

INTERIM AGREEMENT

This Interim Agreement (this “Agreement”) is entered into as of May 13, 2026 (the “Effective Date”) by and between the City of Portsmouth, Virginia (the “City”), and RHM Developers, LLC (“Developer”), an affiliate of Ripley Heatwole Company, Inc. (“RHC”). The City and the Developer are referred to individually as a “Party” and collectively as the “Parties”.

Recitals

A. On December 14, 2010, the City adopted Guidelines of the City of Portsmouth (the “Guidelines”) for the implementation of the Public-Private Education Facilities and Infrastructure Act of 2002, Va. Code 56-571.1 et seq. (the “PPEA”).

B. On June 27, 2025 the RHC, on behalf of the Developer, submitted an unsolicited proposal under the Guidelines and the PPEA (the “Initial Proposal” and, as modified and supplemented by that certain correspondence from Daniel B. Heatwole to Steven Carter dated April 21, 2026, the “Proposal”) for the design and construction of (a) a new City Hall building, (b) a new public parking garage, and (c) additional related improvements, all to be located at 220 County Street (the “Site”) (the “Project”).

C. The City issued a preliminary acceptance of the Initial Proposal for purposes of publication and conceptual phase consideration on September 23, 2025. In accordance with the Guidelines and the PPEA, the City then advertised for competing proposals from September 25, 2025 through December 2, 2025. No competing proposals were received.

D. The City has determined that the Proposal would be advantageous to the City for design and possible construction of the Project, and the City has further determined that it would be advantageous given the probable scope, complexity and urgency of the Project, and the merits of risk-sharing and the potential for added value, to proceed with the proposed design of the Project by the Developer under the PPEA, to the extent provided in this Agreement.

E. The Parties have negotiated this Agreement consistent with the PPEA, other applicable law, the Guidelines, the Proposal, and discussions between representatives of the City and the Developer.

F. The parties acknowledge and agree that this Agreement will function as the Interim Agreement for the purposes of this Project. Any work on, or obligation in furtherance of, the Project beyond the Interim Agreement shall be subject to the Parties’ agreement upon the terms, and mutual execution, of a Comprehensive Agreement. The City Council of the City must approve any proposed Comprehensive Agreement prior to execution and the undertaking of any liability by the City thereunder.

G. Having considered this Agreement and other information, the City Council of the City of Portsmouth, Virginia (“City Council”) has determined that the Project to be designed and

potentially constructed pursuant to this Agreement serves the public purpose of the PPEA under the criteria of Va. Code § 56-575.4(C). The City Council approved this Agreement by Resolution adopted on May 12, 2026.

Now, therefore, in consideration of the Recitals set forth above, which are incorporated into and made a part of this Agreement, and good and valuable consideration as set forth below, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. SCOPE OF SERVICES; DESIGN TEAM

The services to be performed under this Agreement (the “Services”) include preliminary design services for a newly constructed City Hall building, public parking garage, and additional related improvements at the Site as more fully described in **Exhibit A** (the “Scope”) and the Proposal. The Developer will furnish and provide, or cause to be furnished and provided, all architectural and engineering services for the Scope, including, but not limited to, all architectural and engineering materials, labor and equipment necessary for programming, schematic design, and design development, to achieve 35% design of the Project. The Parties acknowledge all contracting services shall be provided by or through MEB General Contractors, Inc. and all design services shall be provided by or through Clark Nexsen, Inc., Kimley Horn, and other design professionals as may be required (collectively with Developer and RHC the “Development Team”). If funds are sufficient and the Parties agree in writing, this Agreement may be amended to include the development of 65% Construction Documents.

The Services shall also include delivery of a Minority-Owned, Woman-Owned, and Small Business participation plan (“SWAM Plan”) subject to review and approval by the City, to be implemented during the Comprehensive Agreement stage of the Project. The SWAM shall address, among other things, methods to promote local subcontractor and supplier participation in the Project; encourage partnering among minority-owned, woman-owned, and small firms; and the use of job fairs and job training.

During performance of the Services under this Agreement, the City’s designated representatives shall be City Manager Steven Carter and Deputy City Manager Greg Coleman and the Developer’s designated representatives shall be Daniel Heatwole and James McCune. Either party may change its designated representatives or add additional designated representatives by written notice to the other. Communications between the Parties related to the Services and the Project shall be through these designated representatives. The Developer shall engage the design team identified in the Proposal to perform the Services. The Developer shall not make changes to the composition of the design team without the City’s written consent. In addition to this design team, the Developer will provide such additional staff of licensed, certified, qualified, and experienced personnel as needed to complete the Services within the Schedule (defined in Section 3) and for the Contract Amount (defined in Section 2).

The Proposal is incorporated herein by reference. The Developer shall perform or cause to be performed the Services in a manner consistent with the Proposal. Whenever possible, this Agreement (including Exhibits hereto) and the Proposal will be read as a whole with all parts

being harmonized so as to avoid conflict. In the event of a conflict between this Agreement (including Exhibits) and the Proposal, this Agreement shall control.

2. **COST OF SERVICES AND PAYMENT**

In consideration of the provision of the Services by Developer, the City shall pay to Developer the total contract amount of **\$2,915,600** (the "Contract Amount"). **Exhibit A** sets forth the schedule of values for the Contract Amount (the "Schedule of Values"). There shall be no increase in the Contract Amount without the express prior written authorization of the City.

Developer shall submit monthly invoices for payment to the City. The first invoice shall be submitted no sooner than the first day of the month following the month of the Effective Date of this Agreement. The final invoice shall be submitted after Developer has completed all Services, including delivery of all deliverables referenced in Exhibit A, required under this Agreement. Each invoice shall be for the value of the Services performed during the period for which payment is requested based on the Schedule of Values. The City shall have ten (10) calendar days following receipt of an invoice to review each invoice; no later than the tenth (10th) day following receipt of an invoice, the City shall notify Developer whether it approves or rejects the invoice, in whole or in part, providing explanation for any portions rejected. The City shall then pay the approved part of the invoice within thirty (30) days following its approval of the invoice. If all or any part of the invoice is rejected, Developer shall respond with an explanation or modification of the rejected portion of the invoice and resubmit the part of the invoice which City rejected, upon which the City's review and payment cycle will start again.

3. **PROJECT SCHEDULE**

Based on criteria established by the City, the Developer has established a detailed baseline schedule for the design phases of the Project, which is attached hereto as **Exhibit B** (the "Schedule"). The Developer shall furnish schedule information to the City and create and maintain an electronic schedule during the performance of this Agreement. The Developer shall provide regular progress updates to the City and shall report on progress and compliance with the Schedule during each Project meeting, and when reasonably requested, including status of all design, permitting, and regulatory activities.

Time is of the essence in completing the Services set forth in this Agreement. Developer shall exercise its best efforts to perform the Services consistent with the Schedule. Developer's obligation to comply with the Schedule shall be subject to the timely cooperation of the City with respect to providing all authorizations, approvals, and access to the Site necessary to perform the Services.

4. **DESIGN APPROVAL**

The City shall retain the right to approve the design of the Project. To this end, Developer shall cause its design professionals to prepare and submit to the City all deliverables included in the Services for the City's review. The deliverables shall incorporate the site design

and building design elements described in the Proposal, as modified with the approval or at the direction of the City.

5. TERM AND TERMINATION

This Agreement shall commence on the Effective Date and shall continue until completed or terminated pursuant to the terms of this Agreement. This Agreement may be terminated by either Party in the event of substantial failure or default of the other Party to perform in accordance with the terms hereof through no fault of the terminating Party, which failure or default continues without cure for a period of thirty (30) days after the defaulting party's receipt of written notice of default specifying the failure or default in reasonable detail.

Upon thirty (30) days' written notice to Developer, the City may, for its convenience and without cause, elect to terminate the Agreement. Upon receiving notice of termination from the City, Developer must immediately terminate all Services (unless the notice directs otherwise) and, upon receipt of final payment in an amount calculated in accordance with the following paragraph, deliver to City all reports, studies, plans, drawings, specifications, designs, and renderings (the "Instruments of Service") (whether completed or in progress) which may have been created or accumulated by the Developer in performing the Agreement.

In the event of termination for convenience, the City shall, within thirty (30) days following the termination date specified in the notice, pay Developer (a) with respect to all Services completed by Developer in accordance with this Agreement through such termination date, the portion of the Contract Amount not yet paid by City to Developer that is allocable to such completed Services (as determined in accordance with the Schedule of Values) and (b) with respect to incomplete Services: (i) the costs incurred by the Developer to perform such incomplete Services through the termination date, plus (ii) all reasonable expenses of Developer attributable to such termination, plus (iii) Developer's reasonable overhead and profit that reflects the Developer's level of completion of the incomplete Services prior to the termination date.

The rights and remedies of City provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

6. COMPREHENSIVE AGREEMENT

Should the Parties conclude that the Project is feasible, it is their intention to negotiate a Comprehensive Agreement under the PPEA and the Guidelines which shall address the completion of design, construction and commissioning of the Project. At the direction of the Parties, counsel for the City and counsel for the Developer will begin work on the Comprehensive Agreement during Developer's performance of Services under this Agreement. The City's participation in negotiation of a Comprehensive Agreement shall not constitute an obligation of, or commitment by, the City to execute such Comprehensive Agreement without the prior approval of the City Council, which approval may be granted, denied or conditioned in the City's sole discretion.

7. **STANDARD OF CARE**

Developer agrees that the standard of care for all professional design Services performed under this Agreement shall be the care and skill ordinarily used by members of the design profession in the Commonwealth of Virginia performing similar projects. Additionally, Developer represents and warrants that all persons performing Services under this Agreement shall, if and to the extent legally required, be licensed and in good standing with any applicable regulatory agency for the full duration of their work in connection with the Services under this Agreement.

8. **REPRESENTATIONS AND WARRANTIES**

A. The City hereby represents and warrants to Developer as follows:

- (1) The City is a political subdivision of the Commonwealth of Virginia and has full power, right and authority to execute, deliver and perform its obligations under, in accordance with and subject to the terms and conditions of this Agreement.
- (2) Each person executing this Agreement on behalf of the City is duly authorized to execute such document on behalf of the City.
- (3) Neither the execution and delivery by the City of this Agreement, nor the consummation of the transactions contemplated hereby or thereby, is in conflict with or will result in a default under or violation of any other agreements or instruments to which the City is a party or by which it is bound.
- (4) There is no action, suit, proceeding, investigation or litigation pending and served on the City as of the date of this Agreement which challenges its authority to execute, deliver or perform, or the validity or enforceability of, this Agreement, or which challenges the authority of the City official[s] executing this Agreement, and the City has disclosed to Developer any pending or threatened action, suit, proceeding, investigation or litigation related to this Agreement or the City's capacity to comply with the terms hereof of which the City is aware.
- (5) The City Council has appropriated sufficient funds to make full payment to Developer for all Services rendered under this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall obligate the City Council with regard to the appropriation of funds in its current or future capital improvements budgets as may affect the Project.

B. Developer hereby represents and warrants to City as follows:

- (1) Developer is a duly incorporated and validly existing Virginia limited liability company, duly qualified to conduct business in Virginia, and has full power and authority to bind itself to the terms of this Agreement.
- (2) Developer has taken or caused to be taken all requisite actions to authorize the execution and delivery of, and the performance of its obligations under this Agreement and the other related documents to which Developer is a party.
- (3) Each person executing this Agreement on behalf of Developer has been duly authorized to execute each such document on behalf of Developer.
- (4) Neither the execution and delivery by Developer of this Agreement, nor the consummation of the transactions contemplated hereby or thereby, is in conflict with or will result in a default under or a violation of the governing instruments of Developer or any other agreements to which it is a party or by which it is bound.
- (5) There is no action, suit, proceeding, investigation or litigation pending and served on Developer which challenges Developer's authority to execute, deliver or perform, or the validity or the enforceability of, this Agreement, or which challenges the authority of Developer official executing this Agreement, and the Developer has disclosed to the City any pending or threatened action, suit, proceeding, investigation or litigation related to this Agreement or the Developer's capacity to comply with the terms hereof of which the Developer is aware.
- (6) Developer is in material compliance with all laws, regulations and ordinances applicable to Developer or its activities in connection with this Agreement.
- (7) Developer is a financially viable and capable entity and fully able to perform its obligations under this Agreement, including the securing of any required bonds or other sureties required by this Agreement. There are no bankruptcy (voluntary or involuntary), insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Developer, RHC, or MEB General Contractors or, to the best of the Developer's knowledge, threatened against them.

9. **CHANGES IN THE WORK**

Consistent with the Services that the Developer has agreed to provide as set forth in this Agreement, Developer will address comments received from the City by modifying the design of the Project, at no additional cost to the City unless such design modification results from City's material change of the Services. If the City, by a written order, makes changes to the Services, thereby causing an increase or decrease in the cost of, or the time required for, the performance

of the Services, then an equitable adjustment shall be made to the Contract Amount and/or the Schedule. In the event the Parties are unable to agree on the equitable adjustment to the Contract Amount or Schedule, or both, then Developer shall proceed with the change in design, but Developer may submit a claim for additional compensation or additional time, or both in accordance with the provisions set forth in Section 12 of this Agreement. If the City does not accept a claim submitted by Developer pursuant to this Section 9, the dispute shall be resolved in accordance with the provisions of Section 12 of this Agreement.

10. OWNERSHIP OF PLANS

All documents, plans, specifications, diagrams, schematics, and other deliverables produced by the Developer for City under this Agreement and the Instruments of Service which the Developer delivers pursuant to this Agreement, shall become and remain the City's exclusive property and shall be used exclusively for the City's benefit from the date of creation forward unless express written permission is given by the City. The Developer shall not publish or disclose those reports, studies, plans or other documents to any entities or persons other than the City and its representatives without the prior written consent of the City.

Upon payment of all compensation due to Developer for all Services that have been performed under this Agreement, the Instruments of Service shall be furnished by Developer to the City under this Agreement (the "Work Product"). Developer hereby agrees to transfer and assign to the City all right, title and interest, in the Work Product for the Project. This irrevocable transfer and assignment includes but is not limited to Work Product in paper and electronic forms, and all Work Product for the Project that has been or will be prepared or created by or on behalf of Developer for the Project, and including any derivations, modifications, changes, translations, revisions, elaborations, adaptations or transformations of the Work Product. Developer shall affect such transfer and assignment notwithstanding any disputed or outstanding payment from City.

The Work Product may be used or reused by the City for the improvements contemplated by the Project, and for no other purpose. The City shall have the right, internally or by and through other design professionals, to modify the Work Product prepared by or on behalf of Developer for use in connection with the Project without Developer's written consent; provided, however, Developer shall not be liable for any claims relating to such modifications or the use of the Work Product for any other project without Developer's written consent. Developer shall ensure that its consultants, subcontractors, and other third parties or entities providing Services on behalf of Developer agree in writing to the transfer and assignment of ownership rights in all Work Product that they produced, to the same extent that Developer has agreed in this Section 10. Notwithstanding the foregoing, neither Developer nor its design professionals shall be required to transfer or license any rights in the software or digital design package used in connection with the design of the Project.

11. INDEMNIFICATION

A. Developer shall indemnify, defend and hold harmless City against any liabilities, loss, damages or expenses (including reasonable attorneys' fees) incurred by the City in

connection with any action or proceeding brought by a third party based on any claim that the Work Product, or any part thereof, or the operation or use of the Work Product, or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. The City shall give prompt written notice to Developer of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Developer agrees to keep the City informed of all developments in the defense of any such action or proceeding. If the City is enjoined from the operation or use of the Work Product, or any part thereof, as the result of any such action or proceeding, Developer shall at its sole expense take reasonable steps to procure the right for the City to use the Work Product. If Developer cannot so procure such right within a reasonable time, Developer shall promptly, at Developer's option and at Developer's expense, (1) modify the Work Product so as to avoid infringement of any such patent or copyright, (2) replace said Work Product with Work Product that does not infringe or violate any such patent or copyright or (3) terminate this Agreement and its Services hereunder, in which case City shall pay Developer for all Services performed by Developer prior to such termination. Notwithstanding the foregoing, Developer shall have no liability or obligation to City in respect of any action, suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by the City and not initially offered or recommended by Developer to the City or (ii) arising from modifications to the Work Product by or at the direction of the City or its agents.

- B. Developer acknowledges that the City is a public entity and the Site is owned by a public entity and as such, the Site is immune from mechanic's liens, and Developer hereby waives any and all mechanic's lien rights it may purport to have, and agrees that it shall neither file nor assert any such lien claims. Additionally, provided that the City is not in breach of contractual obligation to make payments to Developer for the Services performed, Developer shall indemnify, defend and hold harmless the City from any claims or mechanic's liens brought against the City or against the Project as a result of the failure of the Developer, or those for whose acts it is liable, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Services. Within fourteen (14) days of receiving written notice from the City that such a claim or mechanic's lien has been filed, Developer shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Developer fails to do so, the City will have the right to discharge the claim or lien and hold Developer liable for costs and expenses incurred, including attorneys' fees.
- C. To the fullest extent permitted by applicable laws and regulations, Developer shall indemnify and hold harmless the City from and against all liability, costs, losses, and damages (including but not limited to all reasonable fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, as well as fines and penalties for violations of federal, state or local laws or regulations) incurred in connection with an action or proceeding brought by a third party arising out of the negligence or willful misconduct of Developer or any of its subcontractors, suppliers, design consultants or any other individual or entity directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, in the performance of the Services under this Agreement, provided that any such liability, claim, cost, loss or damage is attributable to

bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than to the Work itself), including the loss of use resulting therefrom, except to the extent such injury, sickness, disease, death or property damage or destruction is caused by the negligence or willful misconduct of the City its employees or agents or any third party that is not a subcontractor, supplier or design consultant of Developer or other individual or entity for whose acts Developer is not liable.

12. **DISPUTE RESOLUTION**

A. **Dispute Avoidance:** The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Developer and the City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Project. Developer shall continue to perform the Services required under the Agreement and the City shall continue to satisfy its payment obligations to Developer, pending the final resolution of any dispute or disagreement between the Developer and the City.

B. **Initial Claim:** If either Developer or City believes that it is entitled to relief against the other for any event arising under or related to this Agreement, such Party shall provide written notice of its intent to make a claim to the other Party. Such notice shall, if possible, be made prior to incurring any cost or expense and shall be governed in accordance with any specific notice requirements contained elsewhere in this Agreement. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed ten (10) business days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such notice of intent shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief; the actual claim shall be made as soon thereafter as possible. All claims by Developer must be made not later than sixty (60) days after final payment, and must include the specific contractual adjustment or relief requested and the basis of such request. Each Party agrees to promptly respond, in writing, to claims of the other Party, but no later than sixty (60) days after submission of a fully documented claim. The failure to respond in writing to a claim within sixty (60) days shall constitute the other party's decision to deny the claim. If the claiming party is not satisfied with such decision, it shall undertake the dispute resolution process set forth below.

C. **Litigation:** Whenever a party disagrees with the other party's decision on a claim or dispute arising under or related to this Agreement, its sole recourse shall be by filing, within twelve (12) months of the date of the other party's decision, an action or suit in the General District or Circuit Court of the City of Portsmouth, Virginia, and such aggrieved party may pursue all available appeals from such courts. Such courts shall have exclusive and binding original jurisdiction and venue over any and all claims arising under this Agreement. **THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM BROUGHT HEREUNDER.** The parties shall pay their own attorneys' fees in litigation regardless of the outcome of any litigation arising from this Agreement.

D. **Mediation**: Prior to filing litigation, the parties may first endeavor to resolve any disputes or claims between them through direct negotiations, and if such direct negotiations fail, by non-binding mediation, with the site of the mediation being held in Portsmouth, Virginia. Within sixty (60) days of receipt of a written notice requesting mediation, Developer and the City shall attend a formal mediation conducted by a single, impartial mediator employed by The McCammon Group or its successor entity. If the parties cannot agree on a mediator, they shall request that The McCammon Group identify a list of five (5) available mediators with experience in construction dispute resolution. The Developer and City shall then each eliminate two (2) potential mediators from the list and thereby agree to conduct the mediation with the remaining mediator. The Parties shall share equally in the fees and costs of the mediator and each Party shall bear its own costs involved in participating in the mediation, including their attorneys' fees. If either Party opts to mediate, the City and Developer shall participate in the mediation process in good faith. The process shall be concluded within ninety (90) days of filing of the notice requesting mediation. Should the dispute or claim remain unresolved following mediation or should the time limit for filing litigation set forth in this Agreement occur during the course of mediation, either party may proceed to file litigation in order to preserve its rights, but mediation shall not extend the time period set forth to file litigation.

E. **Injunctive Relief**: Nothing in this Agreement shall prevent a party from seeking temporary injunctive or other temporary equitable relief in the Circuit Court of the City of Portsmouth, Virginia if circumstances so warrant.

13. **ANNUAL APPROPRIATION**

Except for funds already appropriated for the Project, the financial obligations of the City contained in this Agreement are subject to annual appropriation by the City Council.

14. **FILING WITH AUDITOR OF PUBLIC ACCOUNTS**

Within thirty (30) days after the date of this Agreement, the City shall submit a copy of this Agreement to the Auditor of Public Accounts, to the extent required by § 56-575.9(F) or § 56-575.18 of the Code of Virginia.

15. **FINANCIAL STATEMENTS**

Developer agrees to provide the City with copies of complete and current financial statements for (a) Developer and (b) RHC upon request of City. The financial statements provided need not be audited, but if Developer or RHC does have the financial statements audited, it shall supplement its initial submission of an unaudited financial statement for the year concerned with copies of audited statements within thirty (30) days after they become available. Developer and RHC hereby designate such financial statements as confidential proprietary information exempt from release under the Virginia Freedom of Information Act and/or the Virginia Public Procurement Act ("public records laws"), subject to and conditioned upon Developer's and RHC's invocation of the applicable exemption(s) and compliance with the procedural requirements associated therewith. The City Attorney of the City of Portsmouth, in his sole discretion, shall determine whether any record submitted under this provision fails to

qualify for exemption under the public service records laws, and his determination shall be final and binding and shall not constitute a dispute or breach of this Agreement.

16. **INTENTIONALLY OMITTED.**

17. **PAYMENTS TO SUBCONTRACTORS**

A. The Developer shall take one of the two following actions within seven (7) calendar days after receiving amounts paid to the Developer by the City for work performed by any subcontractor under this Agreement:

1. Pay the subcontractor for the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor under that subcontract; or

2. Notify the City and the subcontractor, in writing, of the Developer's intention to withhold all or a part of the subcontractor's payment and explain the reason for the nonpayment.

B. The Developer shall pay interest at the rate of one (1) percent per month to the subcontractor on all amounts owed by the Developer that remain unpaid after seven (7) consecutive calendar days following receipt by the Developer of payment from the City for work performed by the subcontractor under that contract, except for amounts withheld as allowed in subsection A.2 above.

C. The Developer shall insert in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

D. The Developer's obligation to pay an interest charge to a subcontractor pursuant to this section shall not be construed to be an obligation of the City. This Agreement may not be modified for the purpose of providing reimbursement for such interest charge.

E. So long as the failure of the Developer to make prompt payment is not due to the failure of the City to pay the Developer, the Developer shall indemnify and hold the City harmless for any lawful claims resulting from failure of the Developer to make prompt payments to all persons supplying the Developer with equipment, labor, tools or materials in prosecution and completion of the work provided for in the Agreement. In the event of such claims, the City may, after providing written notice to the Developer, withhold from any progress and/or final payment the unpaid sum of money deemed sufficient to pay all lawful claims and associated costs in connection with the Agreement.

18. **NON-DISCRIMINATION**

Developer covenants and agrees that during the performance of this Agreement:

A. Developer shall conduct its activities in connection with the Project in compliance with all requirements imposed pursuant to §§ 2.2-4310 and 2.2-4311 of the Code of Virginia; Titles VI and VII of the Civil Rights Act of 1964, as amended; § 504 of the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act of 1990, as amended; and all applicable rules and regulations.

- (1) Developer will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Developer. Developer agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (2) Developer, in all solicitations or advertisements for employees placed by or on behalf of Developer, will state that it is an equal opportunity employer.
- (3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section 18.
- (4) If Developer employs more than five employees, the Developer shall (a) provide annual training on the Developer's sexual harassment policy to all supervisors and employees providing services in the Commonwealth of Virginia, and (b) post the Developer's sexual harassment policy in a conspicuous public place in each building located in the Commonwealth that the Developer owns or leases for business purposes and in the Developer's employee handbook.

B. Developer will include the provisions of the foregoing subsections (1), (2), (3) and (4) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

19. **DRUG-FREE WORKPLACE**

A. During the performance of this Agreement, Developer agrees to (i) provide a drug-free workplace for Developer's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Developer's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Developer that Developer maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each

subcontractor or vendor working on the Property. For the purposes of this Section 19, "drug-free workplace" means a site for the performance of work done in connection with this Agreement where the employees of Developer are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this Agreement.

B. Developer shall also establish, maintain and enforce policies which prohibit the following acts by all Developer, subcontractor and supplier personnel at the Project:

- (1) The manufacture, distribution, dispensation, possession, or use of alcohol, marijuana or other drugs, except possession and medically prescribed use of prescription drugs; and
- (2) The impairment of judgment or physical activities due to the use of alcohol, marijuana or other drugs, including impairment from prescription drugs.

20. **FEDERAL IMMIGRATION LAW**

Developer does not, and shall not during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

21. **AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH**

In accordance with Code of Virginia § 2.2-4311.2., the Developer warrants that it is authorized to transact business in the Commonwealth as a domestic or foreign business entity as required by law and it provides the City with its Virginia State Corporation Commission registration number, which is: 11968174

The Virginia registered agent is: Alan M. Frieden
Address: 222 Central Park Ave.
Suite 1300
Virginia Beach, Virginia 23462

The Developer agrees to notify the City at any time that the registered agent is changed and to promptly provide the City with the name and address of the new registered agent.

22. **INDEPENDENT DEVELOPER**

The parties understand and agree that Developer, in performing its obligations under this Agreement, shall be deemed an independent contractor and not an agent, employee or partner of City or City's affiliates, agencies, or departments.

23. **GOVERNING LAW AND VENUE**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. Venue shall be in the state courts serving Portsmouth, Virginia.

24. **COUNTERPARTS**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of such counterparts together shall be deemed to be one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for the other counterparts.

25. **NOTICES**

A. All notices to the Developer required or permitted under this Agreement shall be given by mailing the notice by certified U.S. mail, postage prepaid, return receipt requested, to the Developer addressed to:

RHM Developers, LLC
c/o Daniel Heatwole and/or James McCune
2 Constitution Drive, Suite 102
Virginia Beach, Virginia 23462
dheatwole@ripheat.com
jmccune@ripheat.com

With copy to:

Michael H. Nuckols
Attorney
Sands Anderson PC
222 Central Park Ave
Suite 1300
Virginia Beach, Virginia 23462
mnuckols@sandsanderson.com

B. All notices to the City required or permitted under this Agreement shall be given by mailing the notice by certified U.S. mail, postage prepaid, return receipt requested, to the City addressed to:

Steven Carter
City Manager
801 Crawford Street, 6th Floor
Portsmouth, Virginia 23704
steven.carter@portsmouthva.gov

With copy to:

Derek Challenger
City Attorney
801 Crawford Street, 6th Floor
Portsmouth, Virginia 23704
challengerd@portsmouthva.gov

C. Notwithstanding the foregoing, notice sent by electronic mail to a party's designated representative other than notice of termination under Paragraph 5 of this Agreement shall be deemed to have been made in accordance with this Agreement upon acknowledgement of receipt of the recipient.

26. **NONWAIVER**

The City's waiver or failure to enforce or require performance of any term or condition of this Agreement or the City's waiver of any particular breach of this Agreement by the Developer extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Agreement or a waiver of any other breaches of the Agreement by the Developer and does not bar the City from requiring the Developer to comply with all the terms and conditions of the Agreement and does not bar the City from asserting any and all rights and/or remedies it has or might have against the Developer under this Agreement or at law or in equity.

27. **NO COLLUSION**

The Developer represents and warrants that this Agreement has been awarded without collusion or fraud and it has not offered or received any kickbacks or inducements from any other offeror, supplier, or subcontractor in connection with its proposal, and that it has not conferred on any City employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged. Furthermore, the Developer acknowledges that the provisions, requirements, and prohibitions contained in Sections 2.2-4367 through 2.2-4377 of the Virginia Code, pertaining to bidders, offerors, contracts, and subcontractors, are applicable to this Agreement, as are the provisions, requirements, and prohibitions contained in Sections 2.2-3100 through 2.2-3131 of the Virginia Code.

28. **COMPLIANCE WITH ALL LAWS**

The Developer shall comply with all federal, state and local statutes, ordinances, and regulations, now in effect or hereafter adopted, in the performance of the Services. The Developer represents that it possesses all necessary licenses and permits required to conduct its business and will acquire any additional licenses and permits necessary for the performance of the Agreement prior to the initiation of the Project. If the Developer is a corporation, it further expressly represents that it is a corporation in good standing in the Commonwealth of Virginia and will remain in good standing throughout the term of the Agreement. The Developer shall at

all times observe all health and safety measures and precautions necessary for the sanitary and safe performance of the Project.

29. **AUDIT**

The Developer shall retain all books, records, and other documents relative to this Project for five (5) years after final payment. The City and its authorized agents may, at their option and expense, audit the Developer's records related to the Project at any time during the term of the Agreement or for a period of five (5) years thereafter. In such event, the Developer shall cooperate with City's auditor and provide the documentation the auditor deems necessary in a timely and organized manner and the Developer will be reasonably compensated for the costs associated with the audit. Auditors from the City and the Commonwealth of Virginia shall have full access to, and the right to examine, all such books, records, and other documents relative to this Agreement during said period. Upon request from the City, all such documents shall be turned over to the City.

30. **ASSIGNMENT OF CONTRACT**

Neither this Agreement nor the Developer's obligations under this Agreement may be assigned, delegated or transferred without the City's prior written consent, which consent may be withheld in the City's sole discretion.

31. **GOVERNMENTAL IMMUNITY**

Nothing contained in the Agreement is intended to waive, or shall be construed as a waiver of, the City's governmental immunity.

32. **ENTIRE CONTRACT; AMENDMENT**

This Agreement, including the exhibits hereto and the documents incorporated by reference, constitutes the entire and integrated agreement between the Parties. No representations, inducements, promises or agreements, oral or written, between the Parties not embodied herein shall be of any force or effect. No amendment to the Agreement shall be binding on any of the Parties unless such amendment is in writing and executed by the Parties.

{CITY HALL/GARAGE INTERIM AGREEMENT}

IN WITNESS WHEREOF, the City and the Developer have caused their authorized signatories to execute this Agreement on the dates set forth below.

DEVELOPER:

RHM Developers. LLC

By: 


Name: Daniel B. Heatwole

Title: Manager

Date: May 13, 2026

CITY:

City of Portsmouth, Virginia

By: 

Name: Steven Carter

Title: City Manager

Date: May 13, 2026

Approved as to Form:



Derek Challenger, City Attorney



April 21, 2026

Mr. Steven Carter
City Manager
City of Portsmouth
200 High Street, Suite 200
Portsmouth, Virginia 23704

**Re: Unsolicited PPEA Submission – City of Portsmouth City Hall and County Street
Parking Garage Replacement**

Manager Carter,

On behalf of our team, including Ripley Heatwole Company, meb., Clark Nexsen, Kimley Horn, and Stifel, we submit the enclosed fee schedule and timeline for the Interim Agreement stage of the PPEA Submission. The work outlined herein will move the project forward to allow for completion of 35% design, final pricing, and preliminary underwriting.

The proposed work is in accordance with the scope outlined as Design Option A, in our Unsolicited PPEA Submission dated June 27, 2025. This proposal has been updated based on changes to the project scope discussed during the meeting held on Friday, April 17, 2026. We look forward to collaborating with the City of Portsmouth on this transformational project.

Please do not hesitate to contact us if you should have any questions, or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel B. Heatwole', written in a cursive style.

Daniel B. Heatwole

Cc: Jeff Miller Portsmouth City Attorney's Office

Enclosure





Date: April 21 2028
Project: Portsmouth City Hall & County Street Parking Garage
Project Number: 330 - City of Portsmouth Fiscal Year 2026 Budget
Developer: Ripley Heatwole's Company
Contractor: meb
Design Partners: Clark Nexsen Kimley Horn
Underwriter: Stifel

	<u>Line</u>	<u>Item</u>	<u>Cost</u>
City Hall			
	1	Preconstruction (Scheduling, Budgeting, Meetings)	\$ 355,000.00
	2	Building Design (Architectural, Structural, MEP, FFE)	\$ 1,898,100.00
	3	Geotechnical Studies / Reports	\$ 22,000.00
	4	Title / Survey	included
Parking Garage			
	5	Preconstruction (Scheduling, Budgeting, Meetings)	\$ 62,500.00
	6	Geotechnical Studies / Reports	included
Civil			
	7	Civil Design (Environmental, Stormwater, Grading, Traffic, Landscaping)	\$ 380,000.00
Soft Costs			
	8	Legal (Interim Agreement)	included
	9	Project Management Software (Procore)	included
	10	Project Management	\$ 200,000.00
Total			\$ 2,915,600.00



April 20, 2026

Steven Carter
Portsmouth City Manager
Portsmouth City Hall
801 Crawford Street
Portsmouth, Virginia 23704
Email: manager@portsmouthva.gov

Reference: Interim Agreement 35% Design Proposal Portsmouth City Hall and Parking Garage

Dear Mr. Carter,

Attached please find our revised interim agreement proposal. Included in the revisions are your following requests:

- Move the City Hall Building east of the Parking Garage.
- Expand the City Hall Building footprint and move all public access departments below the 3rd floor.
- Reduce plaza concept and connect the City Hall Building and Parking Garage providing some direct access from the garage into the building. Consider ground floor retail in reduced plaza area.
- Programming 2025 study remains "95% "correct in scope with the addition of some areas for conference rooms, mother's room, mayor offices, IT data center, council member office, breakroom, studio space.

More specifically the department programming allocations to the floors were directed as follows:

- The first-floor department programming will contain City Council Chambers, dividable City Council Conference room w/AV broadcast, Treasurer, Commissioner of Revenue, Public Utilities (satellite office), loading dock receiving, storage, trash, security and reception desk.
- The second-floor department programming will contain remainder of Public Utilities / Billing, Registrar, Engineering, Planning/ Zoning, Permits/Inspections, City Assessor's office, dividable conference room.
- The third-floor department programming will include IT w/datacenter, Marketing & Communications w/ studio space, mail room, dividable conference room.
- The fourth-floor departments will include Finance, Purchasing, HR, dividable conference room, and a large Breakroom for up to 35 seats.
- The fifth-floor departments include City Manager's offices, City Attorney, City Clerk's office, Mayor offices, Flex offices for council members and dividable conference room.
- City milestone approvals of conceptual 10% design (Activity AD1) and site design (Activity C2) are critical to enclosed schedule.

These revisions result in an additional requirement of approximately 15,000 square feet to be allocated on floors 1 and 2 or other floors as the design progresses. The basis of design is in accordance with the provided in our detailed Unsolicited PPEA Proposal dated June 27, 2025.

Thank you for the opportunity to partner with the City of Portsmouth on this unique and exciting project.

Sincerely,

MEB General Contractors, Inc.


Mark F. Otmstead
Executive Vice President

Cc: Jeff Miller - City of Portsmouth

Enclosure: Interim Agreement Proposal for Portsmouth City Hall and Parking Garage
Schedule

Interim Agreement Design & Construction Cost of Portsmouth City Hall and Parking Garage

Project Highlights

- New City Hall to be 5 stories **106,000 SF** designed to meet the updated 2025 department programming layout with efficient back-of-house support areas.
- Includes new City Chambers with support spaces on the first floor.
- All departments requiring public access will be on the first two floors.
- New 730 space, 7 level parking garage, across plaza adjacent to the new City Hall. Design per Kimley Horn drawings and layout dated 6/28/2021. Garage fenestration can be modified if desired by the city of Portsmouth.
- The parking garage and building will be attached allowing building access directly from the garage.

Civil

- Utility plans & details - Storm Management, Sanitary, Water, Gas, Electrical
- Hydraulic stormwater computations
- Water quantity and quality plan
- Topography and Site Grading - existing survey to be provided by Owner
- Grading & Drainage Plan
- Demolition plan
- E&S plan
- Environmental Study
- Layout Plan - parking, project features, bldg layout, access, etc.
- Pavement design/sections/details
- Right of way work and traffic plan
- Entrance design
- Submission of initial plan for review/ response by City Planning Department
- Landscape Architecture hardscapes design & plantings

Design

- Architectural - exterior elevations and material selections, programming, floor plans, wall sections, roof plan
- Code analysis
- Structural Design- Steel design, steel member sizing, precast, concrete, masonry, foundation design
- Mechanical - including ductwork design, equipment capacity and model selection
- Plumbing - plumbing and drainage, roof drainage, plumbing equipment & fixture selection
- Electrical - lighting, one line diagram, service equipment selection, panel locations, coordination of Data/AV/Security empty raceways for Owner vendor
- Fire Protection & Alarm
- Interior Design, millwork & finish selection
- FFE layout
- LEED certified design

Preconstruction Services

- Scheduling, weekly internal meetings, Owner meetings, estimating, budget and cost control, project management
- Marketing assistance in community/public meetings
- Procore project website
- Geotechnical Report - drilling, samples and engineering analysis will be limited to the areas surrounding
- Surveying

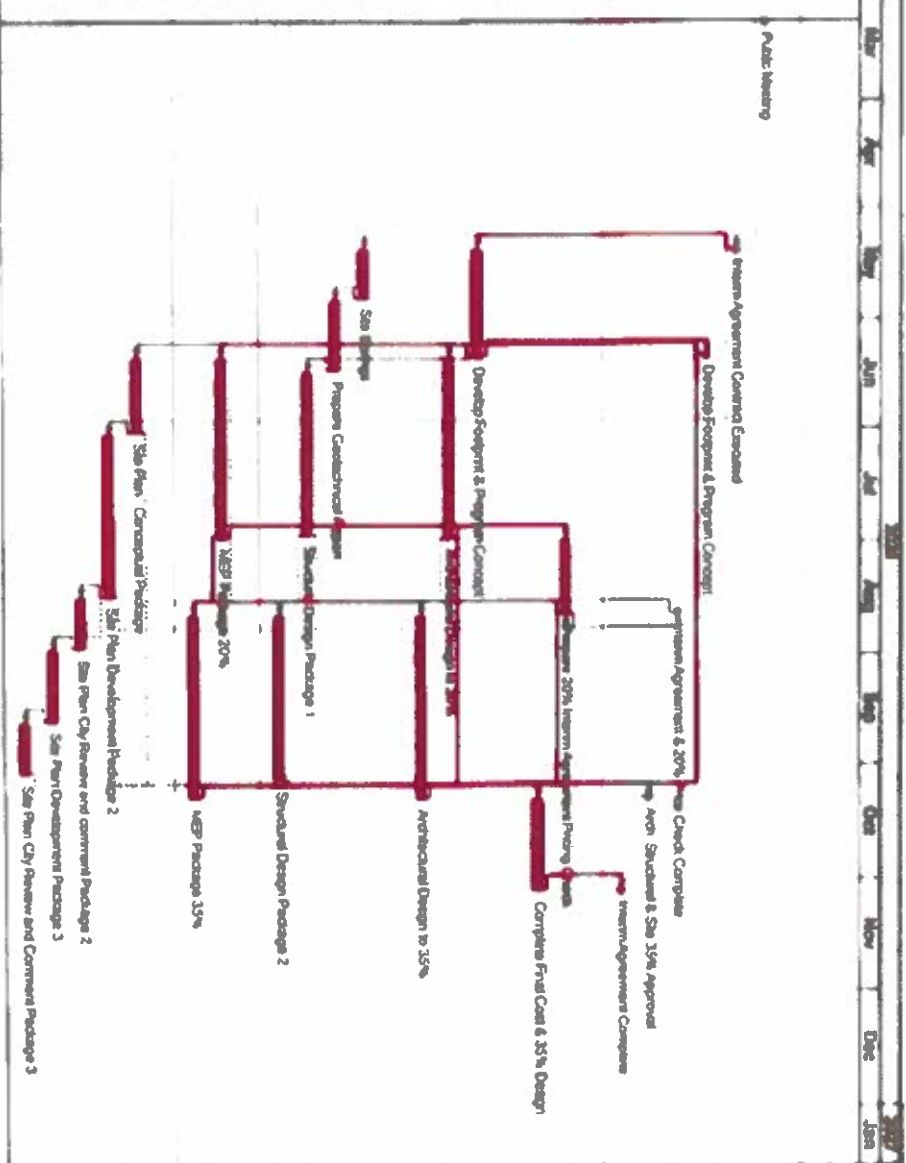
Total Interim Agreement Cost for 35% Documents \$ 2,715,600.00

Portsmouth City Hall & Parking Garage Interim Agreement Proposal		MEB General Contractors, Inc. 4/20/2026
Item	Description	Interim Agreement Total
1	Building - MEB Preconstruction	\$ 355,000.00
2	Building - CN Design Fees	\$ 1,896,100.00
3	Building - Geotech Fees interior of footprint	\$ 22,000.00
4	Parking Garage - MEB Preconstruction	\$ 62,500.00
5	Civil Design	\$ 380,000.00
6	Parking Garage - Geotech Fees	included
7	Survey/Layout	included
8	Project Management software	included
Total		\$ 2,715,600.00

- NOTES Per April 17 meeting negotiations
-
- 2 revised
 - 3 revised geotech to interior footprint
 - 6 included per item 3
 - 7 meb will rely on existing City provided survey 4-10-26
 - 8 will be provided at no cost to the City

Portsmouth City Hall and Parking Garage
Interim Agreement Schedule - Durations are in Calendar Days*

Act ID	Activity Description	Dur	Start	Finish	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Aug	Sep	Oct	Nov	Dec	Jan
Milestones																	
1	Proc Meeting	0	3-18-26	3-18-26													
2	Interim Agreement Contract Executed	0		5-12-26													
3	Develop Feasibility & Program Concept	0		6-18-26													
4	Interim Agreement & 20% Permit Check Complete	0		8-20-26													
5	App. Structural & Site 35% Approval	0		10-9-26													
6	Interim Agreement Complete	0		11-3-26													
Interim Agreement																	
A1	Prepare 20% Interim Agreement Permit Check	21	7-31-26	8-20-26													
A2	Complete Final Cost & 35% Design	25	10-18-26	11-3-26													
Architectural Design																	
A01	Develop Feasibility & Program Concept	30	5-12-26	6-18-26													
A02	Architectural Design to 20%	50	6-11-26	7-30-26													
A03	Architectural Design to 35%	50	8-21-26	10-6-26													
Structural Design																	
SD1	Site Borings	14	5-12-26	5-28-26													
SD2	Prepare Geotechnical Report	20	5-28-26	6-18-26													
SD3	Structural Design Package 1	45	6-15-26	7-29-26													
SD4	Structural Design Package 2	45	8-21-26	10-4-26													
MEP Design																	
MEP1	MEP Package 20%	50	6-11-26	7-30-26													
MEP2	MEP Package 35%	50	8-21-26	10-6-26													
Site Design																	
C1	Site Plan - Conceptual Package	21	6-11-26	7-1-26													
C2	Site Plan Development Package 2	45	7-2-26	8-15-26													
C3	Site Plan City Review and comment Package 2	14	8-16-26	8-28-26													
C4	Site Plan Development Package 3	20	8-30-26	9-18-26													
C5	Site Plan City Review and Comment Package 3	14	9-18-26	10-2-26													





Date: April 21, 2026
Project: Portsmouth City Hall & County Street Parking Garage
Project Number: 330 - City of Portsmouth Fiscal Year 2026 Budget
Developer: Ripley Heatwole Company
Contractor: meb
Design Partners: Clark Nexsen Kimley Horn
Underwriter: Sifsei

<u>Category</u>	<u>Item</u>	<u>Start Date</u>	<u>End Date</u>	<u>Duration</u>
1	City Council Workshop	February 9 2026	February 9 2026	0
2	City Council Meeting	March 10, 2026	March 10 2026	0
3	City Council Workshop	April 14, 2026	April 14 2026	0
4	City Council Meeting	May 12 2026	May 12, 2026	0
5	Interim Agreement Final zed	March 11 2026	May 12, 2026	62
6	Issue Design Notice to Proceed	May 12 2026	May 12, 2026	0
7	Design Concept Review (10% Plans)	May 12 2026	June 10, 2026	29
8	Design Review (20% Plans)	June 11 2026	August 20, 2026	70
9	Price Check (20% Plans)	July 31 2026	August 20, 2026	20
10	Site Plan Design & Submission	June 11 2026	October 2, 2026	113
11	Design Review (35% Plans)	August 21, 2026	October 9, 2026	49
12	Firm Pricing (35% Plans)	October 10 2026	November 3, 2026	24
13	Preliminary Underwriting	June 11 2026	November 3 2026	145
14	Interim Agreement Completed	May 12 2026	November 3, 2026	175