

RESOLUTION 17-104

**A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES
CONTRACT WITH DEMPSEY DILLING, INC. FOR SERVICES
RELATED TO CROSSING CIRCLE NORTH BRIDGE**

WHEREAS, the City has determined to design and construct a new vehicular bridge across McCormick Creek from the north side of the Crossing Circle Retail Center to the proposed development referred to as 5425 Main Street Apartments; and

WHEREAS, the City submits that it has the authority to contract with Dempsey Dilling to provide professional engineering services for the design and construction of the Project; and

WHEREAS, by entering into this Agreement, Dempsey Dilling affirms that it has extensive experience in providing engineering services and that it shall provide such services in a professional manner in accordance with the terms and conditions of this Agreement as well as the standard of care practiced by other consultants and professionals performing similar services within the industry.

NOW, THEREFORE, in consideration of the premises and recitals hereinabove set forth, which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the mutual covenants contained herein, the City and Dempsey Dilling agree to the execution of the work.

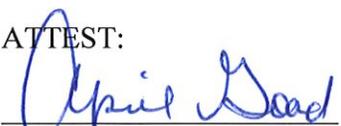
NOW, THEREFORE BE IT RESOLVED, that the City of Spring Hill authorizes a professional services agreement with Dempsey Dilling and Associates, Inc. for professional engineering services on the Crossing Circle North Bridge, in the amount of Two Hundred Ten Thousand Dollars (\$210,000.00).

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 16th day of October 2017.



Rick Graham, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney

October 16, 2017

MEMO TO: Victor Lay, City Administrator
FROM: Philip R. Stuckert, P.E., Infrastructure Director
SUBJECT: Contract Award to Dempsey Dilling and Associates for Professional Engineering Services Related to the Crossing Circle North Bridge.

Recommendation:

That BOMA, by resolution, authorize a professional services agreement with Dempsey Dilling and Associates, Inc. for professional Engineering Services related to the Crossing Circle North Bridge, in the amount of \$210,000.

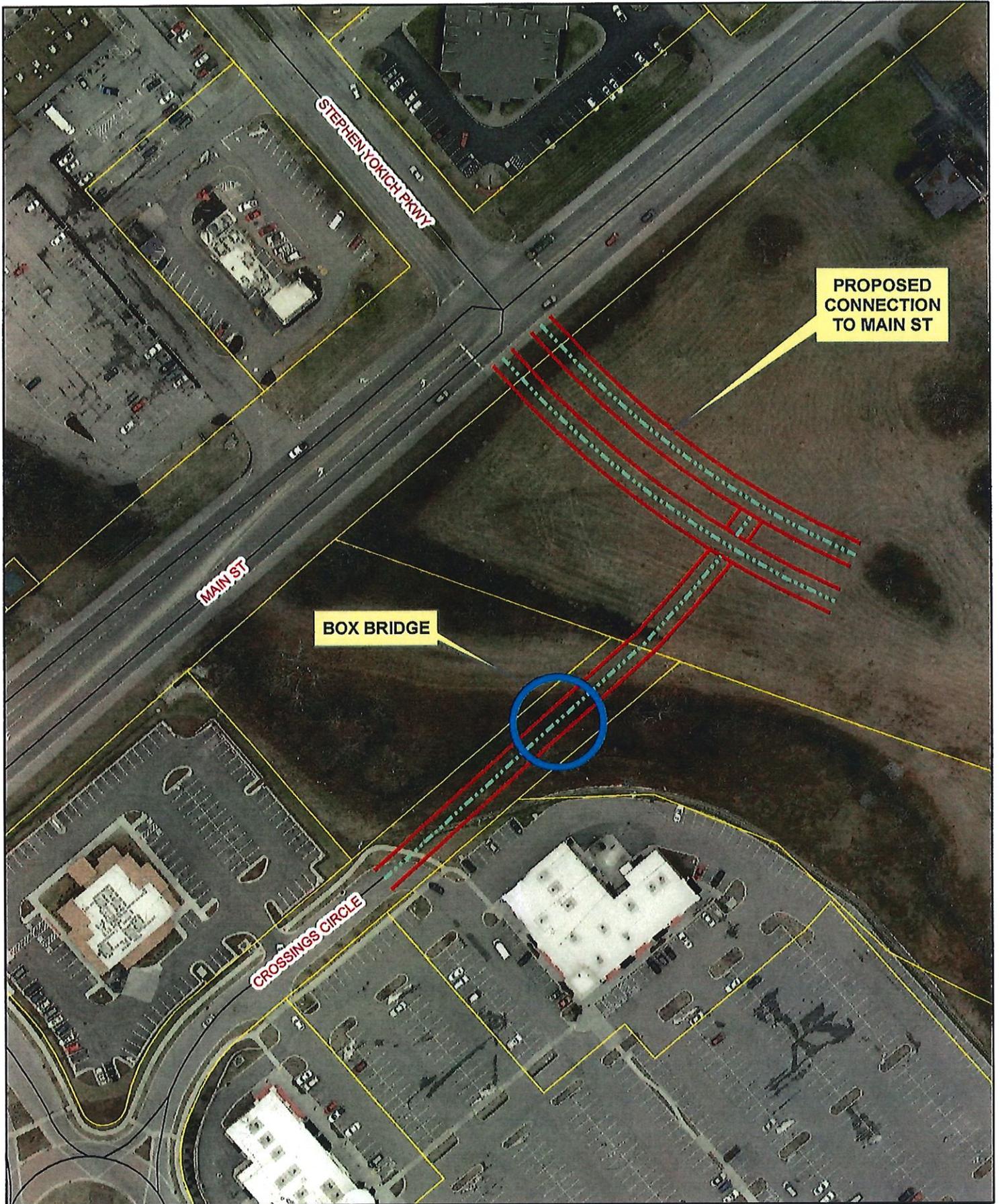
Summary:

Dempsey Dilling and Associates, Inc. provides of wealth of engineering design services for the City of Spring Hill. Because of their knowledge and familiarity with the City, DDA was approached to provide a scope of services and fee for the Crossing Circle North Bridge. Under the terms of this agreement, DDA will design a vehicular bridge from the north end of the Crossing Circle Retail Center to the development known as 5426 Main Street Townhomes crossing McCormick Creek.

The new bridge provides for a secondary access into the Crossing Circle North Retail Center.

Design services for the project include preparation of construction plans and specifications; coordination with utility companies; preparation of traffic control plans; coordination with various state and federal agencies to obtain the necessary permits; assistance to the City in advertising for, opening, and evaluating construction bids; and, geotechnical investigation for construction data, and for surveying services.

The schedule for the proposed contract ends on May 4, 2018. A resolution is prepared for BOMA's consideration. Monies to fund this work comes from general fund through a capital outlay note. The estimated cost of construction for the bridge at this time is about \$1,650,000. The FY2018 budget has two million dollars set aside for this project.



**PROPOSED
CONNECTION
TO MAIN ST**

BOX BRIDGE



100 50 0 100 Feet

**2015 CIP
PROPOSED ROADWAY CONNECTION
FROM OLIVE GARDEN TO MAIN ST
CITY OF SPRING HILL, TN**

Dempsey, Dilling & Associates, P.C.
Engineering Consultants
502 Hazelwood Drive
Smyrna, Tn 37167
phone: 615.220.5800



EXHIBIT A
CROSSING CIRCLE NORTH AT McCORMICK CREEK BRIDGE DESIGN
ENGINEERING SERVICES SCOPE OF WORK

Project Description:

The project shall consist of the bridge design and roadway connection design, to the existing Crossing's Circle North roadway located on the south side of the creek. The project shall include design to revise the existing retaining wall located on the south side of the creek next to the Crossing's Commercial Development. The roadway design for a future road located on the north side of McCormick Creek as well as the road connection to Main Street (Hwy 31) shall be by others (developer).

Preliminary Stage:

1. Gather all data available through the City of Spring such as site surveys, hydraulic studies, soil borings data and geotechnical report. Determine what additional information will be required and transmit to the City's contact, Philip Stuckert.
2. Coordinate with roadway to establish preliminary horizontal and vertical alignment and cross section template to be carried across the bridge.
3. Review existing hydraulics report performed by Volkert and use data to update the report and determine the new bridge length.
4. If necessary, Re-Run the HEC-RAS hydraulic analysis program to confirm the assumed geometrics of the bridge and adjust as necessary. All data will be required from the Volkert report in digital format including hydraulic program.
5. Review existing geotechnical reports and data and determine if additional geotechnical work is required. If additional geotechnical data is required, coordination with a Geotechnical firm will occur as soon as possible to obtain substructure design data for the bridge and retaining wall. This work will be included within this contract.
6. Develop a preliminary plan to present to the City for approval regarding the bridge length, spans, and cross section.
7. Preliminary layout for the revision to the retaining wall at the south end of the bridge at the Crossing's Commercial development.
8. Determine if utility relocation work is to be performed such as gravity sewer and overhead utilities. The City of Spring Hill will coordinate these relocations which are not part of this contract.
9. Determine the amount of additional right-of-way required, if any. The City of Spring Hill will perform all tasks associated with right-of-way acquisition as they are not part of this contract.

Final Design:

1. The final bridge design will be performed based upon TDOT criteria.
2. After submittal of the preliminary bridge layout, while awaiting owner approval, continue into final design with detail items not sensitive to changes in span lengths or cross section. As soon as approval is received, the remaining items of design and detail will be performed.
3. While the final bridge design and detailing are underway, hydraulics will be continued to a stage where they can be presented to state and federal officials. This contract does not include a prolonged and permitting process with state and federal officials. Should the permitting process become extended then the engineer will notify the City to discuss additional services for the permitting requirements.
4. While the bridge is under design, modifications to the existing retaining wall will also proceed.

Post Design:

1. The engineer will be available for questions received during the advertisement of the project, and will also be prepared to give opinions as to the award of the bridge design if necessary.
2. This contract does not include development of a Storm Water Pollution Plan (SWPPP).
3. This contract does not include any construction engineering and inspection (CEI) services.

**AGREEMENT BETWEEN
CITY OF SPRING HILL, TENNESSEE
AND DEMPSEY DILLING AND ASSOCIATES, INC.**

THIS AGREEMENT is made this the ____ day of _____, 2017, by and between **CITY OF SPRING HILL, TENNESSEE** (hereinafter "City"), and **DEMPSEY DILLING AND ASSOCIATES, INC.**, located at 502 Hazelwood Drive, Smyrna, TN 37167 (hereinafter "Dempsey Dilling").

WITNESSETH:

WHEREAS, the City has determined to design and construct a new vehicular bridge across McCormick Creek from the north side of the Crossing Circle Retail Center to the proposed development referred to as 5425 Main Street Apartments; and

WHEREAS, the City submits that it has the authority to contract with Dempsey Dilling to provide professional engineering services for the design and construction of the Project; and

WHEREAS, by entering into this Agreement, Dempsey Dilling affirms that it has extensive experience in providing engineering services and that it shall provide such services in a professional manner in accordance with the terms and conditions of this Agreement as well as the standard of care practiced by other consultants and professionals performing similar services within the industry.

NOW, THEREFORE, in consideration of the premises and recitals hereinabove set forth, which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the mutual covenants contained herein, the City and Dempsey Dilling agree as follows:

**ARTICLE 1 - SCOPE OF SERVICES TO BE RENDERED BY DEMSPEY
DILLING**

1. Dempsey Dilling shall perform all necessary professional services in a satisfactory and proper manner, consistent with the City's requirements for the Project and by reference made a part hereof, including, but not be limited to, the following:

a. See Attached Exhibit A

2. All documents prepared by Dempsey Dilling that form a part of the services rendered hereunder shall, upon completion of the drawings, become the property of the City. Such documents shall not be used by either party on any other project, except as reference materials.

3. The City will furnish all information, data, reports and maps as are existing and identified by Dempsey Dilling as necessary for carrying out the work that are available to the City without cost to Dempsey Dilling.

4. Dempsey Dilling shall have the authority to obtain work assignments necessary to obtain site surveys, soil borings, and soil reports; will request that the services be provided by the City, and the City shall provide such services, if available, at no cost to Dempsey Dilling prior to Dempsey Dilling retaining independent consultants for such purposes.

ARTICLE 2 – CITY’S RESPONSIBILITIES

The City will provide to Dempsey Dilling all criteria and full information as to the Project’s requirements, and shall furnish the following:

1. Provide Dempsey Dilling with all known available information that is pertinent to the Project.

2. Accompany Dempsey Dilling for on-site inspections to determine scope of work, if necessary.

3. Guarantee access to the work so Dempsey Dilling can enter upon public and private lands as required to perform the work essential to design the Project.

4. Give thorough consideration to all reports, cost estimates, drawings, specifications and other documents presented by Dempsey Dilling, and inform Dempsey Dilling of all decisions within a reasonable time so as not to delay the work of Dempsey Dilling (i.e. furnish approval or instructions for change).

5. Promptly schedule all required special meetings, serve all public and private notices, receive and act upon all protests.

6. Designate, in writing, a single person to act as Dempsey Dilling’s point of contact with the City. The contact person for the City of Spring Hill will be Philip Stuckert, P.E. The alternate point of contact will be Mr. Tom Wolf.

7. Provide all activities (if required) associated with property acquisition and/or relocation, including, but not limited to, appraisals, title search, and required legal services. Acquire all necessary R.O.W. for the implementation of the project.

8. Assist in the Coordinate the relocation of utilities for the implementation of the project.

9. Give prompt written notice to Dempsey Dilling when it is known that either the Project criteria or conditions have changed, or Dempsey Dilling’s work is deficient in intent or technical content.

Smyrna, TN 37167

If to City: Attn: Victor Lay
 Title: City Administrator
 199 Town Center Parkway
 Spring Hill, TN 37174

Copy to: Patrick M. Carter, Esq.
 City Attorney
 P.O. Box 1431
 Columbia, TN 38402-1431

ARTICLE 6 - TERMINATION

1. This Agreement may be terminated by either party upon thirty (30) days' written notice should the other party fail substantially to perform in accordance with the terms outlined herein through no fault of the party initiating the termination.

2. This Agreement may be terminated by Dempsey Dilling in the event that the City permanently abandons the Project.

3. In the event of termination by either party, Dempsey Dilling shall be compensated for all services performed prior to the termination date.

ARTICLE 7 - DISPUTE RESOLUTION AND GOVERNING LAW

1. The City and Dempsey Dilling shall attempt to resolve conflicts or disputes under this Agreement in a fair and reasonable manner, and agree that if an informal resolution cannot be achieved, the parties shall submit the matter to a mutually agreed upon mediator in an attempt to resolve the dispute through the mediation process. Such mediation process shall be initiated by a request in writing by either party.

2. The mediation provision can be waived by the mutual consent of the parties or by either party if such party's right would be irrevocably prejudiced by a delay in initiating a legal proceeding.

3. Venue and jurisdiction for any legal proceeding hereunder shall be the Circuit Court for Maury County, Tennessee.

ARTICLE 8 - BREACH

1. The term "breach of agreement" specifically includes, but is not limited to, failure to comply with any applicable federal, state or local laws or regulations.

2. One or more waivers of breach of any provision of this Agreement by any party shall not be construed as a waiver of subsequent breach of the same provision, nor shall it be considered a waiver of any other then existing or subsequent breach of a different provision.

3. The substantially prevailing party in any legal proceeding hereunder by and between the parties shall be entitled to their reasonable attorney's fees and court costs incurred in said legal proceeding.

ARTICLE 9 - MODIFICATION

This Agreement shall not be modified unless such modifications are evidenced in writing in the form of a written Amendment, which is signed by both the City and Dempsey Dilling. Should any changes in the design of the Project be necessary, the City's designee shall report such change to Dempsey Dilling in writing. If the City determines that any changes in work are necessary to complete the Project, then Dempsey Dilling shall be allowed compensation based upon the original contract terms, including the additional work in the overall cost of the construction of the Project.

ARTICLE 10 - INDEMNITY AND HOLD HARMLESS

1. City shall agree to indemnify and hold Dempsey Dilling, its officers, agents and/or employees, harmless from and against any and all lawsuits, damages and expenses, including court costs and attorneys' fees, by reason of any claim and/or liability imposed, claimed and/or threatened against the City, its officials, agents and/or employees, for damages because of bodily injury, death and/or property damages arising out of or in consequence of the performance of services under this Agreement to the extent that such bodily injuries, death and/or property damages are attributable to the negligence of the City, its agents, employees, or any other entity for which the City may be found to be legally liable. This provision shall survive the completion of all services, obligation and duties provided pursuant to the Project, or the termination of this Agreement for any reason.

2. Dempsey Dilling shall agree to indemnify and hold the City, its officers, agents and/or employees, harmless from and against any and all lawsuits, damages and expenses, including court costs and attorneys' fees, by reason of any claim and/or liability imposed, claimed and/or threatened against Dempsey Dilling, its officials, agents and/or employees, for damages because of bodily injury, death and/or property damages arising out of or in consequence of the performance of services under this Agreement to the extent that such bodily injuries, death and/or property damages are attributable to the negligence of Dempsey Dilling, its agents, employees, or any other entity for which Dempsey Dilling may be found to be legally liable. This provision shall survive the completion of all services, obligation and duties provided pursuant to the Project, or the termination of this Agreement for any reason.

ARTICLE 11 – INSURANCE

Dempsey Dilling shall maintain, during the term of this Agreement, or any extension hereof, the following insurance policy, written by an insurance company authorized to do business within the State of Tennessee, and furnish City, in duplicate, Certificates of Insurance as evidence thereof:

1. Worker's Compensation: Providing coverage in compliance with the laws of the state in which any part of the work is to be performed, and Employer's Liability Coverage in the minimum amount of the statutory limit for each occurrence.

2. Comprehensive (Commercial) General Liability Insurance: Bodily injury and property damage combined single limit in the minimum amount of \$1,000,000.00 for each occurrence.

3. Automobile (Business) Liability Insurance: Bodily injury and property damage combined single limit in the minimum amount of \$1,000,000.00 for each occurrence, \$1,000,000.00 aggregate.

4. Professional Liability Insurance: Professional liability insurance covering claims arising from errors, omissions or negligent acts committed in the performance of professional services under this Agreement with limits of \$1,000,000.00.

ARTICLE 12 - SEVERABILITY

In the event any provision of this Agreement or any instrument delivered in connection herewith shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof or thereof.

ARTICLE 13 - BINDING EFFECT

This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective heirs, administrators, successors and assigns.

ARTICLE 14 - INDEPENDENT CONTRACTOR RELATIONSHIP

It is specifically understood that Dempsey Dilling's relationship with City shall be that of independent contractor and Dempsey Dilling shall in no sense be considered an agent or employee of City, nor shall Dempsey Dilling be, as a result of the relationship established by this Agreement, entitled to or eligible to participate in any benefits or privileges extended or given by City to its employees, notwithstanding this Agreement.

ARTICLES 15 - HEADINGS AND EXHIBITS

The paragraph headings in this Agreement are for convenience only, and they form no part of this Agreement and shall not affect its interpretation.

ARTICLE 16 - FORCE MAJEURE

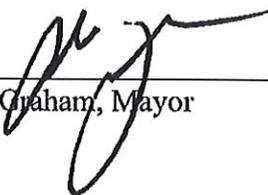
Dempsey Dilling shall not be liable to City or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond Dempsey Dilling's reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or Governmental Authorities approval delays which are not caused by any act or omission by Dempsey Dilling, and unusually severe weather. Dempsey Dilling agrees to notify City of the existence and nature of any delay.

ARTICLE 17 - ENTIRE AGREEMENT

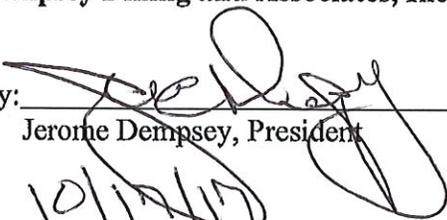
This Agreement and accompanying documents contain the entire agreement between the parties with respect to the subject matter hereof and all prior or contemporaneous written or oral agreements with respect to the subject matter hereof are superseded hereby.

IN WITNESS WHEREOF, the City has caused this Agreement to be signed by its authorized representative, and Dempsey Dilling has caused this Agreement to be signed in its corporate name by its authorized representative as of the day and year first written above.

CITY OF SPRING HILL, TENNESSEE

By:  _____
Rick Graham, Mayor

Dempsey Dilling and Associates, Inc.

By:  _____
Jerome Dempsey, President
10/17/10