

RESOLUTION NO. 182

RESOLUTION OF THE BOARD OF MAYOR AND
ALDERMEN OF THE TOWN OF MOUNT CARMEL,
TENNESSEE, APPROVING PROPOSAL AND CONTRACT
WITH APAC-TENNESSEE, INC.

WHEREAS, Mount Carmel Municipal Code Section 1-401 provides the Board of Mayor and Aldermen with the authority to enter into contracts; and

WHEREAS, Mount Carmel Municipal Code 1-402 allows the Mayor to negotiate agreements and present same to the Board of Mayor and Aldermen for approval; and

WHEREAS, The Board of Mayor and Aldermen of the Town of Mount Carmel, Tennessee, believe it to be in the best interest of the citizens of Mount Carmel to enter into contract with the APAC-Tennessee, Inc., which provides for resurfacing of Independence Avenue and Redwood/McCracken - Eastern End; and

WHEREAS, The contract which is attached to this Resolution should be approved the public health and welfare requiring it; and

WHEREAS, The Board of Mayor and Aldermen pursuant to Mount Carmel Municipal Code 1-403 authorize and direct that the Mayor do all things necessary to validate and make said contract legally binding; and


NOW, THEREFORE, BE IT RESOLVED, by the Board of Mayor and Aldermen of the Town of Mount Carmel, Tennessee, as follows:

Section 1. The contract attached hereto between the Town of Mount Carmel, Tennessee, and the APAC- Tennessee, Inc. is approved;

Section 2. The Mayor is directed and authorized to do all things necessary to validate and make the above-noted contract and agreement legally binding;

Section 3. This Resolution shall take effect upon its passage the public welfare requiring it.

Duly passed and approved this 27 day of May, 1999.


JAMES L. DEAN, Mayor

ATTEST:


NANCY F. CARTER, Recorder

APPROVED AS TO FORM:


LAW OFFICE OF MICHAEL A. FAULK

FIRST READING	AYES	NAYS	OTHER
WAYNE ALLEY			
HENRY BAILEY	✓		
EUGENE CHRISTIAN	✓		
JAMES DEAN, MAYOR	✓		
GARY LAWSON			
THOMAS WHEELER	✓		
CARL WOLFE	✓		
TOTALS	5	0	0

PASSED FIRST READING: 5-27-1999



Mike Faulk

APAC - Tennessee, Inc. • Kingsport Division

P.O. Box 686

Kingsport, Tennessee 37662

Phone: 423/288-3241 • Fax: 423/288-8712

PROPOSAL and CONTRACT

To: Town of Mt. Carmel

P. O. Box 1421

Mount Carmel, TN 37645

Effective Date: April 19, 1999

APAC-TENNESSEE, Inc. ("APAC") offers to furnish all labor, materials and equipment required for the performance of the following described work in connection with construction of improvements at Town of
Mt. Carmel, TN which property is owned by _____.

Description of Work and Price: APAC-Tennessee, Inc. will provide the following:

- A.) Independence
Place & Compact +/-2" Binder Course
Place & Compact +/-1.25" D Mix
LUMP SUM \$93,540.00
- B.) Redwood/McCracken - Eastern End
Place & Compact +/-2" D Mix
LUMP SUM \$44,319.00

TOTAL FOR "A & B": \$137,859.00

Unless the words "Lump Sum" appear next to an item at work, it is understood and agreed that the quantities referred to above are estimates only and that payment shall be made at the stated unit prices for actual quantities of work performed by APAC.

If this meets with your acceptance, including the terms and conditions on the back, kindly sign and return the copies of the proposal.

This proposal expires thirty (30) days from the effective date of this Proposal.

The person signing for you below represents that he or she is fully authorized to enter into this Agreement.

Federal I.D. No. _____

Social Security No. _____

ACCEPTED:

[Signature]
(Firm Name)
By: [Signature]
(Name and Title)
20 April 1999
(Date)

Very truly yours,

[Signature]
Name and Title
Mark Mullins, Estimator

TERMS AND CONDITIONS

Payment in full for all work performed hereunder during any month shall be made not later than the tenth (10th) day of the month next following. Final and complete payment for all work performed hereunder shall be made not later than fifteen (15) days after the completion of such work. Interest at the highest rate allowable under the laws of the in state which the work is done, or one and one half percent (1½%) per month, whichever is less, shall be charged and paid on all unpaid balances from the due date to the date we receive payment. Any monies paid to you for our work shall be held in trust for our benefit.

We shall not become obligated to perform the work called for under this Proposal and Contract until we check and approve your credit. This Proposal and Contract shall be null and void if your credit is not approved. If credit conditions become unsatisfactory at any time prior to our completion of the work hereunder, you will furnish adequate security upon our request.

This document is the full agreement between us, regardless of any prior proposals or communications. Any deviations from the specifications or modification of the terms of this contract and any extra or incidental work, or reductions in work, shall be set forth in writing and signed by both parties prior to the making of such change. We will be compensated for any increase in our costs caused by such change, on the basis of the increase plus ten percent(10%) profit. If a time is set for the performance of work, and if, in our judgment, such change or other circumstances beyond our reasonable control will increase the time necessary for our performance, we will be granted a reasonable extension of time.

We will provide and pay for Worker's Compensation, General Liability and Property Damage Insurance. You agree to carry General Liability and Property Damage Insurance sufficient to protect yourself against any and all claims and liabilities arising from the performance of the work, including but not limited to claims arising under your agreement to indemnify and hold us harmless under this contract.

We shall be provided with suitable access to the work area. If our work is dependent upon or must be undertaken in conjunction with the work of others, such work shall be so performed and completed as to permit us to perform our work hereunder in a normal uninterrupted single shift operation.

Unless a time for the performance of our work is specified, we shall undertake it in the course of our normal operating schedule. We shall not be liable for any failure to undertake to complete, and may suspend, the work for causes beyond our reasonable control, including but not limited to fire, flood or other casualty; the presence on or beneath the work site of utilities, facilities, substances, or objects, including but not limited to any substance that in our opinion is hazardous or toxic or the reporting, remediation, or clean-up of which is required by any law or regulation (together "subsurface conditions"); labor disputes or other disagreements; and accidents or other mishaps, whether affecting this work or other operations in which we are involved, directly or indirectly.

If for causes beyond our reasonable control our work is not completed within twelve (12) months after the date of your acceptance of the proposal, we may cancel this agreement at any time thereafter on ten (10) days notice. In such event (i) we shall be relieved of any further obligation with respect to the balance of the work; and (ii) we shall be entitled to receive final and complete payment for all work performed by us to the date of cancellation within fifteen (15) days thereafter.

We shall not be responsible for, and you agree to indemnify and hold us harmless from, any suit, claim, liability, cost or expense arising from or in any way related to: sidewalks, driveways or other improvements located within our work area or designated areas of access, and to adjacent property and improvements; subsurface conditions; and any and all other alleged damages to persons or property, including but not limited to personal injury and death, arising from the performance of the work, unless such alleged damages arise from our sole negligence. You further agree to indemnify and protect us and save us harmless from any and all loss, damage, costs, expenses and attorney's fees suffered or incurred on account of your breach of any obligations and covenants of this contract. It is further understood that we shall not be responsible for any damage to or deterioration of any of our work, whether completed or in process, resulting from any cause or causes beyond our reasonable control, including but not limited to failure of subgrade or other subsurface conditions, or failure or inadequacy of any labor or materials not furnished and installed by us, whether or not such failure or inadequacy was or could have been known at the time our work was undertaken. You agree that the proper jurisdiction and venue for adjudication concerning this contract is _____ County, _____, and you waive any right to jurisdiction and venue in any other place.