6,250 for each year of this agreement and will take effect October 1, 2024. The first fiscal year of this agreement, Surgoinsville shall be paid \$6,250 per quarter for each quarter, October 1, January 1, and April 1.
10. Subject to the provisions of Paragraphs 10 & 12, this Agreement shall automatically renew for successive terms of one fiscal year, beginning July 1, 2025.
11. In the event First Responder fails to abide by any or all of the aforesaid conditions, either Second Party may terminate this Agreement by giving at least 45 days' notice to the First Responder, which includes a 30-day cure period and failing to receive proof of cure of the perceived breach within 30 days, either Second Party may terminate this Agreement within the following 15 days.
12. It is agreed that the aforesaid appropriation of \$25,000 shall cease and terminate at such time as this Agreement is terminated in accordance with the above. If contract is terminated prior to the end of a quarter, any unearned funds received must be remitted back to the Hawkins County Industrial Board. This \$25,000 shall be in addition to any other monies or appropriation made by Second Party, Hawkins County, Tennessee, to First Responder prior, during, or subsequent to the validity of this Agreement.
13. Either party, upon six (6) months written notice of the other party may cancel this Agreement and, upon the expiration of the six (6) months, the rights and liabilities hereunder shall cease, and this agreement shall be deemed terminated.
14. Both the City of Surgoinsville and Hawkins County, Tennessee, shall fully cooperate with and assist the City of Surgoinsville and its officers, agents, and employees in carrying out the provisions of this Agreement.

The addresses of First and Second Parties are as follows:

City of Surgoinsville  
1735 Main Street  
Surgoinsville, TN 37873

Hawkins County, Tennessee  
County Mayors Office  
150 E Washington Street  
Rogersville, TN 37857

Hawkins County Industrial Development Board  
107 E Main Street, Suite 221  
Rogersville, TN 37857

IN WITNESS WHEREOF, the parties have hereunto set their hands, this the \_\_\_\_ day of \_\_\_\_\_, 2024.

City of Surgoinsville

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

Merrell Graham, Mayor

Hawkins County, Tennessee

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

Mark DeWitte, County Mayor

Hawkins County Industrial Development Board

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

Larry Elkins, Chairman

Approved as to form:

\_\_\_\_\_  
Joe May  
Surgoinsville City Attorney

\_\_\_\_\_  
Allen Coup  
Hawkins County Attorney

**RESOLUTION**

No. 2024/09/ 09

To the HONORABLE MARK DEWITTE, Chairman, and Members of the Hawkins County Board of Commission in Regular Session met this 23rd day of September 2024.

**RESOLUTION IN REF: RENEWAL OF CUSTOMER SERVICE AGREEMENT WITH UNIFIRST FOR CLEANING SUPPLIES AND MATS FOR A 36-MONTH TERM BEGINNING NOVEMBER 2, 2024**

WHEREAS, Hawkins County utilizes UniFirst for various cleaning supplies and floor mats, and is currently under a Customer Service Agreement that expires November 2, 2024; and

WHEREAS, Hawkins County has negotiated a new 36-month Customer Service Agreement with UniFirst at a cost of \$5,343 per year resulting in a savings of \$2,308.80 over current annual rate, a copy of which is attached to this resolution; and

WHEREAS, the Agreement states that the rate can only increase at a maximum of 5% each year; and

WHEREAS, Hawkins County has made price comparisons for the same service, with the closest competitor being \$1,430 more per year; and

WHEREAS, without this Agreement Hawkins County would pay \$1,075.88 per year more to maintain our current service level; now

THEREFORE, BE IT RESOLVED that County Mayor Mark DeWitte be given the authority to sign the 36-month Customer Service Agreement as attached to this resolution.

Introduced By Esq. Jason Roach, Public Buildings and Budget Comm Chair

ACTION: AYE NAY PASSED

Seconded By Esq. \_\_\_\_\_

Roll Call \_\_\_\_\_

Date Submitted 09-09-24

Voice Vote \_\_\_\_\_

Janet Davis  
County Clerk

Absent \_\_\_\_\_

**COMMITTEE ACTION**

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

\_\_\_\_\_

Chairman \_\_\_\_\_

\_\_\_\_\_

## Customer Service Agreement

Company Name (Customer) HAWKINS CO ADMINISTRATION Loc. No. \_\_\_\_\_  
 Address 150 WASHINGTON ST Route No. \_\_\_\_\_  
ROGERSVILLE, TN 37857 Date 08/07/2024  
 Phone 4232727359 SIC/NAICS \_\_\_\_\_

The undersigned (the "CUSTOMER") orders from UniFirst Corporation and/or UniFirst Holdings, Inc. d.b.a. UniFirst and/or UniFirst Canada LTD. ("UniFirst") the rental service(s) at the prices and upon the conditions outlined:

| Merchandise Serviced                   |                             |                   |                |                 |                  |                          |              |                    |  |
|--|-----------------------------|-------------------|----------------|-----------------|------------------|--------------------------|--------------|--------------------|--|
| Item Description                       | Last / Damaged Rept. Charge | Service Frequency | No. of Weasars | Total Inventory | Billing Quantity | Price per Charge / Piece | Non-Standard | Total Full Service |  |
| 538812 MAT 3X5 SCRAPER                 | 94.70                       | 1                 |                | 8               | 3                | .38                      |              | 1.08               |  |
| 538912 MAT 4X6 SCRAPER                 | 152.57                      | 1                 |                | 8               | 4                | 2.16                     |              | 8.64               |  |
| 78GA03 MAT-3X5 GREAT IMP 2.0           | 67.96                       | 1                 |                | 8               | 4                | 1.35                     |              | 5.40               |  |
| 78GA03 MAT-3X5 GREAT IMP 2.0           | 67.96                       | 1                 |                | 19              | 12               | 1.35                     |              | 16.20              |  |
| 78GB03 MAT-4X6 GREAT IMP 2.0           | 104.04                      | 1                 |                | 14              | 7                | 2.16                     |              | 15.20              |  |
| 78GC03 MAT-3X10 GREAT IMP 2.0          | 138.94                      | 1                 |                | 2               | 1                | 2.70                     |              | 2.70               |  |
| 811802 WET MOP LARGE WITH RED BAND 24  | 9.57                        | 1                 |                | 10              | 5                | .72                      |              | 3.60               |  |
| 811802 WET MOP LARGE WITH RED BAND 24  | 9.57                        |                   |                |                 |                  | 0.8250                   |              |                    |  |
| 813107 MOPS-HANDLE 1 1/8 X 60          | 17.33                       | 1                 |                | 8               | 8                | NC                       |              | NC                 |  |
| 813200 MOPS-COLLAPSIBLE MOP FRAME 24   | 13.23                       | 1                 |                | 1               | 1                | NC                       |              | NC                 |  |
| 818500 MOPS WET MOP HANDLE-WOODEN 60"  | 15.54                       | 1                 |                | 5               | 5                | NC                       |              | NC                 |  |
| 832410 MOPS-UNFRAMED 24"               | 15.57                       | 1                 |                | 24              | 12               | .60                      |              | 7.20               |  |
| 832410 MOPS-UNFRAMED 24"               | 15.57                       |                   |                |                 |                  | .60                      |              |                    |  |
| 845008 MOP MICROFIBR WET TUBE MOP LRG  | 21.59                       | 1                 |                | 8               | 4                | 1.79                     |              | 7.04               |  |
| 870007 DISP-N METERED AEROSOL AIR FRES | 27.20                       | 1                 |                | 3               | 3                | NC                       |              | NC                 |  |
| 870300 AIR FRESH METERD SPRAY-PINACLD  | 8.53                        | 1                 |                | 3               | 3                | 1.50                     |              | 4.50               |  |
| 870300 AIR FRESH METERD SPRAY-PINACLD  | 8.53                        |                   |                |                 |                  | 1.8500                   |              |                    |  |
| 870300 AIR FRESH METERD SPRAY-PINACLD  | 8.53                        | 12                |                | 3               | 3                | NC                       |              | NC                 |  |
| 870300 AIR FRESH METERD SPRAY-PINACLD  | 8.53                        |                   |                |                 |                  | 1.8500                   |              |                    |  |
| 88AN03 FLOORSTAND-SOAP DISP(EA)14"X5   | 147.13                      | 1                 |                | 1               | 1                | NC                       |              | NC                 |  |
| 88UC00 UNIFIRST GEL SANIT-1000ML-JSA   | 20.65                       | 1                 |                |                 |                  | 11.0000                  |              |                    |  |
| 88UE07 UNIFIRST DISP-N HANDS FREE      | 88.88                       | 1                 |                | 1               | 1                | NC                       |              | NC                 |  |

Minimum weekly charge applies, equal to 75% of the initial weekly value.

| Other Charges                  | Amount |
|--------------------------------|--------|
| Garment preparation per piece  | 0.00   |
| Name emblem per piece          |        |
| Company emblem per piece       |        |
| Direct Embroidery              |        |
| Garment Maintenance Program    | NO     |
| Loss protection Maint. Program | NO     |
| Linen Maintenance Program      | NO     |
| Mat Protection Program         | NO     |

| Other Charges               | Amount |
|-----------------------------|--------|
| Non-stock sizes per piece   | 20.00% |
| Special cuts per piece      | 3.00   |
| Restock/Exchange per piece  |        |
| Automatic Wiper Replacement | NO     |
| Automatic Linen Replacement | NO     |
| Ongoing Prep Program        | NO     |
| Ongoing Emblem Program      | NO     |
| DEFE Charge Fixed           | 3.89   |
| DEFE Sliding Plus           |        |
| Energy Charge               | 2.25   |

Payment Terms: C.O.D.  E.F.T.  Approved Charge

### COMMENTS

UNIFIRST CORPORATION reserves the right to suspend or terminate service if the CUSTOMER MAY STOP SERVICE IF THEY DO NOT HAVE THE MONEY TO PAY FOR THE PROGRAM IN THEIR BUDGET YEAR TO YEAR. CUSTOMER MUST GIVE 90 DAYS NOTICE BEFORE CANCELLATION OF SERVICES FOR BUDGETING RELATED REASONS

Approved charge: CUSTOMER agrees to make payments within 30 days of invoice receipt. A late charge of 1 1/2 % per month (18% per year) for any amount in arrears may be applied.

The undersigned agrees to the attached Customer Service Agreement Terms and attests to have the authority to execute for the named CUSTOMER, and to approve use of any personalization - including logos or brand identities - that has been requested.

Sales Rep: Connor Slingerland 8/7/24 Accepted

Accepted: Location Manager (Signature) Date

CUSTOMER (Signature) Date

CUSTOMER (Print Name and Title)

Location Manager (Print Name and Title)

Email

<sup>1</sup> Out-rizes of otherwise Standard Merchandise are deemed to be Non-Standard Merchandise  
<sup>2</sup> Merchandise which is Val-LJL leased is not cleaned by UniFirst  
<sup>3</sup> Charge status contingent upon continuing credit worthiness and may be revoked at UniFirst's discretion.

<sup>4</sup> All returned checks and declined credit/debit cards subject to \$35 processing fee.  
<sup>5</sup> This Agreement is effective only upon acceptance by UniFirst Location Manager

## Customer Service Agreement Terms

**REQUIREMENTS SUPPLIED.** Customer orders from UniFirst Corp. ("UniFirst") the rental garments and/or other items of the type specified in this Agreement ("Merchandise") and related pickup/delivery and maintenance services (collectively with Merchandise, "Services") for all of Customer's requirements therefor, at the prices and upon the terms and conditions set forth herein. Additional Services requested by Customer, verbally or in writing, will also be covered by this Agreement. All rental Merchandise supplied to Customer remains the property of UniFirst. Customer warrants that it is not subject to, and that this Agreement does not interfere or conflict with, any existing agreement for the supply of the Merchandise or Services covered.

**PERFORMANCE GUARANTEE. UNIFIRST GUARANTEES TO DELIVER HIGH-QUALITY SERVICE AT ALL TIMES.** All items of Merchandise cleaned, finished, inspected, repaired and delivered by UniFirst will meet or exceed industry standards, or non-conforming items will be replaced by the next scheduled delivery day at no cost to Customer. Items of rental Merchandise requiring replacement due to normal wear and tear will be replaced at no cost to Customer, save for any applicable personalization and setup charges.

Customer expressly waives the right to terminate this Agreement during the initial term or any extension thereof for deficiencies in the quality of Services unless: (1) complaints are first made in writing to UniFirst which set forth the precise nature of any deficiencies; (2) UniFirst is afforded at least 90 days to correct any deficiencies complained of; and (3) UniFirst fails to correct those deficiencies complained of within 90 days. In the event Customer complies with the foregoing and UniFirst fails to correct such deficiencies, Customer may terminate this Agreement by written notice to UniFirst, providing that all previous balances due to UniFirst have been paid in full and that all other conditions to terminate have been satisfied. Any delay or interruption of the Services provided for in this Agreement by reason of acts of God, fires, explosions, strikes or other industrial disturbances, or any other cause not within the control of UniFirst, shall not be deemed a breach or violation of this Agreement.

**TERM AND RENEWAL.** This Agreement is effective when signed by both the Customer and UniFirst Location Manager and continues in effect for 36 MONTHS after installation of Merchandise (for new customers) or any renewal date. This Agreement will be renewed automatically and continuously for multiple successive 36-MONTHS periods unless Customer or UniFirst gives written notice of non-renewal to the other at least 90 days prior to the next expiration date.

**PRICES AND PAYMENTS.** Prices are based on 52 weeks of service per year. Any increase(s) to Service Frequency could result in additional charges. On an annual basis, the prices then in effect will be increased by the greater of the annual percent increase in the Consumer Price Index - All Urban Consumers, Series ID: CUUR0000SAG, other goods and services, or by 5%. Additional price increases and other charges may be imposed by separate written notice or by notation on Customer's invoice. Customer may, however, decline such additional increases or charges by notifying UniFirst in writing within 10 days after receipt of such notice or notation. If Customer declines said additional price increases, UniFirst may terminate this Agreement. Customer also agrees to pay the other charges and minimum weekly charge herein specified. Charges relating to a washer leaving Customer's employ can be terminated by (1) giving notice thereof to UniFirst and (2) returning or paying for any missing Merchandise issued to that individual. Any Merchandise payments required pursuant to this Agreement will be at the replacement price(s) then in effect hereunder. If an authorized Customer representative is not available to receive and acknowledge delivery of Merchandise, Customer authorizes UniFirst to make delivery and assumes responsibility for related charges/invoices.

If Customer fails to make timely payment, UniFirst may, at any time and in its sole discretion, terminate this Agreement by giving written notice to Customer, whether or not UniFirst has previously strictly enforced Customer's obligation to make timely payments. Customer agrees to pay, and will pay, all applicable sales, use, personal property and other taxes and assessments arising out of this Agreement.

**DEFE CHARGE.** Customer's invoices may also include a DEFE charge to cover all or portions of certain expenses including:

- D = DELIVERY, or expenses associated with the actual delivery of Services and Merchandise to Customer's place of business, primarily Route Sales Representative commissions, management salaries, vehicle depreciation, equipment maintenance, insurance, road use charges and local access fees.
- E = ENVIRONMENTAL, or expenses (past, present and future) UniFirst absorbs related to wastewater testing, purification, effluent control, solids disposal, supplies and equipment for pollution control and energy conservation and overall regulatory compliance.
- F = FUEL, or the gas, diesel fuel, oil and lubricant expenses associated with keeping UniFirst's fleet vehicles on the road and servicing its customers.
- E = ENERGY, primarily the natural gas UniFirst uses to run boilers and gas dryers, plus other local utility charges.

**MERCHANDISE.** Customer acknowledges and agrees to notify all employees that Merchandise supplied is for general occupational use and, except as expressly specified below, affords no special user protections. Customer further acknowledges that: (1) Customer has unilaterally and independently determined and selected the nature, style, performance characteristics, number of changes and scope of all Merchandise to be used and the appropriateness of such Merchandise for Customer's specific needs or intended uses; (2) UniFirst does not have any obligation to advise, and has not advised, Customer concerning the fitness or suitability of the Merchandise for Customer's intended uses; (3) UniFirst makes no representation, warranty or covenant regarding the performance of the Merchandise (including without limitation Flame Resistant and Visibility Merchandise); and (4) UniFirst shall in no way be responsible or liable for any injury or harm suffered by any Customer employees while wearing or using any Merchandise. Customer agrees to indemnify and hold harmless UniFirst and its employees and agents from and against all claims, injuries or damages to any person or property resulting from Customer's or Customer's employee use of the Merchandise, whether or not such claims, injuries or damages arise from any alleged defects in the Merchandise.

**Flame Resistant ("FR") Merchandise** supplied hereunder is intended only to prevent the ignition and burning of fabric away from the point of high heat impingement and to be self-extinguishing upon removal of the ignition source. FR items will not provide significant protection from burns in the immediate area of high heat contact due to thermal transfer through the fabric and/or destruction of the fabric in the area of such exposure. FR items are designed for continuous wear as only a secondary level of protection. Primary protection is still required for work activities where direct or significant exposure to heat or open flame is likely to occur.

**Visibility Merchandise** is intended to provide improved conspicuity of the wearer under daylight conditions and when illuminated by a light source of sufficient candlepower at night. It is Customer's responsibility to determine the level of conspicuity needed by wearers under specific work conditions. Further, Customer agrees that Visibility Merchandise alone does not ensure conspicuity of the wearer and that additional safety precautions may be necessary. The Visibility Merchandise supplied satisfies particular ANSI/ISEA standards only when they were new and unused and only if so labeled. Customer acknowledges that usage and laundering of Visibility Merchandise may adversely affect its conspicuity.

**Healthcare/Food-Related** Customer acknowledges that: (1) UniFirst does not guarantee or warrant that the Merchandise selected by Customer or that processed garments delivered by UniFirst will be appropriate or sufficient to provide a hygienic level adequate for individual Customer's needs; and (2) optional poly-bagging is recommended to reduce the risk of cross-contamination of Merchandise, and the failure to utilize such service may adversely affect the efficacy of UniFirst's hygienic cleaning process. (\* Poly-bag services incur additional charges.)

If any Merchandise supplied hereunder is Merchandise that: (1) UniFirst does not stock for whatever reason (including due to style, color, size or brand); (2) consists of non-UniFirst manufactured or customized FR Merchandise; or (3) consists of Merchandise that has been permanently personalized (in all cases known as "Non-Standard Merchandise"), then, upon the discontinuance of any Service hereunder at any time for any reason, including expiration, termination, or cancellation of this Agreement, with or without cause, deletion of any Non-Standard Merchandise from Customer's Service Program, or due to employee reductions (in each case a "Discontinuance of Service"), Customer will purchase at the time of such Discontinuance of Service all affected Non-Standard Merchandise items then in UniFirst's inventory (in-service, shelf, as well as any manufacturer's supplies ordered for Customer's use), paying for same the replacement charges then in effect.

Customer agrees not to contaminate any Merchandise with asbestos, heavy metals, solvents, inks or other hazardous or toxic substances ("contaminants"). Customer agrees to pay UniFirst for all Merchandise that is lost, stolen, damaged or abused beyond repair. As a condition to the termination of this Agreement, for whatever reason, Customer will return to UniFirst all standard Merchandise in good and usable condition or pay for same at the replacement charges then in effect.

**OBLIGATIONS AND REMEDIES.** If Customer breaches or terminates this Agreement before the expiration date for any reason (other than for UniFirst's failure under the performance guarantee described above), Customer will pay UniFirst, as liquidated damages and not as a penalty (the parties acknowledging that actual damages would be difficult to calculate with reasonable certainty) an amount equal to 50 percent of the average weekly amounts invoiced in the preceding 26 weeks, multiplied by the number of weeks remaining in the current term. These damages will be in addition to all other obligations or amounts owed by Customer to UniFirst, including the return of Standard Merchandise or payment of replacement charges, and the purchase of any Non-Standard Merchandise items as set forth herein.

This Agreement shall be governed by Massachusetts law (exclusive of choice of law). If a dispute arises from or relates in any way to this Agreement or any alleged breach thereof at any time, the parties will first attempt to resolve the claim or dispute by negotiation at agreed time(s) and location(s). All negotiations are confidential and will be treated as settlement negotiations. Any matter not resolved through direct negotiations within 30 days shall be resolved exclusively by final and binding arbitration, conducted in the capital city of the state where Customer has its principal place of business (or some other location mutually agreed); pursuant to the Commercial Arbitration Rules of the American Arbitration Association; and, governed by the Federal Arbitration Act, to the exclusion of state law inconsistent therewith. The parties will agree upon one (1) Arbitrator to settle the controversy or claim. The successful or substantially prevailing party in any proceeding, including any appeals thereof (as determined by the Arbitrator/Court) shall recover all of its costs and expenses including, without limitation, reasonable attorney fees, witness fees and discovery costs, all of which shall be included in and as a part of the judgment or award rendered hereunder. This provision for Arbitration is specifically enforceable by the parties; the Arbitrator shall have no power to vary or ignore the provisions hereof; and, the decision of the Arbitrator in accordance herewith, may be entered in any court having jurisdiction thereof. Customer acknowledges that, with respect to all such disputes, it has voluntarily and knowingly waived any right it may have to a jury trial or to participate in a class action or class litigation as a representative of any other persons or as a member of any class of persons, or to consolidate its claims with those of any other persons or class of persons. If this prohibition against class litigation is held to be unenforceable for any reason in any proceeding, then the prohibition against class litigation shall be void and of no force and effect in that proceeding.

**MISCELLANEOUS.** The parties agree that this Agreement represents the entire agreement between them. In the event Customer issues a purchase order to UniFirst at any time, none of the standard pre-printed terms and conditions therein shall have any application to this Agreement, or any transactions occurring pursuant hereto or thereto. UniFirst may, in its sole discretion, assign this Agreement. Customer may not assign this Agreement without the prior written consent of UniFirst. Customer agrees that in the event it sells or transfers its business, it will require the purchaser or transferee to assume all obligations and responsibilities under this Agreement; provided that such assumption shall not relieve Customer of its liabilities hereunder; and provided further that any failure by a purchaser or transferee to assume this Agreement shall constitute a breach and early termination of this Agreement resulting in the obligation to pay all amounts on account thereof as set forth in this Agreement. Neither party will be liable for any incidental, consequential, special or punitive damages. In no event shall UniFirst's aggregate liability to Customer for any and all claims exceed the sum of all amounts actually paid by Customer to UniFirst. In the event any portion of this Agreement is held by a court of competent jurisdiction or by a duly appointed arbitrator to be unenforceable, the balance will remain in effect. All written notices provided to UniFirst must be sent by certified mail to the attention of the Location Manager. In Texas and certain other locations, UniFirst's business is conducted by, and the term "UniFirst" as used herein means, UniFirst Holdings, Inc. d.b.a. UniFirst.

# UniFirst Corporation

## Association List

Association HAWKINS CO ADMINISTRATION

Contract Number 0944204

| Loc | Cust No | Cust Name                    | Address   | Route  |
|-----|---------|------------------------------|---|--------|
| 266 | 1523613 | HAWKINS COUNTY ADMIN         | 150 E WASHINGTON ST<br>ROGERSVILLE, TN 37857    | WW2920 |
| 266 | 1523623 | HAWKINS CTY COURT HOUSE      | 150 EAST MAIN STREET<br>ROGERSVILLE, TN 37857   | WW2930 |
| 266 | 1523628 | HAWKINS CO JUSTICE CENTER    | 117 JUSTICE CENTER DR<br>ROGERSVILLE, TN 37857  | WW2970 |
| 266 | 1556145 | HAWKIN'S CO. HEALTH DEPT.    | 201 PARK BLVD.<br>ROGERSVILLE, TN 37857         | WW2570 |
| 266 | 2525982 | East Hawkins Co. Complex- W2 | 150 S Central Ave<br>Church Hill, TN 37642-3720 | WW2050 |

Customer Signature \_\_\_\_\_ Date \_\_\_\_\_ Initials \_\_\_\_\_

**RESOLUTION**

No.2024/09/ 10

To the HONORABLE MARK DEWITTE, Chairman, and Members of the Hawkins County Board of Commission in Regular Session met this 23<sup>rd</sup> Day of September, 2024.

**RESOLUTION IN REF:      APPROVAL TO SUBMIT APPLICATION AND ACCEPT UPON AWARD A FY25 TENNESSEE CORRECTIONS INSTITUTE TRAINING EQUIPMENT GRANT WITH NO LOCAL MATCHING FUNDS IN THE AMOUNT OF \$15,000 FOR THE SHERIFF'S OFFICE**

WHEREAS, the Tennessee Corrections Institute makes available grants to local sheriff offices for the purchase of correction personnel training equipment in their county; and

WHEREAS, the Hawkins County Sheriff's Office intends to apply with no local match required; and for the purpose of Correction Personnel Training and has been awarded the grant. There is no local match.

THEREFORE, BE IT RESOLVED that approval be given to submit an application and accept the aforementioned grant with County Mayor Mark DeWitte authorized to execute the application, contract and any other necessary documents required to signify acceptance of said grant.

AND THEREFORE, BE IT FURTHER RESOLVED that approval be given for the following Budget Amendment to the General Fund (101):

|                     |                             |                           |               |
|---------------------|-----------------------------|---------------------------|---------------|
| General Fund (101): | <u>Increase Revenue</u>     | <u>Description</u>        | <u>Amount</u> |
|                     | 101-46980                   | Other State Grants (Jail) | \$15,000      |
|                     | <u>Increase Expenditure</u> |                           |               |
|                     | 54210-716                   | Law Enforcement Equipment | \$15,000      |

Introduced By Esq. Jason Roach, Chairman of Budget Committee

Seconded By Esq. \_\_\_\_\_

Date Submitted 09-09-24

Nancy J. Davis  
County Clerk

ACTION:    AYE    NAY    PASSED

Roll Call \_\_\_\_\_

Voice Vote \_\_\_\_\_

Absent \_\_\_\_\_

COMMITTEE ACTION

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

Chairman \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_







RESOLUTION NO. 2024/09/12

TO THE HONORABLE MARK DEWITTE, CHAIRMAN, AND MEMBERS OF THE HAWKINS COUNTY BOARD OF COMMISSIONERS IN REGULAR SESSION, MET THIS 23<sup>rd</sup> DAY OF SEPTEMBER 2024.

**RESOLUTION IN REF: GENERAL PURPOSE SCHOOL FUND BUDGET AMENDMENT**

WHEREAS, the Hawkins County Board of Education has approved the attached budget amendment to the General Purpose School Fund, and now requests approval of said amendment by the Hawkins County Board of Commissioners.

NOW THEREFORE BE IT RESOLVED THAT the Hawkins County Board of Commissioners, meeting in regular session, September 23, 2024, go on record as passing this resolution.

Introduced by Esq. Nancy Barker Estimated Cost: \_\_\_\_\_  
Vice-Chairman Budget Committee

Seconded by Esq. \_\_\_\_\_ Paid From \_\_\_\_\_ Fund

ACTION: Aye Nay Abstain

Date Submitted 09-09-24

Roll Call \_\_\_\_\_

County Clerk: Nancy A. Davis

Voice Vote \_\_\_\_\_

By: Nancy A. Davis

Absent \_\_\_\_\_

COMMITTEE ACTION: APPROVED DISAPPROVED  
\_\_\_\_\_

CHAIRMAN: \_\_\_\_\_

FUND: 141 GENERAL PURPOSE SCHOOL FUND  
 AMENDMENT NUMBER: 2  
 DATE: September 23, 2024

|                        |               |
|------------------------|---------------|
| ORIGINAL BUDGET AMOUNT | 66,877,215.00 |
| PREVIOUS AMENDMENTS    | 2,054,820.27  |
| TOTAL                  | 68,932,035.27 |
| REQUESTED AMENDMENT    | 3,502,877.16  |
| TOTAL                  | 72,434,912.43 |

|   | ACCOUNT NO   | DESCRIPTION  | CURRENT BUDGET | INCREASE            | DECREASE      | AMENDED BUDGET |
|---|--|--|----------------|---------------------|---------------|----------------|
|   |  | <b>EXPENDITURES</b>  |                |                     |               |                |
| 1 | To budget the innovative School Models Grant.                                  |  |                |                     |               |                |
|   |  | <b>71100 REGULAR INSTRUCTION PROGRAM, 71300 VOCATIONAL EDUCATION PROGRAM, 72230 VOCATIONAL EDUCATION PROGRAM, 72710 TRANSPORTATION, 76100 REGULAR CAPITAL OUTLAY</b> |                |                     |               |                |
|   | 71100-722-ISM  | Regular Instruction Equipment  | -              | 27,396.86           |               | 27,396.86      |
|   | 71300-116-ISM  | Teachers   | -              | 471,104.50          |               | 471,104.50     |
|   | 71300-189-ISM  | Other Salaries and Wages   | -              | 92,873.76           |               | 92,873.76      |
|   | 71300-201-ISM  | Social Security  | -              | 34,966.70           |               | 34,966.70      |
|   | 71300-204-ISM  | Pensions   | -              | 41,228.72           |               | 41,228.72      |
|   | 71300-206-ISM  | Life Insurance   | -              | 1,583.97            |               | 1,583.97       |
|   | 71300-207-ISM  | Medical Insurance  | -              | 104,915.00          |               | 104,915.00     |
|   | 71300-212-ISM  | Employer Medicare  | -              | 8,177.67            |               | 8,177.67       |
|   | 71300-217-ISM  | Retirement - Hybrid Stabilization  | -              | 1,370.54            |               | 1,370.54       |
|   | 71300-429-ISM  | Instructional Supplies and Materials   | -              | 499,610.24          |               | 499,610.24     |
|   | 71300-471-ISM  | Software   | -              | 110,460.00          |               | 110,460.00     |
|   | 71300-499-ISM  | Other Supplies and Materials   | -              | 785.00              |               | 785.00         |
|   | 71300-730-ISM  | Vocational Instruction Equipment   | -              | 1,093,025.27        |               | 1,093,025.27   |
|   | 72230-189-ISM  | Other Salaries and Wages   | -              | 139,300.00          |               | 139,300.00     |
|   | 72230-201-ISM  | Social Security  | -              | 2,994.60            |               | 2,994.60       |
|   | 72230-204-ISM  | Pensions   | -              | 3,381.00            |               | 3,381.00       |
|   | 72230-206-ISM  | Life Insurance   | -              | 179.97              |               | 179.97         |
|   | 72230-207-ISM  | Medical Insurance  | -              | 7,787.01            |               | 7,787.01       |
|   | 72230-212-ISM  | Employer Medicare  | -              | 2,019.85            |               | 2,019.85       |
|   | 72230-399-ISM  | Other Contracted Services  | -              | 20,427.50           |               | 20,427.50      |
|   | 72230-499-ISM  | Other Supplies and Materials   | -              | 789.00              |               | 789.00         |
|   | 72710-729-ISM  | Transportation Equipment   | -              | 60,000.00           |               | 60,000.00      |
|   | 76100-706-ISM  | Building Construction  | -              | 610,000.00          |               | 610,000.00     |
|   | 76100-707-ISM  | Building Improvements  | -              | 120,000.00          |               | 120,000.00     |
|   |  |  |                | <b>3,454,377.16</b> |               |                |
|   | 46790-ISM  | Other Vocational   |                | <b>3,454,377.16</b> |               |                |
| 2 | To budget the SRSD (Self Regulated Strategy Development) research grant.       |  |                |                     |               |                |
|   |  | <b>72210 REGULAR INSTRUCTION PROGRAM</b>   |                |                     |               |                |
|   | 72210-189-SRSD   | Other Salaries & Wages   | -              | 44,628.00           |               | 44,628.00      |
|   | 72210-201-SRSD   | Social Security  | -              | 341.00              |               | 341.00         |
|   | 72210-204-SRSD   | Pensions   | -              | 368.00              |               | 368.00         |
|   | 72210-212-SRSD   | Employer Medicare  | -              | 647.00              |               | 647.00         |
|   | 72210-217-SRSD   | Retirement - Hybrid Stabilization  | -              | 11.00               |               | 11.00          |
|   | 72210-355-SRSD   | Retirement - Hybrid Stabilization  | -              | 2,505.00            |               | 2,505.00       |
|   |  |  |                | <b>48,500.00</b>    |               |                |
|   | 44570-SRSD   | Contributions and Gifts  |                | <b>48,500.00</b>    |               |                |
| 3 | To amend the Voluntary Pre-K state grant to purchase an instructional program. |  |                |                     |               |                |
|   |  | <b>73400 EARLY CHILDHOOD EDUCATION</b>   |                |                     |               |                |
|   | 73400-399  | Other Contracted Services  | 2,385.97       |                     | 932.00        | 1,453.97       |
|   | 73400-429  | Instructional Supplies   | -              | 932.00              |               | 932.00         |
|   |  |  |                |                     |               |                |
|   |  | <b>TOTAL EXPENDITURES &amp; FUND BALANCE</b>   |                | <b>3,503,809.16</b> | <b>932.00</b> |                |
|   |  | <b>TOTAL REVENUES</b>  |                | <b>3,502,877.16</b> | <b>-</b>      |                |

CERTIFICATE OF ELECTION OF NOTARIES PUBLIC

Resolution No. 2024/09/13

AS CLERK OF THE COUNTY OF HAWKINS, TENNESSEE

I HEREBY CERTIFY THAT THE FOLLOWING WERE ELECTED TO THE OFFICE OF:

NOTARY PUBLIC APPROVAL DURING THE SEPTEMBER 23, 2024 MEETING OF THE GOVERNING BODY:

NAME

HOME ADDRESS

BUSINESS ADDRESS

| NAME                   | HOME ADDRESS                                    | BUSINESS ADDRESS  |
|------------------------|---|---|
| 1. FELICIA ALLEN       | 578 OAK GROVE RD<br>ROGERSVILLE, TN 37857       | 4003 HYW 66 (EASTMAN CREDIT UNION)<br>ROGERSVILLE, TN 37857                     |
| 2. STEVEN K. DAVIS     | 164 MADELINE LN<br>ROGERSVILLE, TN 37857        | 164 MADELINE LN (SELF RETIRED)<br>ROGERSVILLE, TN 37857                         |
| 3. KELLEY JACKSON      | 215 HOLSTON CIR<br>ROGERSVILLE, TN 37857        | 107 E MAIN ST STE 205 (THE LAW OFFICE OF EMILY MORLEY)<br>ROGERSVILLE, TN 37857 |
| 4. PATRICIA SUK NEW    | 982 HIGHRIDGE DR<br>CHURCH HILL, TN 37642       | 701 W MAIN BLVD (CHURCH HILL POST-ACUTE & REHAB)<br>CHURCH HILL, TN 37642       |
| 5. CHANTAL PLATT       | 208 LAUREN DR<br>ROGERSVILLE, TN 37857          | 4015 HWY 66 S (US BANK)<br>ROGERSVILLE, TN 37857                                |
| 6. CHRISTINA LEE RILEY | 1888 PRESSMENS HOME RD<br>ROGERSVILLE, TN 37857 | 1008 W MAIN ST (STATE FARM)<br>ROGERSVILLE, TN 37857                            |
| 7. CHELSEA LEIGH SKEEN | 904 HERMITAGE LN<br>MOUNT CARMEL, TN 37645      | PO BOX 1989 (EASTMAN CREDIT UNION)<br>KINGSPORT, TN 37662                       |
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(Seal)

\_\_\_\_\_  
Clerk of the County of Hawkins, Tennessee

Date