



**JIM STRICKLAND
MAYOR**

DIVISION OF FINANCE

April 11, 2018

City Contract # 35100

**Shelby County Government
160 N. Main St.
Memphis, TN 38103**

Gentlemen:

We are enclosing, herewith, the fully executed copy of an MOU with Shelby County Government, where the City provides funding to the County for projects related to the National Disaster Resilience Grant, for the Division of Public Works / Engineering.

This copy is for your files.

Sincerely,

**Eric S. Mayse
Purchasing Agent**

**cc: City Comptroller
Engineering**

MEMORANDUM OF UNDERSTANDING
BETWEEN SHELBY COUNTY GOVERNMENT
AND THE
CITY OF MEMPHIS

This Memorandum of Understanding (“MOU”) is made and entered into between Shelby County Government, with principal offices at 160 North Main Street, Memphis, Tennessee 38103, (“COUNTY”) and the City of Memphis, with principal offices at 125 North Main Street, Memphis, Tennessee 38103 (“CITY”).

RECITALS

WHEREAS, Section 12-9-101 through 12-9-109, *Tennessee Code Annotated*, authorizes public agencies of the State of Tennessee to enter into inter-local MOUs; and

WHEREAS, the COUNTY has been awarded the sum of \$60,445,163.00 in National Disaster Resilience Competition Funds as a result of a nationwide competition sponsored by the U.S. Department of Housing and Urban Development (HUD) in collaboration with the Rockefeller Foundation; and

WHEREAS, the COUNTY is implementing various Infrastructure and Construction Improvement activities and projects throughout Shelby County consistent with the terms and requirements of the award of National Disaster Resilience Competition Funds; and

WHEREAS, the CITY has committed to provide funding to COUNTY in order to implement Infrastructure and Construction Improvement activities for the Wolf River Wetland Restoration and Greenway Activity for Rodney Baber Park and Kennedy Park, and South Cypress Creek Stream and Neighborhood Restoration Activity, all located within the CITY of Memphis; and

WHEREAS, the COUNTY and CITY wish to enter into this MOU to set forth and memorialize the understanding of the rights and duties of each party hereto.

NOW, THEREFORE, in consideration of these premises the Parties agree as follows:

1. As per correspondence from the CITY of Memphis dated October 22, 2015, attached hereto as Exhibits A and B respectively and incorporated herein by reference as if stated verbatim herein, the CITY will, upon receipt of an invoice submitted by the COUNTY, remit to COUNTY the sum not to exceed \$1,500,000.00 for the Infrastructure and Construction Improvements to the Wolf River Wetland Restoration and Greenway for Rodney Baber Park, the sum not to exceed \$1,000,000.00 for Infrastructure and Construction Improvements to the Wolf River Wetland Restoration and Greenway for

Kennedy Park, and the sum not to exceed \$1,500,000.00 for the South Cypress Creek Stream and Neighborhood Restoration Project based on invoices submitted by COUNTY to CITY for services performed and costs incurred for each project.

2. The COUNTY will provide all services relative to the implementation of the referenced projects consistent with the terms of the award of National Disaster Resilience Competition Funds.
3. This MOU shall become effective upon the signature of both Parties.
4. The term of this MOU shall begin upon the date of execution and continue until the Projects are completed or for a period of five (5) years through September 30, 2022, whichever occurs first.
5. This MOU may be terminated by either party, with or without cause, by giving thirty (30) days' written notice to the other before the effective date of termination. In the event of termination, the COUNTY shall be entitled to receive compensation from the CITY for all costs or expenses incurred by the COUNTY for these projects, including but not limited to services rendered or work performed, as of the termination date.
6. The parties recognize that each party is a governmental entity as defined by Tennessee Code Annotated Section 29-20-101 et. seq. and is responsible for negligent acts and/or omissions of its agents or employees. The parties agree that neither party shall be responsible for personal injury or property damage or other loss suffered by any person or entity except that resulting from its own negligence, and nothing in this MOU shall be construed as creating an obligation to indemnify the other party against that party's own negligence. The foregoing notwithstanding, it is the intent of the parties hereto that neither party, by virtue of entering into this MOU, assume liabilities that are greater than those set forth in the Tennessee Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq., or an amount of liability greater than set forth in T.C.A. Section 29-20-101, et seq.
7. All parties hereto hereby agree, warrant, and assure compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this MOU or in the employment practices on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. Upon request, the requested party shall show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.
8. This MOU represents the entire and integrated MOU between the parties and supersedes all prior negotiations, representations or MOUs, whether oral or written. This MOU may be modified or amended only by written instrument signed by both parties.

9. If any provision of this MOU is held to be unlawful, invalid or unenforceable for any reason, such provision shall be fully severable; and this MOU shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this MOU shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this MOU a legal, valid, and enforceable provision as similar in terms to such unlawful, invalid, or unenforceable provision as possible.

10. No waiver of any term, condition, default, or breach of this MOU, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this MOU or of such document. No delay or failure to enforce any provision in this MOU or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this MOU or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

11. Any notices required or permitted to be given under the provisions of this MOU shall be effective only if in writing and delivered either in person to the authorized agent or by First Class or U.S. Mail, return receipt requested, to the addresses set forth below, or to such other person or address as either party may designate in writing and deliver as herein provided. Notices shall be deemed received (i) if by hand delivery, on date of delivery with a signed receipt; (ii) if U.S. Mail, on date of receipt appearing on the return receipt card; (iii) if by overnight courier, on date receipt is confirmed by such courier service.

COUNTY:
Shelby COUNTY Engineer
6449 Haley Road
Memphis, Tennessee 38134
and
Shelby COUNTY Government
Contract Administration
160 N. Main St., Suite 950
Memphis, Tennessee 38103

CITY:
CITY of Memphis
Attn: CITY Engineer
125 N. Main, Room 644
Memphis, TN 38103
and

CITY of Memphis
Attn: Public Works Director
125 N. Main, Room 608
Memphis, TN 38103

CITY of Memphis
Attn: CITY Attorney
125 N. Main, Room 336
Memphis, TN 38103

11. Both parties shall comply with all applicable federal, state and local laws in the performance of its duties and obligations herein. For all purchases herein, the COUNTY shall comply with its purchasing policies and procedures.

12. Nothing in this MOU shall be deemed to represent that either party, or any of its employees or agents, are the agents, representatives, or employees of the other party. Each party shall be an independent service provider over the details and means for performing the services under this MOU. Anything in this MOU which may appear to give either party the right to direct the other party as to the details of the performance of the services under this MOU or to exercise a measure of control over the other party is solely for purposes of compliance with local, state and federal regulations and means that the party will follow the desires of the other party only as to the intended results of the scope of this MOU.

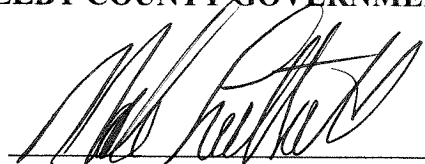
13. This MOU will be interpreted in accordance with the laws of the State of Tennessee. By execution of this MOU, the parties agree that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this MOU will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this MOU submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

14. This MOU, including any exhibits hereto, contains the entire agreement of the parties relative to this subject matter and supersedes any prior written or oral agreements or contracts between the parties.

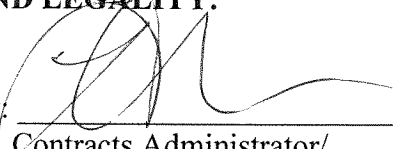
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IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding to become effective as of the date first written above.

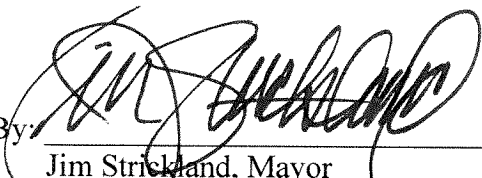
SHELBY COUNTY GOVERNMENT

By: 
Mark H. Luttrell, Jr., Mayor

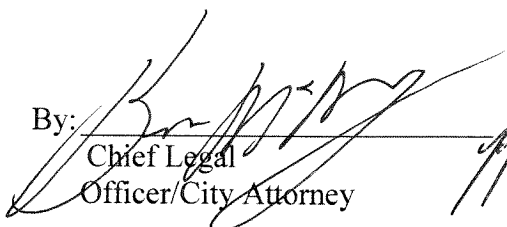
APPROVED AS TO FORM AND LEGALITY:


By: 
Contracts Administrator/
Assistant COUNTY Attorney

CITY OF MEMPHIS

By: 
Jim Strickland, Mayor

APPROVED AS TO FORM AND LEGALITY:

By: 
Chief Legal
Officer/City Attorney

ATTEST
 4/13/18
Deputy Comptroller



A C WHARTON, JR. - Mayor
JACK SAMMONS - Chief Administrative Officer
DIVISION OF PUBLIC WORKS
ROBERT KNECHT - Interim Director

October 22, 2015

Richard S. Copeland
Director
Memphis-Shelby County
Division of Planning and Development
125 North Main, Suite 468
Memphis, TN 38103-2084

Subject: Leverage Commitment

Dear Mr. Copeland:

In commitment to the **Wolf River Wetland Restoration and Greenway activity** as part of the Greenprint for Resilience Project, the **City of Memphis Division of Public Works** commits to provide a contribution worth **\$500,000** as part of the master drainage studies currently encompassing each of the park locations and **\$2,000,000** over the next **1 to 2** years to Shelby County for storm water construction improvements. Our contribution for construction improvements will be available beginning July 1, 2017 through June 30, 2019.

Sincerely,

Robert Knecht
City Of Memphis
Director of Public Works
125 North Main, Suite 608
Memphis, TN 38103

EXHIBIT A

City of Memphis

TENNESSEE

A C WHARTON, JR. - Mayor
JACK SAMMONS - Chief Administrative Officer
DIVISION OF PUBLIC WORKS
ROBERT KNECHT - Interim Director

October 22, 2015

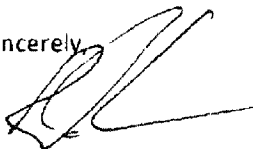
Richard S. Copeland
Director
Memphis-Shelby County
Division of Planning and Development
125 North Main, Suite 468
Memphis, TN 38103-2084

Subject: Leverage Commitment

Dear Mr. Copeland:

In commitment to the **South Cypress Creek Stream and Neighborhood Restoration activity** as part of the Greenprint for Resilience Project, the **City of Memphis Division of Public Works** commits to provide a contribution worth **\$500,000** as part of the master drainage study currently encompassing the locations and **\$1,000,000** over the next **1 to 2** years to Shelby County for storm water construction improvements. Our contribution for construction improvements will be available beginning July 1, 2017 through June 30, 2019.

Sincerely,



Robert Knecht
City Of Memphis
Director of Public Works
125 North Main, Suite 608
Memphis, TN 38103

EXHIBIT B