



AGENDA

BOARD OF MAYOR AND ALDERMEN WORK SESSION

**Monday, May 20, 2019, 4:30 p.m.
City Hall, 225 W. Center St., Council Room, 2nd Floor**

Board of Mayor and Aldermen

Mayor John Clark, Presiding
Vice Mayor Mike McIntire
Alderman Jennifer Adler
Alderman Joe Begley

Alderman Betsy Cooper
Alderman Colette George
Alderman Tommy Olterman

Leadership Team

Jeff Fleming, City Manager
Chris McCartt, Assistant City Manager for Administration
Ryan McReynolds, Assistant City Manager for Operations
J. Michael Billingsley, City Attorney
Sid Cox, City Recorder/Chief Financial Officer

Scott Boyd, Fire Chief
David Quillin, Police Chief
George DeCroes, Human Resources Director
Heather Cook, Marketing and Public Relations Director

1. Call to Order
2. Roll Call
3. Review of Items on May 21, 2019 Business Meeting Agenda
4. Adjourn

Next Work Session, June 3: KEDB / NETWORKS

Citizens wishing to comment on agenda items please come to the podium and state your name and address. Please limit your comments to five minutes. Thank you.

BMA Report, May 20, 2019



Kingsport Employee Wellness, George DeCroes

	01/01/2019 – 4/30/2019	05/01/2019 – 05/14/2019
Total Utilization	93.9%	94.5%
City – Active Employees	60.7%	58.4%
City – Dependents	31.5%	30.0%
City – Retirees	2.0%	1.4%
Extended-Patient Services/Other	0.4%	2.8%
Work Comp	0.2%	0.0%
No Show	5.2%	7.4%

Worker's Compensation, Terri Evans

For the month of April 2019, the city had eleven (11) recordable worker's compensation claims that involved lost time or restricted duty. Of the eleven (11) claims involved seven (7) were restricted duty and four (4) were lost time.

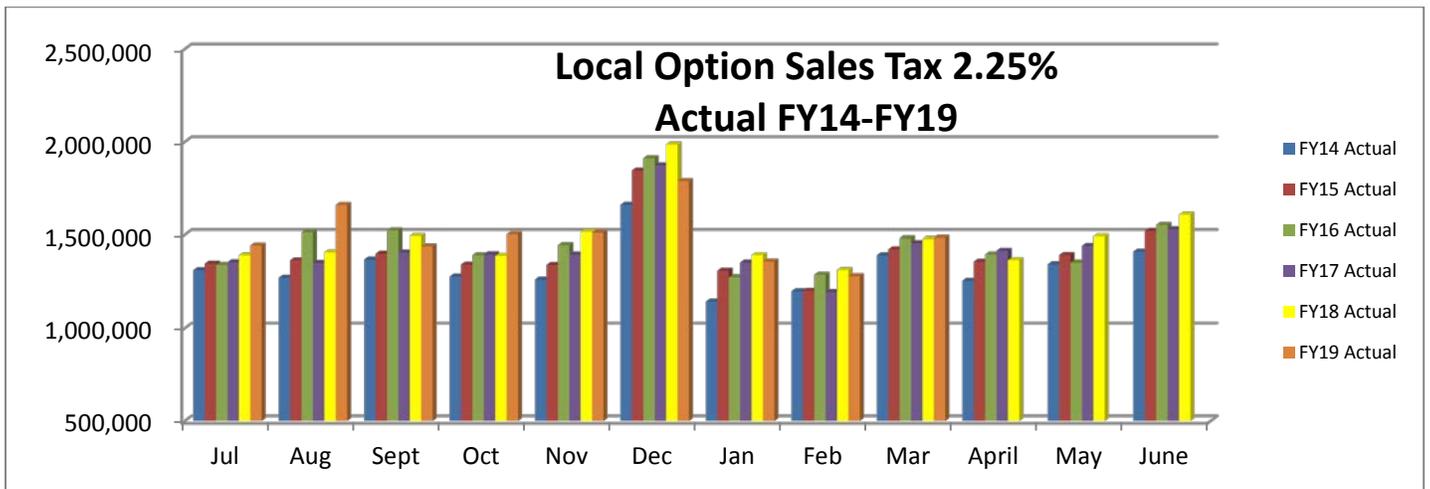
BMA Report, May 20, 2019



Financial Comments – Judy Smith

Local Option Sales Tax 2.25% - Five Year History

	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual	FY18 Actual	FY19 Actual	Adopted	Variance		% of Growth	
							FY19 Budget	FY19 Over/ Under Budget	FY19 Over/Under Prev. Year Actual	FY19 Over/Under Prev. Year Actual	FY19 Over/ Under Budget
Jul	\$ 1,312,286	\$ 1,346,896	\$ 1,341,027	\$ 1,354,948	\$ 1,392,147	\$ 1,444,727	\$ 1,432,701	\$ 12,026	\$ 52,580	3.78%	0.84%
Aug	\$ 1,271,614	\$ 1,365,262	\$ 1,513,366	\$ 1,351,703	\$ 1,408,119	\$ 1,660,189	\$ 1,488,256	\$ 171,933	\$ 252,070	17.90%	11.55%
Sept	\$ 1,369,878	\$ 1,401,017	\$ 1,523,474	\$ 1,407,707	\$ 1,493,952	\$ 1,440,056	\$ 1,517,534	\$ (77,478)	\$ (53,896)	-3.61%	-5.11%
Oct	\$ 1,278,027	\$ 1,342,308	\$ 1,392,699	\$ 1,397,511	\$ 1,389,451	\$ 1,503,032	\$ 1,449,212	\$ 53,820	\$ 113,581	8.17%	3.71%
Nov	\$ 1,261,963	\$ 1,340,457	\$ 1,446,687	\$ 1,396,643	\$ 1,515,210	\$ 1,510,894	\$ 1,495,411	\$ 15,483	\$ (4,316)	-0.28%	1.04%
Dec	\$ 1,661,378	\$ 1,845,794	\$ 1,911,650	\$ 1,873,531	\$ 1,985,601	\$ 1,788,766	\$ 1,991,377	\$ (202,611)	\$ (196,835)	-9.91%	-10.17%
Jan	\$ 1,143,685	\$ 1,309,305	\$ 1,274,292	\$ 1,353,575	\$ 1,392,917	\$ 1,358,902	\$ 1,377,116	\$ (18,214)	\$ (34,015)	-2.44%	-1.32%
Feb	\$ 1,198,993	\$ 1,201,182	\$ 1,287,536	\$ 1,194,890	\$ 1,312,713	\$ 1,280,154	\$ 1,325,780	\$ (45,626)	\$ (32,559)	-2.48%	-3.44%
Mar	\$ 1,392,759	\$ 1,424,090	\$ 1,481,645	\$ 1,457,518	\$ 1,477,699	\$ 1,484,980	\$ 1,535,585	\$ (50,605)	\$ 7,281	0.49%	-3.30%
April	\$ 1,255,243	\$ 1,357,635	\$ 1,396,651	\$ 1,416,452	\$ 1,366,099		\$ 1,457,999				
May	\$ 1,343,786	\$ 1,393,582	\$ 1,353,162	\$ 1,442,890	\$ 1,492,028		\$ 1,496,047				
June	\$ 1,411,977	\$ 1,520,599	\$ 1,552,713	\$ 1,529,681	\$ 1,608,149		\$ 1,567,722				
Total	\$ 15,901,589	\$ 16,848,127	\$ 17,474,902	\$ 17,177,049	\$ 17,834,085	\$ 13,471,701	\$ 18,134,740	\$ (141,271)	\$ 103,892	1.29%	-0.69%



City of Kingsport

Project Status in Pictures

May 21, 2019



1 Lynn View Community Center

The new bleachers are being constructed and a border fence has been placed. Estimated project completion by end of June.

2 KATS Transit Center

The floor finishes and ceilings are complete. The furniture was delivered and landscaping continues.

3 Bloomington Culvert Replacement

Current work includes placement of the concrete footers/foundation on the upstream side of the culvert/bridge.

4 Waterline Replacement

Work is progressing in Sullivan Gardens area to replace waterlines. Currently, crews are working on Mill Creek Rd.

Status Updates on Active Projects sorted by Cost

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	Current Status
\$7,500,000.00	Ryan McReynolds	SR 347 (Rock Springs Road) [State & MTPo funded]	TDOT Managed, joint funded reconstruction of the State portion of Rock Springs Road	12/31/2020	Preliminary plans expected Summer 2019.
\$6,600,000.00	Niki Ensor	Water & Wastewater Facilities SCADA/Telemetry Project	Design and installation of SCADA/Telemetry system that will serve both water and sewer plants, sewer lift stations, water pump stations and boosters, along with monitoring in the distribution and collection systems.	4/1/2020	Received Bids on sewer portion of SCADA project on 2/19. Resolution to award bid to Frizzell Construction for \$2,888,300 on 3/19/19
\$4,400,000.00	Niki Ensor	WWTP Electrical Improvements	Design of wastewater treatment plant improvements. Project includes replacement of the Main Switchgear, Switchgear SB-1 and related equipment at the wastewater treatment plant.	5/1/2020	Received final plans and specifications. Tentative bid set for May.
\$4,186,000.00	Chris	New KATS Transit Center	Construction of a new KATS Transit Center on the former foundry property.	5/20/2019	Landscaping and sodding continues; exterior concrete steps poured and installed; truncated domes are being installed.
\$3,867,000.00	Chad Austin	Border Regions Sewer Extensions	Sewer extensions to serve the Border Regions Annexations in the vicinity of Tri-Cities Crossing and Fordtown Rd.	2/17/2020	Plans and easements have been submitted to the City's Water/Sewer Division for review. Contractor work required to validate depth of gas lines.
\$3,750,000.00	Niki Ensor	Chemical Feed Design	Design of WTP Chemical Feed improvements. Project will include new facilities for pre and post chemical feed and implementation of bulk bleach for disinfection.	11/1/2020	Awaiting proposal for final design and construction phase services. Funding included in FY20 CIP.
\$3,740,000.00	Niki Ensor	West Kingsport Forcemain and Pump Station Improvements	Elimination of Pendragon SLS (#120) with gravity. Rehab of West Kingsport SLS (#119) and installation of new forcemain to the WWTP.	6/1/2020	Bid opening 5/7/19.
\$3,300,000.00	Michael Thompson	Indian Trail Drive Extension	The extension of Indian Trail Drive to Eastman Road at the current Reedy Creek Road / Eastman Road intersection. The project includes a bridge over Reedy Creek and realigning Reedy Creek Road to tie into the new Indian Trail Drive Extension.	6/30/2021	Project has been put on hold indefinitely due to a stalemate in communication with the existing East Stone Commons property owner necessary to move forward. Funding to be used to progress other projects in the absence of FY19 & FY20 "Local Roads" funding.
\$2,380,000.00	Ryan McReynolds	City Hall Relocation - Phase 1	Renovations of floors 3 thru 6 for the consolidation of City offices to one location at 415 Broad Street.	12/31/2019	Plans have been submitted to City staff and the Building Department for review.
\$2,300,000.00	Ryan McReynolds	Justice Center Renovations	Renovations and expansion of Justice Center that will accommodate court space and county offices currently residing in City Hall.	12/31/2020	Cain Rash West has been meeting with KPD to access current and future needs. Continue to work on layouts to best utilize space and maintain functionality.

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$1,700,000.00	Michael Thompson	Main Street Rebuild	The reconstruction of Main Street from Sullivan Street to Clay Street. [City & MTPO Funded]	4/1/2020	MOU for AEP design and easements is being routed for signatures. Expect to have construction contract information for BMA consideration June 2019. Spring 2020 construction start anticipated.
\$1,074,738.00	Chad Austin	Phase 4 Water Improvements	Waterline replacement in Sullivan Gardens area on Ridge Road, Maplewood Street, Mill Creek Road, Clover Bottom Drive, Clearview Street, Creekmore Drive, and Rosemont Street.	2/16/2020	Water line installed on Mill Creek Road. Contractor to begin setup for testing phase next week.
\$1,044,000.00	Kitty Frazier	Kingsport Greenbelt Extension from Rotherwood Drive to Lewis Lane	This project will build an extension of the Kingsport Greenbelt walking and biking path west from the end of the current Greenbelt at Rotherwood Drive to Lewis Lane on West Stone Drive (State Route 1).	5/31/2024	Received Contract 5/10/2109. Expected BMA consideration 5/21/2019.
\$961,140.00	Michael Thompson	Stone Drive - Phase 2 (SR 1, US 11W) Sidewalk Improvements	Construction of sidewalk along Stone Drive from Stonebrook Place Pvt. Dr. to Lynn Garden Dr. [95% State Funded 5%]	8/31/2020	Working thru the requirements of the right of way process.
\$937,442.00	Kitty Frazier	Kingsport Greenbelt - Eastern Extension - Phase 1	New 1 mile long Greenbelt section from the 0.4 mile marker (bottom of the hill from Exchange Place) to Cleek Road. [Fed. Grant & City funded]	11/1/2019	Contractor expced to mobilize next week with signage, etc.
\$881,182.00	Schools	J Fred Johnson Stadium - Turf Replacement	The replacement of approximately 162,100 square feet of artificial grass surface at J Fred Johnson Stadium (football and baseball fields) and associated logos/markings. Work also includes the removal and offsite disposal of the existing artificial surfac	6/30/2019	The standard turf project is complete. Decals and custom color work will be completed after baseball season.
\$697,475.00	Michael Thompson	Stone Drive - Phase 1 (SR 1, US 11W) Sidewalk Improvements	Construction of sidewalk along Stone Drive from Stonebrook Place Pvt. Dr. to American Way where current sidewalk gaps exist. Includes work to make existing driveways ADA accessible. [95% State Funded 5% City]	12/7/2019	Working to finalize the right of way phase of this project.
\$577,000.00	Niki Ensor	Tri-County Tank Replacement Project	Replacement of 160,000 gallon steel water storage tank in Tri-County Pressure Zone, located on Big Ridge Rd.	7/1/2019	Week of 5/6 Cleaning weld seems and applying primer.
\$415,000.00	Chad Austin	SR 93- Fall Branch section (TDOT)	TDOT project to improve State Route 93 in the Fall Branch area. Impacted waterlines in this area will be are to be relocated as part of the TDOT project.	1/29/2021	TDOT Letting Date: 6/21/2019; Construction to begin mid- to late-July 2019
\$400,000.00	Ryan McReynolds	Wilcox Bridge (Wilcox Dr. & E. Sullivan St.)	Bridge re-painting and landscaping	11/1/2019	Advertise May 5th for bids. Bid opening May 29th.
\$391,711.50	David Edwards	Bloomington Culvert Replacement	Exist. double 7' x 7' box culvert is failing adjacent to Bloomington Dr. Project will be a replacement of the double box within the ROW and will create a separation from the private section of the culvert that extends downstream from Bloomington Dr.	7/1/2019	Footers and headwalls are being constructed.

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$373,871.00	Rob Cole	Bays Mountain Septic System Upgrades	Replacement of septic system at Bays Mountain Park with installation of sewer lift station and force main to base of park road to allow for more capacity.	5/31/2019	Installation of force main began the week of 4/30. Lift station is being installed by in-house crews.
\$352,000.00	Chad Austin	SR 93- Horse Creek/Derby Drive Section (TDOT)	TDOT project to improve State Route 93 in the Horse Creek/Derby Drive area. Project also includes improvements with the intersection with Derby Drive, along with a new bridge crossing Horse Creek. Impacted waterlines in this area will be are to be reloc	8/31/2022	TDOT "B Date" package due date pushed back to 5/28/2021; anticipated letting December 2021
\$262,770.00	Chris McCart	Lynn View Community Center Site Improvements Phase 2	New metal bleachers and two new pre-Engineered metal building for Electrical Room and Storage Building.	6/26/2019	Contractor is installing bleachers
	Niki Ensor	SLS Rehab and Replacement	Rehabilitation of SLS # 108 (Oak Glen Drive). Replacement of SLS #307 (Cooks Valley) and #308 (Lakeside Drive).	1/1/2020	Received drawings for review 12/21/18

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AGENDA

BOARD OF MAYOR AND ALDERMEN

BUSINESS MEETING

Tuesday, May 21, 2019, 7:00 p.m.
City Hall, 225 W. Center St., Courtroom, 2nd Floor

Board of Mayor and Aldermen

Mayor John Clark, Presiding
Vice Mayor Mike McIntire
Alderman Jennifer Adler
Alderman Joe Begley

Alderman Betsy Cooper
Alderman Colette George
Alderman Tommy Olterman

City Administration

Jeff Fleming, City Manager
Chris McCartt, Assistant City Manager for Administration
Ryan McReynolds, Assistant City Manager of Operations
J. Michael Billingsley, City Attorney
Sid Cox, City Recorder/Chief Financial Officer
David Quillin, Police Chief
Scott Boyd, Fire Chief
George DeCroes, Human Resources Director
Heather Cook, Marketing and Public Relations Director

I. CALL TO ORDER

II.A. PLEDGE OF ALLEGIANCE TO THE FLAG – Led by New Vision Youth

II.B. INVOCATION – Minister Jonathan Hermes, St. Timothy's Episcopal Church

III. ROLL CALL

IV.A. RECOGNITIONS & PRESENTATIONS

1. Dobyns-Bennett High School Awards (Mayor Clark)
 - John Fulkerson, Sasha Neglia & Courtney Whitson
2. Public Works Week (Alderman Cooper)
3. Keep Kingsport Beautiful Beautification Awards (Alderman Olterman)

IV.B. APPOINTMENTS

1. Reappointments to the Regional Planning Commission (AF: 107-2019) (Mayor Clark)
 - Appointment

V. APPROVAL OF MINUTES

1. Work Session – May 6, 2019
2. Business Meeting – May 7, 2019
3. Budget Work Session – May 9, 2019

VI. COMMUNITY INTEREST ITEMS

AA. CITY MANAGER SELECTION

1. Appoint Christopher W. McCartt as City Manager for the City of Kingsport Subject to Acceptance of Memorandum of Understanding and Fix the Salary of the City Manager (AF: 114-2019) (Mayor Clark)
 - Resolution

A. PUBLIC HEARINGS

None

COMMENT

Citizens may speak on agenda items. When you come to the podium, please state your name and address and sign the register that is provided. You are encouraged to keep your comments non-personal in nature, and they should be limited to five minutes. A total of thirty minutes is allocated for public comment during this part of the agenda.

B. BUSINESS MATTERS REQUIRING FIRST READING

1. Amend the FY 2019 General Purpose School Fund Budget (AF: 108-2019) (David Frye)
 - Ordinance – First Reading
2. Amend the FY 2019 Schools Federal Projects Fund Budget (AF: 109-2019) (David Frye)
 - Ordinance – First Reading
3. Amend the FY 2019 School Special Projects Fund Budget (AF: 110-2019) (David Frye)
 - Ordinance – First Reading
4. Enter into Agreement with TDOT for West End Greenbelt Extension (AF: 111-2019) (Chris McCartt)
 - Ordinance – First Reading

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION

1. Budget Ordinance to Appropriate \$12,000.00 from the Tennessee Highway Safety Office (THSO) 2018-2019 Specialized Motorcycle Enforcement Grant (AF: 94-2019) (David Quillin)
 - Ordinance – Second Reading & Final Adoption
2. Enter into Agreement with TDOT for Island Road Improvements (AF: 97-2019) (Ryan McReynolds)
 - Resolution
 - Ordinance – Second Reading & Final Adoption
3. Budget Adjustment Ordinance for FY19 (AF: 96-2019) (Jeff Fleming)
 - Ordinance – Second Reading & Final Adoption
4. Ordinance to Amend the FY 2019 the General Purpose School Fund and the General Project Fund Budgets (AF: 105-2019) (David Frye)
 - Ordinance – Second Reading & Final Adoption

D. OTHER BUSINESS

1. Purchase MathXL Digital Courseware Licensing for Grades 8-12 from Pearson Education (AF: 117-2019) (David Frye)
 - Resolution
2. Approve Amendment Two to the Perkins & Will Professional Services Agreement for Architectural Services for the Dobyons-Bennett High School Science and Technology Center Project (AF: 115-2019) (David Frye)
 - Resolution
3. Purchase Foodservice Equipment for School Nutrition Services from Tri-Mark Strategic Equipment, Inc. Utilizing the Sourcewell Cooperative Purchasing Agreement (AF: 116-2019) (David Frye)
 - Resolution
4. Authorizing the Purchase of Chromebooks from FireFly Computers for 4th, 5th, 7th, and 8th Grade Students in the Kingsport City School System (AF: 118-2019) (David Frye, Scott Pierce)
 - Resolution

VII. CONSENT AGENDA

Withdrawn 5/20/19

- ~~1. Approve Purchasing Self-Contained Breathing Apparatus for the Fire Department (AF: 89-2019) (Scott Boyd, Barry Brickey)~~
 - ~~• Resolution~~
2. Execute the Annual Renewal of the Public Library Service Agreement with the Tennessee State Library and Archives for Services via Holston River Regional Library (AF: 121-2019) (Chris Markley)
 - Resolution

3. Reject All Bids for West Kingsport Pump Station & Force Main – Ridgefields Sanitary Sewer Project (AF: 112-2019) (Ryan McReynolds)
 - Resolution
4. Execute a Notice of Approval Pursuant to Notice of Land Use Restrictions (AF: 106-2019) (Mike Billingsley)
 - Resolution
5. Agreement between the City of Kingsport and MATE Inspiration for Innovation for Use of the Kingsport Aquatic Center (AF: 120-2019) (Chris McCartt)
 - Resolution

VIII. COMMUNICATIONS

- A. City Manager
- B. Mayor and Board Members
- C. Visitors

Citizens may speak on issue-oriented items. When you come to the podium, please state your name and address and sign the register that is provided. You are encouraged to keep your comments non-personal in nature, and they should be limited to five minutes.

IX. ADJOURN



AGENDA ACTION FORM

Reappointments to the Regional Planning Commission

To: Board of Mayor and Aldermen
 From: Jeff Fleming, City Manager *JF*

Action Form No.: AF-107-2019
 Work Session: May 20, 2019
 First Reading: N/A

Final Adoption: May 21, 2019
 Staff Work By: Commission
 Presentation By: Mayor Clark

Recommendation:

Approve reappointments.

Executive Summary:

It is recommended by the Regional Planning Commission to reappoint Paula Stauffer and Phil Rickman. This will be Ms. Stauffer's first full term as she has been fulfilling an unexpired term; Mr. Rickman's second term. If approved by the Board of Mayor and Aldermen the recommended table reflects term dates.

Terms are four years with no term limits. The commission is composed of nine (9) members; 1 Board of Mayor and Alderman Representative, 2 within the regional area outside the municipal boundary and 6 at-large members.

Current Commission				
Member	Eligibility	Term Expires	Appointed	Terms Served
Mike McIntire	BMA Rep.	Term of Ofc.	7/1/11	
Phil Rickman	At-large	5/31/19	5/5/15	1
Paula Stauffer	County Rep.	2/7/17	5/31/19	fulfilling unexpired term
Mark Selby	County Rep.	6/30/20	10/17/12	2
Pat Breeding	At-large	6/30/21	7/1/16	1
Sharon Duncan	At-large	6/30/21	2/16/16	1
Sam Booher	At-large	6/30/21	4/21/15	1
John Moody	At-large	6/30/20	7/23/13	2
Beverley Perdue	At-large	6/30/21	7/23/13	2

Recommended Commission				
Member	Eligibility	Term Expires	Appointed	Terms Served
Mike McIntire	BMA Rep.	Term of Ofc.	7/1/11	
Phil Rickman	At-large	6/30/23	5/5/15	2
Paula Stauffer	County Rep.	6/30/23	5/31/19	1
Mark Selby	County Rep.	6/30/20	10/17/12	2
Pat Breeding	At-large	6/30/21	7/1/16	1
Sharon Duncan	At-large	6/30/21	2/16/16	1
Sam Booher	At-large	6/30/21	4/21/15	1
John Moody	At-large	6/30/20	7/23/13	2
Beverley Perdue	At-large	6/30/21	7/23/13	2

Attachments:

None

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Oltman	—	—	—
Clark	—	—	—

Minutes of the Regular Work Session of the
Board of Mayor and Aldermen, City of Kingsport, Tennessee
Monday, May 6, 2019, 4:30 PM
Council Room – City Hall

PRESENT: Board of Mayor and Aldermen

Mayor John Clark

Vice-Mayor Mike McIntire

Alderman Jennifer Adler

Alderman Joe Begley

Alderman Betsy Cooper

Alderman Colette George

Alderman Tommy Olterman

City Administration

Jeff Fleming, City Manager

J. Michael Billingsley, City Attorney

Sidney H. Cox, City Recorder

1. **CALL TO ORDER:** 4:30 p.m. by Mayor John Clark.
2. **ROLL CALL:** By Deputy City Recorder Marshall.
3. **CITY MANAGER REPLACEMENT.** Assistant City Manager for Administration Chris McCartt presented his vision as city manager to the board members. He focused on the following five areas of importance: his relationship with the board, management of the city, economic development, education and quality of life. He provided details on his educational history, work experience and future goals for Kingsport. He answered questions from the board and then left the meeting at 5:50pm so the board could have further discussion.

Vice-Mayor McIntire listed many favorable qualities and recommended Mr. McCartt for this position. Alderman Begley stated he believed Chris would do a good job, but expressed concern that the process should be more inclusive. Alderman Adler stated there should be an open search process, even if it was limited and accelerated, noting it would make the candidate better and legitimize the process. Alderman George pointed out she has been involved with lots of hiring processes without selection and commenting on the last city manager hiring process. Alderman Cooper stated Chris has basically been involved in a five year interview that was his to lose at any point in time. Alderman Olterman commented Mr. McCartt was deserving of this position. Mayor Clark stated Kingsport is a unique city with unique needs. He stated City Manager Fleming was asked to implement a succession plan when he was appointed and he was in favor of supporting that plan. Several citizens in the audience also spoke in favor of McCartt. The Mayor stated that in light of this discussion that Mr. Fleming and Mr. Billingsley could move forward with a contract that the board could vote on at the May 21 BMA meeting.
4. **REVIEW OF AGENDA ITEMS ON THE MAY 7, 2019 REGULAR BUSINESS MEETING AGENDA.** City Manager Fleming and members of staff gave a summary or presentation for each item on the proposed agenda. No items were discussed at greater length or received specific questions or concerns.

**Minutes of the Regular Work Session of the Board of Mayor and Aldermen of
Kingsport, Tennessee, Monday, May 6, 2019**

5. **ADJOURN.** Seeing no other matters presented for discussion at this work session, Mayor Clark adjourned the meeting at 6:24 p.m.

ANGELA MARSHALL
Deputy City Recorder

JOHN CLARK
Mayor

Minutes of the Regular Business Meeting of the
Board of Mayor and Aldermen of the City of Kingsport, Tennessee
Tuesday, May 7, 2019, 7:00 PM
Large Court Room – City Hall

PRESENT:

Board of Mayor and Aldermen

Mayor John Clark, Presiding

Vice Mayor Mike McIntire

Alderman Jennifer Adler

Alderman Joe Begley

Alderman Betsy Cooper

Alderman Colette George

Alderman Tommy Olterman

City Administration

Jeff Fleming, City Manager

J. Michael Billingsley, City Attorney

Sidney H. Cox, City Recorder/Chief Financial Officer

I. **CALL TO ORDER:** 7:00 p.m., by Mayor John Clark.

II.A. **PLEDGE OF ALLEGIANCE TO THE FLAG:** Boy Scout Troop.

II.B. **INVOCATION:** Reverend Jack Edwards, Serving United Methodist Churches.

III. **ROLL CALL:** By City Recorder Cox. All Present.

IV.A. **RECOGNITIONS AND PRESENTATIONS.**

1. Drinking Water Week (Assistant City Manager for Operations Ryan McReynolds and Alderman Begley).

IV.B. **APPOINTMENTS/REAPPOINTMENTS.**

1. **Reappointment to the Kingsport Housing and Redevelopment Authority** (AF: 91-2019) (Mayor Clark).

Motion/Second: McIntire/George, to approve:

REAPPOINTMENT OF MR. LARRY ESTEPP TO SERVE A SECOND FIVE-YEAR TERM ON THE **KINGSPORT HOUSING AND REDEVELOPMENT AUTHORITY** EFFECTIVE IMMEDIATELY AND EXPIRING ON APRIL 30, 2024.

Passed: All present voting “aye.”

V. **APPROVAL OF MINUTES.**

Motion/Second: McIntire/Adler, to approve minutes for the following meetings:

- A. April 15, 2019 Regular Work Session
- B. April 16, 2019 Regular Business Meeting
- C. April 29, 2019 Called Work Session

Approved: All present voting “aye.”

Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, Tuesday, May 7, 2019

VI. COMMUNITY INTEREST ITEMS.

A. PUBLIC HEARINGS.

1. Annual Action Plan for Community Development (AF: 92-2019)
(Mark Haga).

PUBLIC COMMENT ON ITEM VI.A.1. None.

Motion/Second: George/McIntire, to pass:

Resolution No. 2019-172, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO RECEIVE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR FISCAL YEAR 2020 FROM THE UNITED STATES OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Passed: All present voting "aye."

PUBLIC COMMENT. Mayor Clark invited citizens in attendance to speak about any of the remaining agenda items. There being no one coming forward to speak, the Mayor closed the public comment segment.

B. BUSINESS MATTERS REQUIRING FIRST READING.

1. Budget Ordinance to Appropriate \$12,000.00 from the Tennessee Highway Safety Office (THSO) 2018-2019 Specialized Motorcycle Enforcement Grant (AF: 94-2019) (David Quillin).

Motion/Second: Adler/George, to pass:

AN ORDINANCE TO AMEND THE GENERAL PROJECT/SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE TENNESSEE HIGHWAY SAFETY OFFICE (THSO) FOR THE YEAR ENDING JUNE 30, 2019; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on first reading: All present voting "aye."

2. Budget Ordinance and Agreement with TDOT for Island Road Improvements (AF: 97-2019) (Ryan McReynolds).

Motion/Second: McIntire/Cooper, to pass:

AN ORDINANCE TO AMEND THE GENERAL PROJECT FUND BUDGET FOR THE YEAR ENDING JUNE 30, 2019; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on first reading: All present voting "aye."

3. Budget Adjustment Ordinance for FY19 (AF: 96-2019) (Jeff Fleming).

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, May 7, 2019**

Motion/Second: McIntire/George, to pass:

AN ORDINANCE TO AMEND VARIOUS PROJECTS FOR THE YEAR ENDING JUNE 30, 2019; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on first reading: All present voting “aye.”

**4. Ordinance to Amend FY19 General Purpose School Fund and
General Project Fund Budgets (AF: 105-2019) (David Frye).**

Motion/Second: McIntire/Cooper, to pass:

AN ORDINANCE TO AMEND THE GENERAL PURPOSE SCHOOL FUND AND THE
GENERAL PROJECTS FUND BUDGETS FOR THE FISCAL YEAR ENDING JUNE 30,
2019; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on first reading: All present voting “aye.”

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION. None.

D. OTHER BUSINESS.

**1. Approve Master Documents for the Flexible Spending Account
and Section 125 Cafeteria Plan (AF: 79-2019) (George DeCroes).**

Motion/Second: Adler/George, to pass:

Resolution No. 2019-173, A RESOLUTION ADOPTING A CITY OF KINGSPORT
MASTER DOCUMENT FOR THE SECTION 125 CAFETERIA PLAN AND A CITY OF
KINGSPORT MASTER DOCUMENT FOR THE CITY OF KINGSPORT FLEXIBLE
SPENDING ACCOUNT FOR THE MEDICAL REIMBURSEMENT AND DEPENDENT
CARE REIMBURSEMENT AND AUTHORIZING THE MAYOR TO SIGN BOTH
DOCUMENTS AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO
EFFECTUATE THE PURPOSE OF THE RESOLUTION

Passed: All present voting “aye.”

**2. Execute Agreement with BlueCross BlueShield of Tennessee,
Inc. (AF: 75-2019) (George DeCroes).**

Motion/Second: McIntire/George, to pass:

Resolution No. 2019-174, A RESOLUTION APPROVING AN AGREEMENT WITH
BLUECROSS BLUESHIELD OF TENNESSEE, INC. AS THE THIRD PARTY
ADMINISTRATOR FOR THE CITY OF KINGSPORT SELF-FUNDED HEALTH
INSURANCE PROGRAM AND AUTHORIZING THE MAYOR TO SIGN THE
AGREEMENT WITH BLUECROSS BLUESHIELD OF TENNESSEE, INC. AND ALL
DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF
THE AGREEMENT

Passed: All present voting “aye.”

Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, Tuesday, May 7, 2019

3. Bid Award for Purchase of One (1) Standard Cab Pickup Truck (AF: 98-2019) (Ryan McReynolds, Steve Hightower).

Motion/Second: George/Olterman, to pass:

Resolution No. 2019-175, A RESOLUTION AWARDDING THE BID FOR THE PURCHASE OF ONE STANDARD CAB PICKUP TRUCK TO WORLD WIDE FORD SALES AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

Passed: All present voting "aye."

4. Bid Award for Purchase of Copier Paper for FY20 (AF: 99-2019) (Chris McCartt).

Motion/Second: McIntire/Cooper, to pass:

Resolution No. 2019-176, A RESOLUTION AWARDDING THE BID FOR PURCHASE OF COPIER PAPER FOR FISCAL YEAR 2020 FOR USE BY THE CITY, INCLUDING THE CITY SCHOOLS, TO AMERICAN PAPER AND TWINE COMPANY AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME

Passed: All present voting "aye."

5. Extend Bid Award for Tire Recapping Services for FY20 (AF: 100-2019) (Ryan McReynolds, Steve Hightower).

Motion/Second: George/Adler, to pass:

Resolution No. 2019-177, A RESOLUTION RENEWING THE CONTRACT FOR PURCHASE OF TIRE RECAPPING SERVICES FOR FLEET MAINTENANCE FOR FISCAL YEAR 2020 TO THE GOODYEAR TIRE AND RUBBER COMPANY AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME

Passed: All present voting "aye."

6. Enter into Lease Agreement with Chris Bowen for Use of City Owned Property Located at 151 East Main Street (AF: 102-2019) (Chris McCartt).

Motion/Second: Cooper/Begley, to pass:

Resolution No. 2019-178, A RESOLUTION APPROVING A LEASE WITH CHRIS BOWEN AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

7. Bid Award for Purchase of One (1) Compact Track Excavator - Water Department (AF: 103-2019) (Ryan McReynolds, Steve Hightower).

Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, Tuesday, May 7, 2019

Motion/Second: George/McIntire, to pass:

Resolution No. 2019-179, A RESOLUTION AWARDDING THE BID FOR THE PURCHASE OF ONE COMPACT TRACK EXCAVATOR TO KUBOTA OF KINGSPORT AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

Passed: All present voting "aye."

8. Bid Award for Purchase of One (1) Compact Track Excavator - Stormwater Department (AF: 104-2019) (Ryan McReynolds, Steve Hightower).

Motion/Second: Adler/George, to pass:

Resolution No. 2019-180, A RESOLUTION AWARDDING THE BID FOR THE PURCHASE OF ONE COMPACT TRACK EXCAVATOR TO BOBCAT OF THE MOUNTAIN EMPIRE AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

Passed: All present voting "aye."

VII. CONSENT AGENDA. (*These items are considered under one motion.*)

Motion/Second: George/McIntire, to adopt:

1. Contract Between the City of Kingsport and the Tennessee Department of Transportation for Maintenance Activities Performed on Designated State Highways and for Mowing and Litter on John B. Dennis and I-26 (AF: 90-2019) (Ryan McReynolds).

Resolution No. 2019-181, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR FISCAL YEAR 2020 WITH THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR REIMBURSEMENT OF MAINTENANCE ACTIVITIES PERFORMED ON DESIGNATED STATE HIGHWAY ROUTES LOCATED IN THE KINGSPORT CITY LIMITS; TO EXECUTE A CONTRACT WITH THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR MOWING AND LITTER CONTROL ON JOHN B. DENNIS; AND EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENTS

Passed in a roll call vote: Clark, Adler, Begley, Cooper, George, McIntire and Olterman voting "aye."

2. Signature Authorization as Required by the Tennessee Highway Safety Office's 2018-2019 Specialized Motorcycle Enforcement Grant (AF: 93-2019) (David Quillin).

Resolution No. 2019-182, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SIGNATURE AUTHORITY CONSENT FORM AND OTHER DOCUMENTS NECESSARY AND PROPER TO THE TENNESSEE HIGHWAY SAFETY OFFICE DESIGNATING THE CHIEF OF POLICE AS THE MAYOR'S DESIGNEE TO EXECUTE

Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, Tuesday, May 7, 2019

GRANT REPORTS AND OTHER DOCUMENTS REQUIRED BY GRANTS FROM THE TENNESSEE HIGHWAY SAFETY OFFICE

Passed in a roll call vote: Clark, Adler, Begley, Cooper, George, McIntire and Olterman voting “aye.”

3. Apply for and Receive a DOJ-Office of Justice Programs’ Bureau of Justice Assistance Bulletproof Vest Partnership (BVP) Reimbursement Grant (AF: 95-2019) (David Quillin).

Resolution No. 2019-183, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE A DEPARTMENT OF JUSTICE – OFFICE OF JUSTICE PROGRAMS’ BUREAU OF JUSTICE ASSISTANCE BULLETPROOF VEST PARTNERSHIP (BVP) REIMBURSEMENT GRANT

Passed in a roll call vote: Clark, Adler, Begley, Cooper, George, McIntire and Olterman voting “aye.”

4. Right-of-Way Easement with Kingsport Power Company (AF: 101-2019) (Ryan McReynolds).

Resolution No. 2019-184, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RIGHT-OF-WAY EASEMENT WITH KINGSFORT POWER COMPANY

Passed in a roll call vote: Clark, Adler, Begley, Cooper, George, McIntire and Olterman voting “aye.”

VIII. COMMUNICATIONS.

A. CITY MANAGER. None.

B. MAYOR AND BOARD MEMBERS. Alderman Olterman commented on the Dobyys Bennett baseball game and wished a happy nurses’ week to all nurses, especially his wife. Alderman George stated early voting had begun in Blountville and would at the Civic on Thursday. She also noted the Farmers Market was now open. Alderman Adler mentioned Kingsport Theatre Guild would be performing 9 to 5 the next two weekends and also at the Boys and Girls Club Gala on Saturday. She also commented on the “20 under 20” awards given last week by Streamworks and the summer camps they are providing as well. Vice-Mayor McIntire commented on the Cybertribe competition and also mentioned the high ACT rankings from Dobyys Bennett in the state. He noted Dr. Nolan would be staying at ETSU, pointing out he is an asset to the region and a friend to Kingsport. Lastly he invited everyone to Public Works Day on Friday, May 24 from 10:00 am to 2:00 pm at the Farmers Market. Mayor Clark commented on Dobyys Bennett and noted Streamworks would be having an open house on Wednesday at 5:30 pm.

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, May 7, 2019**

C. VISITORS. Mr. Tim Sanders commented on the streets and Ms. Crystal Reagan commented the protest at the hospital.

D. EMERGENCY PURCHASE FOR WWTP. Assistant City Manager for Operations Ryan McReynolds gave details on this item, noting it was for \$280,000 to repair sewer flooding and there was no adverse impact.

IX. ADJOURN. Seeing no other business for consideration at this meeting, Mayor Clark adjourned the meeting at 7:45 p.m.

ANGELA MARSHALL
Deputy City Recorder

JOHN CLARK
Mayor

Minutes of the Called Work Session of the
Board of Mayor and Aldermen, City of Kingsport, Tennessee
Thursday, May 9, 2018, 3:00 PM
Council Room – City Hall

PRESENT: Board of Mayor and Aldermen

Mayor John Clark

Vice Mayor Mike McIntire

Alderman Jennifer Adler

Alderman Joe Begley

Alderman Betsy Cooper

Alderman Colette George

Alderman Tommy Olterman

City Administration

Jeff Fleming, City Manager

J. Michael Billingsley, City Attorney

Sid Cox, City Recorder

1. **CALL TO ORDER:** 2:00 p.m. by Mayor Clark.
2. **ROLL CALL:** By Deputy City Recorder Angie Marshall.
3. **REVIEW OF FY 2019-2020 BUDGET & CIP.**
Dr. Jeff Moorhouse, Superintendent of Kingsport City Schools and Mr. David Frye, Chief Finance Officer presented the school budget and answered questions. Assistant City Manager for Operations Ryan McReynolds then presented the proposed utilities budget. Discussion ensued until 3:07 p.m. when the board took a brief recess. At 3:18 p.m., City Manager Fleming presented the general fund budget. Some discussion followed but the board determined they would not need the second budget work session that was scheduled for next Tuesday.
4. **ADJOURN.** Seeing no other matters presented for discussion at this work session, Mayor Clark adjourned the meeting at 4:05 p.m.

ANGELA MARSHALL
Deputy City Recorder

JOHN CLARK
Mayor



AGENDA ACTION FORM

Appoint Christopher W. McCartt as City Manager for the City of Kingsport Subject to Acceptance of Memorandum of Understanding and Fix the Salary of the City Manager

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager 

Action Form No.: AF-114-2019
Work Session: May 20, 2019
First Reading: N/A

Final Adoption: May 21, 2019
Staff Work By: Mike Billingsley
Presentation By: Mayor Clark

Recommendation:

Approve a resolution to appoint Christopher W. McCartt as City Manager and fix the salary.

Executive Summary:

Article VI, section 1 of the City Charter states,

The board of mayor and alderman shall appoint and fix the salary of the city manager who shall hold office at the pleasure of the board.

Assistant City Manager McCartt has been an employee of the City since 1997 and has served in various capacities of increasing responsibility. He has served under City Manager Jeff Fleming for five years as Assistant City Manager for Administration. Mr. McCartt is the individual the board has determined to appoint as City Manager effective June 22, 2019 and fix the salary and benefits for him at the amount set out in the agreed memorandum of understanding. The appointment is subject to his acceptance.

Attachments:

- 1. Resolution

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPOINTING CHRISTOPHER W. MCCARTT AS CITY MANAGER AND AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WHICH INCLUDES FIXING THE SALARY AND BENEFITS OF THE CITY MANAGER AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, current City Manager Tilden J. Fleming has announced his retirement June 21, 2019; and

WHEREAS, after discussion by the board, it was proposed that Christopher W. McCartt be appointed as city manager, effective with the retirement of City Manager Fleming; and

WHEREAS, a Memorandum of Understanding, agreed to by Mr. McCartt, that among other things fixes the salary and benefits of the city manager, a copy of which has been provided to the board.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That Christopher W. McCartt is appointed city manager effective June 22, 2019.

SECTION II. That the board desires to outline the general terms of employment and, accordingly, the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a Memorandum of Understanding fixing the salary and benefits of the city manager, a copy of which has been provided to the board, and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the memorandum or this resolution.

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the Memorandum of Understanding that do not substantially alter the material provisions of the memorandum, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



AGENDA ACTION FORM

Amend the FY 2019 General Purpose School Fund Budget

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager *AF*

Action Form No.: AF-108-2019
Work Session: May 20, 2019
First Reading: May 21, 2019

Final Adoption: June 4, 2019
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:
Approve the Ordinance.

Executive Summary:

The Board of Education approved fiscal year 2019 budget amendment number four at their meeting on May 14, 2019. This amendment increases the General Purpose School Fund budget by \$9,350. This increase is due to grants received at various schools from the Tennessee Arts Commission for ticket subsidies. There are also some miscellaneous self-balancing transfers for various schools and departments.

Attachments:

1. Ordinance
2. BOE Budget Amendment Number Four – FY 2019

Funding source appropriate and funds are available: *js*

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

ORDINANCE NO. ****

AN ORDINANCE TO AMEND THE FY 2018-19 GENERAL
PURPOSE SCHOOL FUND BUDGET; AND, TO FIX THE
EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the General Purpose School Fund budget be amended to ratify the Kingsport Board of Education approval of Budget Amendment Number four to increase the estimated revenue for Other State Grants \$9,350. The expenditure budget will be changed by increasing the appropriations for Adams-Library Books by \$1,784; the appropriation for Lincoln-Instructional Supplies and Materials by \$2,500; the appropriation for Roosevelt Library Books by \$694; the appropriation for Cora Cox-Staff Development by \$300; the appropriation for Cora Cox Awards and Dues by \$700; the appropriations for Adams, Jackson, Johnson, Lincoln, Roosevelt, and Washington schools Principals Office Other Charges by \$9,350; and to decrease the appropriation for Adams-Audio Visual by \$1,784; the appropriation for Lincoln-Non Instructional Equipment by \$2,500; the appropriation for Roosevelt-Audio Visual by \$694; the appropriation for Cora Cox-Textbooks by \$1,000.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 141: School Fund			
Revenues:	\$	\$	\$
141-0000-338-6980 Other State Grants	0	9,300	9,350
Totals:	0	9,350	9,350

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Expenditures:			
	\$	\$	\$
141-7112-711-0433 Adams-Audio Visual	3,961	(1,784)	2,177
141-7212-781-0432 Adams-Library Books	7,100	1,784	8,884
141-7135-711-0429 Lincoln Instructional Supplies	23,660	2,500	26,160
141-7635-871-0790 Lincoln-Non Inst Equipment	7,947	(2,500)	5,447
141-7116-711-0433 Roosevelt-Audio Visual	2,110	(694)	1,416
141-7216-781-0432 Roosevelt-Library Books	3,256	694	3,950
141-7147-711-0449 Cora Cox-Textbooks	1,000	(1,000)	0
141-7247-781-0457 Cora Cox-Staff Development	1,000	300	1,300
141-7247-781-0599 Cora Cox-Awards and Dues	2,250	700	2,950
141-7212-801-0599 Adams-Prin Off-Other Chg	0	1,550	1,550
141-7220-801-0599 Jackson-Prin Off-Other Chg	0	1,600	1,600
141-7225-801-0599 Johnson-Prin Off-Other Chg	0	1,800	1,800
141-7235-801-0599 Lincoln-Prin Off-Other Chg	0	1,600	1,600
141-7216-801-0599 Roosevelt-Prin Off-Other Chg	0	1,600	1,600
141-7240-801-0599 Wash.-Prin Off-Other Chg	0	1,200	1,200
Totals:	52,284	9,350	61,634

SECTION II. That this Ordinance shall take effect from and after its date of passage, as the law direct, the welfare of the City of Kingsport, Tennessee requiring it.

JOHN CLARK, Mayor

ATTEST:

SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING:
PASSED ON 2ND READING:

May 14, 2019

KINGSPORT CITY SCHOOLS
FISCAL YEAR 2018-2019
BUDGET AMENDMENT NUMBER FOUR

GENERAL PURPOSE SCHOOL FUND

ITEM ONE: STUDENT TICKET SUBSIDY GRANT

Adams, Jackson, Johnson, Lincoln, Roosevelt, and Washington schools have each received a grant from the Tennessee Arts Commission for student ticket subsidies. It is recommended that the estimated revenue for Other State Grants be increased by \$9,350 and that the appropriations for Principal's Other Charges be increased by \$9,350.

ITEM TWO: MISCELLANEOUS TRANSFERS

1. Adams Elementary School has requested to transfer \$1,784 from their Audio-Visual account to their Library Book account.
2. Lincoln Elementary has requested to transfer \$2,500 from their Non-Instructional Equipment account to their Instructional Supplies and Materials account.
3. Roosevelt Elementary has requested to transfer \$694 from their Audio-Visual account to their Library Book account.
4. Cora Cox Academy has requested to transfer \$1,000 from their Textbook account to their Staff Development account (\$300) and to their Awards and Dues account (\$700).

It is recommended that these transfers be approved.

FEDERAL PROJECTS FUND

The estimated revenue and appropriations for the Federal Projects Fund are currently in the amount of \$4,172,432. This amount was based on estimates and information known at the time of initial approval and now needs to be adjusted to the actual amount of the grants. We have received a Trauma Informed Schools and CTE Perkins Reserve Consolidated grants for a total \$20,592. The Transition School to Work grant is being transferred from the School Special Projects fund. All of the other grants have been increased by a total of \$633,819.

The details of the changes are shown on the enclosed Schedule of Federal Projects. It is recommended that the estimated revenues and appropriations for the Federal Projects Fund be increased by \$952,011. This will make the revised estimated revenue and appropriation amounts \$5,124,443.

SCHOOL SPECIAL PROJECTS FUND

The estimated revenue and appropriations for active projects within the School Special Projects Fund are currently in the amount of \$1,348,005. The initial budgets for these grants were estimates based on previous year's information. We were awarded an additional \$188,350 in our Safe Schools Grant. We also received and Niswonger RURAL Life grant of \$126,724 and a Project Lead the Way grant for \$10,000. There is an increase to the Family Resource program of \$9,300 that is from local donations. The SPARK Afterschool Pilot was not funded this year. There were other decreases in the Homeless Education, Coordinated School Health and State Pre-School grants of \$7,570. There was a decrease of \$241,300 due transferring the Transition School to Work grant to the Federal Projects Fund.

The details of the changes are shown on the enclosed Schedule of School Special Projects. It is recommended that the estimated revenues and appropriations for the School Special Projects Fund be increased by the net amount of \$60,504. This will make the revised estimated revenue and appropriation amounts \$1,408,509.



AGENDA ACTION FORM

Amend the FY 2019 Schools Federal Projects Fund Budget

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager *af*

Action Form No.: AF-109-2019
Work Session: May 20, 2019
First Reading: May 21, 2019

Final Adoption: June 4, 2019
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:
Approve the Ordinance.

Executive Summary:
On May 14, 2019, the Board of Education approved an amendment to the FY 2018-2019 Schools' Federal Project Fund budget. This fund accounts for entitlement grants received from the federal government. The current budget is \$4,172,432, based on estimated amounts. There are three new grants and the estimates are being adjusted to actual amounts. There is a net increase for this budget of \$952,011. This makes the amended total \$5,124,443.

- Attachments:**
1. Ordinance
2. BOE Budget Amendment Number Four

Funding source appropriate and funds are available: *js*

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

PRE-FILED
CITY RECORDER

ORDINANCE NO. ****

AN ORDINANCE TO AMEND THE FY 2019 SCHOOL
FEDERAL GRANT PROJECTS FUND BUDGET; AND, TO
FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the FY 2019 School Federal Grant Projects Fund budget be amended by increasing/(decreasing) appropriations for Grant funds to the following Grant projects.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
ADMN19 Consolidated Administration	145,463	18	145,481
CPG019 Carl Perkins Grant	110,786	23,651	134,437
PRCN19 Carl Perkins Reserve Consolidated	0	19,392	19,392
PS1901 IDEA Pre-School	40,130	8,480	48,610
RTBR19 Read to be Ready Summer Program	74,323	15,677	90,000
TIS019 Trauma Informed Schools	0	1,200	1,200
TSW019 Transition School to Work Grant	0	297,600	297,600
T11901 Title I	1,822,673	88,839	1,911,512
T119N1 Title I Neglected	18,383	896	19,279
T21901 Title II	271,977	172,293	444,270
T31901 Title III	6,908	129	7,037
T41901 Title IV	49,187	85,511	134,698
T61901 IDEA Part-B	1,604,881	28,095	1,632,976
T619D1 IDEA Discretionary Supplemental	6,841	10	6,851
IDSE19 IDEA Discretionary	20,880	210,220	231,100
Totals:	4,172,432	952,011	5,124,443
<u>Expenditures:</u>	\$	\$	\$
Instruction	2,107,362	115,312	2,222,674
Support Services	1,841,029	625,422	2,466,451
Other Charges (Fund Transfers)	224,041	211,277	435,318
Totals:	4,172,432	952,011	5,124,443

SECTION II. That this Ordinance shall take effect from and after its date of passage, as the law direct, the welfare of the City of Kingsport, Tennessee requiring it.

JOHN CLARK, Mayor

ATTEST:

SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING:
PASSED ON 2ND READING:

May 14, 2019

KINGSPORT CITY SCHOOLS
FISCAL YEAR 2018-2019
BUDGET AMENDMENT NUMBER FOUR

GENERAL PURPOSE SCHOOL FUND

ITEM ONE: STUDENT TICKET SUBSIDY GRANT

Adams, Jackson, Johnson, Lincoln, Roosevelt, and Washington schools have each received a grant from the Tennessee Arts Commission for student ticket subsidies. It is recommended that the estimated revenue for Other State Grants be increased by \$9,350 and that the appropriations for Principal's Other Charges be increased by \$9,350.

ITEM TWO: MISCELLANEOUS TRANSFERS

1. Adams Elementary School has requested to transfer \$1,784 from their Audio-Visual account to their Library Book account.
2. Lincoln Elementary has requested to transfer \$2,500 from their Non-Instructional Equipment account to their Instructional Supplies and Materials account.
3. Roosevelt Elementary has requested to transfer \$694 from their Audio-Visual account to their Library Book account.
4. Cora Cox Academy has requested to transfer \$1,000 from their Textbook account to their Staff Development account (\$300) and to their Awards and Dues account (\$700).

It is recommended that these transfers be approved.

FEDERAL PROJECTS FUND

The estimated revenue and appropriations for the Federal Projects Fund are currently in the amount of \$4,172,432. This amount was based on estimates and information known at the time of initial approval and now needs to be adjusted to the actual amount of the grants. We have received a Trauma Informed Schools and CTE Perkins Reserve Consolidated grants for a total \$20,592. The Transition School to Work grant is being transferred from the School Special Projects fund. All of the other grants have been increased by a total of \$633,819.

The details of the changes are shown on the enclosed Schedule of Federal Projects. It is recommended that the estimated revenues and appropriations for the Federal Projects Fund be increased by \$952,011. This will make the revised estimated revenue and appropriation amounts \$5,124,443.

SCHOOL SPECIAL PROJECTS FUND

The estimated revenue and appropriations for active projects within the School Special Projects Fund are currently in the amount of \$1,348,005. The initial budgets for these grants were estimates based on previous year's information. We were awarded an additional \$188,350 in our Safe Schools Grant. We also received and Niswonger RURAL Life grant of \$126,724 and a Project Lead the Way grant for \$10,000. There is an increase to the Family Resource program of \$9,300 that is from local donations. The SPARK Afterschool Pilot was not funded this year. There were other decreases in the Homeless Education, Coordinated School Health and State Pre-School grants of \$7,570. There was a decrease of \$241,300 due transferring the Transition School to Work grant to the Federal Projects Fund.

The details of the changes are shown on the enclosed Schedule of School Special Projects. It is recommended that the estimated revenues and appropriations for the School Special Projects Fund be increased by the net amount of \$60,504. This will make the revised estimated revenue and appropriation amounts \$1,408,509.



AGENDA ACTION FORM

Amend the FY 2019 School Special Projects Fund Budget

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager *JF*

Action Form No.: AF-110-2019
Work Session: May 20, 2019
First Reading: May 21, 2019

Final Adoption: June 4, 2019
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:

Approve the Ordinance.

Executive Summary:

On May 14, 2019, the Board of Education approved an amendment to the FY 2018-2019 Schools' Special Project Fund budget. This fund accounts for State of Tennessee grants, competitive grants, and any other grants that may be received. The current budget for active projects is \$1,348,005 based on estimated amounts. There has been two new projects added, one project removed, and the estimates are being adjusted to actual amounts. There is a net increase for this budget of \$60,504. This makes the amended total \$1,408,509.

Attachments:

- 1. Ordinance
- 2. BOE Budget Amendment Number Four

Funding source appropriate and funds are available: *JF*

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

ORDINANCE NO. ****

AN ORDINANCE TO AMEND THE FY 2019 SCHOOL SPECIAL PROJECTS FUND BUDGET; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the FY 2019 School Special Projects Fund budget be amended by increasing/(decreasing) appropriations for Grant funds to the following Grant projects.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
ASPA19 Afterschool Physical Activity Pilot	25,000	(25,000)	0
CSH019 Coordinated School Health	100,000	0	100,000
FRC019 Family Resource Center	29,612	9,300	38,912
HAG019 Homeless Assistance	55,000	(4,500)	50,500
KTIP19 Kingsport Truancy Intervention	53,720	0	53,720
LIFE19 Niswonger Rural Life Grant	0	126,724	126,724
PK5119 Pre-K Expansion Grant System-Wide	583,875	(1,500)	582,375
PL1019 Project Lead the Way Grant-Sevier	0	10,000	10,000
RRCN19 Read to be Ready Coaching Network	10,000	0	10,000
SSA019 Safe Schools Act	29,970	188,350	218,320
STEM19 Summer STEM Camp	50,000	0	50,000
TSTW19 Transition School to Work	189,903	(189,903)	0
Transfer from General School Fund	220,925	(52,967)	167,958
Totals:	1,348,005	60,504	1,408,509
<u>Expenditures:</u>	\$	\$	\$
Instruction	627,978	16,747	644,725
Support Services	720,027	43,757	763,784
Non-Instructional Services	0	0	0
Capital Outlay	0	0	0
Other	0	0	0
Totals:	1,348,005	60,504	1,408,509

SECTION II. That this Ordinance shall take effect from and after its date of passage, as the law direct, the welfare of the City of Kingsport, Tennessee requiring it.

JOHN CLARK, Mayor

ATTEST:

SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING:
PASSED ON 2ND READING:

May 14, 2019

KINGSPORT CITY SCHOOLS
FISCAL YEAR 2018-2019
BUDGET AMENDMENT NUMBER FOUR

GENERAL PURPOSE SCHOOL FUND

ITEM ONE: STUDENT TICKET SUBSIDY GRANT

Adams, Jackson, Johnson, Lincoln, Roosevelt, and Washington schools have each received a grant from the Tennessee Arts Commission for student ticket subsidies. It is recommended that the estimated revenue for Other State Grants be increased by \$9,350 and that the appropriations for Principal's Other Charges be increased by \$9,350.

ITEM TWO: MISCELLANEOUS TRANSFERS

1. Adams Elementary School has requested to transfer \$1,784 from their Audio-Visual account to their Library Book account.
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3. Roosevelt Elementary has requested to transfer \$694 from their Audio-Visual account to their Library Book account.
4. Cora Cox Academy has requested to transfer \$1,000 from their Textbook account to their Staff Development account (\$300) and to their Awards and Dues account (\$700).

It is recommended that these transfers be approved.

FEDERAL PROJECTS FUND

The estimated revenue and appropriations for the Federal Projects Fund are currently in the amount of \$4,172,432. This amount was based on estimates and information known at the time of initial approval and now needs to be adjusted to the actual amount of the grants. We have received a Trauma Informed Schools and CTE Perkins Reserve Consolidated grants for a total \$20,592. The Transition School to Work grant is being transferred from the School Special Projects fund. All of the other grants have been increased be a total of \$633,819.

The details of the changes are shown on the enclosed Schedule of Federal Projects. It is recommended that the estimated revenues and appropriations for the Federal Projects Fund be increased by \$952,011. This will make the revised estimated revenue and appropriation amounts \$5,124,443.

SCHOOL SPECIAL PROJECTS FUND

The estimated revenue and appropriations for active projects within the School Special Projects Fund are currently in the amount of \$1,348,005. The initial budgets for these grants were estimates based on previous year's information. We were awarded an additional \$188,350 in our Safe Schools Grant. We also received and Niswonger RURAL Life grant of \$126,724 and a Project Lead the Way grant for \$10,000. There is an increase to the Family Resource program of \$9,300 that is from local donations. The SPARK Afterschool Pilot was not funded this year. There were other decreases in the Homeless Education, Coordinated School Health and State Pre-School grants of \$7,570. There was a decrease of \$241,300 due transferring the Transition School to Work grant to the Federal Projects Fund.

The details of the changes are shown on the enclosed Schedule of School Special Projects. It is recommended that the estimated revenues and appropriations for the School Special Projects Fund be increased by the net amount of \$60,504. This will make the revised estimated revenue and appropriation amounts \$1,408,509.



AGENDA ACTION FORM

Enter into Agreement with TDOT for West End Greenbelt Extension

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager

Action Form No.: AF-111-2019
Work Session: May 20, 2019
First Reading: May 21, 2019

Final Adoption: June 4, 2019
Staff Work By: Thompson/Frazier
Presentation By: Chris McCart

Recommendation:

Approve the Budget Ordinance.

Executive Summary:

This project consists of building an extension of the Greenbelt walking and biking path west from the end of the current Greenbelt at Rotherwood Drive to Lewis Lane on West Stone Drive.

The estimated total cost for all phases of this project is \$1,044,000, which will be funded 80% through Federal funds, and 20% Local funds. Currently, the Construction Phase is programmed to be funded with 100% Local funds but will be adjusted to reflect the actual 80% Federal / 20% Local ratio when either the City receives the Transportation Alternatives Grant from TDOT or the MPO's Surface Transportation Block Grant (STBG) program is amended this fall.

Therefore we request to enter into a Local Agency Project Agreement with TDOT for the West End Greenbelt Extension Project, and to also establish fund GP1927 for this project. It is requested, at this time, to fund the Local obligation for this project in the amount of \$20,000 by transferring funds from GP1617 (\$17,820), and GP1710 (\$2,180) into GP1927. This transfer funds the Local requirement for National Environmental Policy Act (NEPA), and Design phases.

Project Data: TDOT Agreement #: 190096; PIN: 128784.00; Federal Project #: STP-M-9108(50); State Project #: 82LPLM-F3-092.

Attachments:

1. Budget Ordinance
2. Agreement (23 pages)
3. Location Map

Funding source appropriate and funds are available:

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT
FUND BUDGET FOR THE YEAR ENDING JUNE 30, 2019;
AND TO FIX THE EFFECTIVE DATE OF THIS
ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the General Project Fund budgets be amended by appropriating \$835,200 KMTPO STBG Federal funds 80% by transferring \$17,820 from the Greenbelt Park Development project (GP1617) and by transferring \$2,180 from the Greenbelt Improvements (GP1710) to the West End Greenbelt Extension Project (GP1927) for the design phase. The local government construction phase funding will be transferred at a later date through the FY19-20 Capital Improvement Plan.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
<u>Fund 311: General Project Fund</u>			
<u>Greenbelt Prk Development (GP1617)</u>			
<u>Revenues:</u>			
311-0000-391-0100 From General Fund	\$ 17,867	\$ (17,820)	\$ 47
<i>Totals:</i>	17,867	(17,820)	47
<u>Expenditures:</u>			
311-0000-601-2022 Construction Contracts	\$ 17,618	\$ (17,571)	\$ 47
311-0000-601-2023 Arch/Eng/Landscaping	249	(249)	0
<i>Totals:</i>	17,867	(17,820)	47
<u>Fund 311: General Project Fund</u>			
<u>Greenbelt Improvements (GP1710)</u>			
<u>Revenues:</u>			
311-0000-368-1054 Series 2016 GO (Nov 4)	\$ 93,326	\$ (2,180)	\$ 91,146
311-0000-368-2101 Premium From Bond Sale	7,736	0	7,736
<i>Totals:</i>	101,062	(2,180)	98,882
<u>Expenditures:</u>			
311-0000-601-4041 Bond Sale Expense	\$ 1,062	\$ 0	\$ 1,062
311-0000-601-9001 Land	85,000	0	85,000
311-0000-601-9003 Improvements	15,000	(2,180)	12,820
<i>Totals:</i>	101,062	(2,180)	98,882

Fund 311: General Project Fund
West End Greenbelt Extension (GP1927)

Revenues:	\$	\$	\$
311-0000-337-9010 FTA/TN Section 5303 80%	0	835,200	835,200
311-0000-368-1054 Series 2016 GO (Nov 4)	0	2,180	2,180
311-0000-391-0100 From General Fund	0	17,820	17,820
Totals:	0	855,200	855,200

Expenditures:	\$	\$	\$
311-0000-601-2023 Ach/Eng/Landscaping	0	200,000	200,000
311-0000-601-9001 Land	0	115,200	115,200
311-0000-601-9003 Improvement	0	540,000	540,000
Totals:	0	855,200	855,200

SECTION II. That this Ordinance shall take effect from and after its date of passage, as the law direct, the welfare of the City of Kingsport, Tennessee requiring it.

 JOHN CLARK, Mayor

ATTEST:

 SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

 J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING:
 PASSED ON 2ND READING:

Agreement Number: 190096
Project Identification Number: 128784.00
Federal Project Number: STP-M-9108(50)
State Project Number: 82LPLM-F3-092
State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20__ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the CITY OF KINGSPORT (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

"Kingsport Greenbelt Extension, SR-1(US-11W, West Stone Drive) From Lewis Lane through the Exit Ramp to Netherland Inn Road. Netherland Inn Road From the SR-1 Exit Ramp to Rotherwood Drive"

A. PURPOSE OF AGREEMENT

A.1 Purpose:

- a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

- a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

a)

	Responsible Party	Funding Provided by Agency or Project.
Environmental Clearance by:	AGENCY	PROJECT
Preliminary Engineering by:	AGENCY	PROJECT
Right-of-Way by:	AGENCY	PROJECT
Utility Coordination by:	AGENCY	PROJECT
Construction by:	AGENCY	AGENCY

b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.

c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

B.2 Completion Date:

a) The Agency agrees to complete the herein assigned phases of the Project on or before **May 31, 2024**. If the Agency does not complete the herein described phases of the Project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.

B.3 Environmental Regulations:

- a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.
- b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.
- c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

- a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.
 - 1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.
- c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for

the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

- a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.
- b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.
- c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.
- d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

- a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if

the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

- c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.
- d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.
- e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

- a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

- a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.
- b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:
 - 1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.
 - 2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

B.9 Railroad

- a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

- a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

- b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.
- c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.
- b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.
- c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

- a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department

to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

- 1) **Misrepresentation:**
The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;
- 2) **Litigation:**
There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;
- 3) **Approval by Department:**
The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;
- 4) **Conflict of Interests:**
There has been any violation of the conflict of interest provisions contained herein in D.16; or
- 5) **Default:**
The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon

demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

- a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the “State Comprehensive Travel Regulations,” as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

- a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.
- b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

- a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be

made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

- a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

- a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

- a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

- a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

- a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting

entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

- b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

- a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

- a) **DBE Policy:**
It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.

b) **DBE Obligation:**

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

- a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

a) **Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

- 1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- 2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

- 3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
- 5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.
- 6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.
- 8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;
- 2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and
- 4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

- a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to

insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

- a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

- a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

- a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.
- b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of its subcontracts, the following provision:
 - 1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

- a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

- a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.
- b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

- a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.
- b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

- a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.
- b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

- a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.
- b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.
- c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the

Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

- a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

- a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.
- b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.
- c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

- a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

- a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

- a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.
- b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.
- c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.
- d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

- a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

- a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

- a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

- a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

- a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc
- b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

- a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

- a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

- a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

- a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.
 - 1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

- a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount	=	Open to Public and Vehicular Traffic
\$1.00 - \$200,000	=	5 Years
>\$200,000 - \$500,000	=	10 Years
>\$500,000 - \$1,000,000	=	20 Years

- b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

- a) **If the Project is funded with federal funds the following shall apply:** The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF KINGSPORT

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

By: _____ Date _____ By: _____ Date _____
John Clark **Clay Bright**
Mayor **Commissioner**

**APPROVED AS TO
FORM AND LEGALITY**

**APPROVED AS TO
FORM AND LEGALITY**

By: _____ Date _____ By: _____ Date _____
J. Michael Billingsley **John Reinbold**
Attorney **General Counsel**

EXHIBIT "A"

AGREEMENT #: 190096

PROJECT IDENTIFICATION #: 128784.00

FEDERAL PROJECT #: STP-M-9108(50)

STATE PROJECT #: 82LPLM-F3-092

PROJECT DESCRIPTION: Kingsport Greenbelt Extension, SR-1(US-11W, West Stone Drive) From Lewis Lane through the Exit Ramp to Netherland Inn Road. Netherland Inn Road From the SR-1 Exit Ramp to Rotherwood Drive. This project will build an extension of the Kingsport Greenbelt walking and biking path west from the end of the current Greenbelt at Rotherwood Drive to Lewis Lane on SR-1(West Stone Drive).

CHANGE IN COST: Cost hereunder is controlled by the Surface Transportation Block Grant Program funding available to or allocable to the Agency.

TYPE OF WORK: Bicycles and Pedestrian Facility

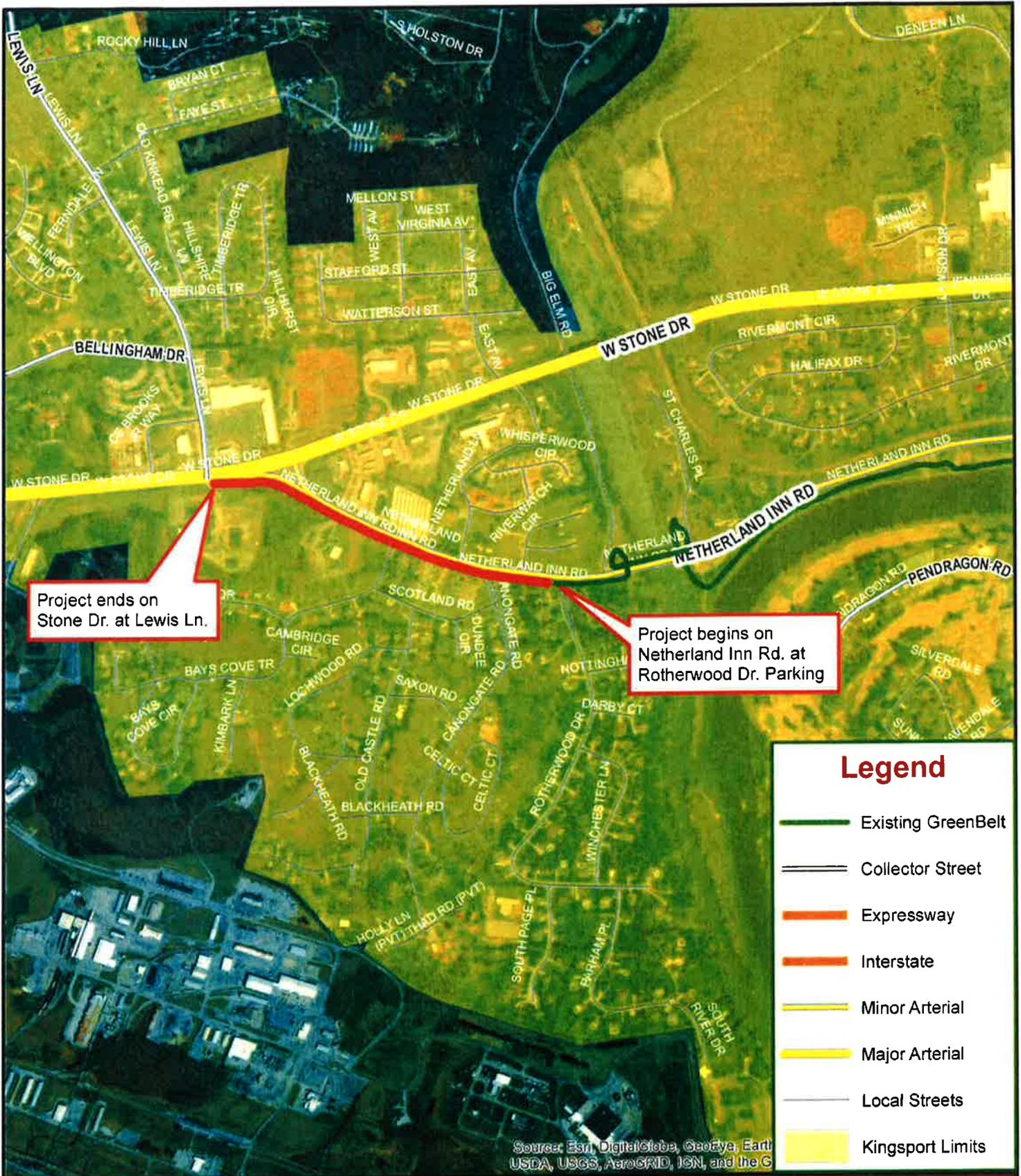
PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-NEPA	STBG	80	0	20	\$30,000.00
PE-DESIGN	STBG	80	0	20	\$70,000.00
RIGHT-OF-WAY	STBG	80	0	20	\$144,000.00
CONSTRUCTION	LOCAL	0	0	100	\$712,000.00
CEI	LOCAL	0	0	100	\$80,000.00
TDOT ES	LOCAL	0	0	100	\$8,000.00

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds following expenditure of the most recently approved TIP cost or if the use of said federal funds is ruled ineligible at any time by the Federal Highway Administration.

TDOT ENGINEERING SERVICES (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to ensure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction Inspection and Material and Testing Expenses (Quality Assurance Testing).

LEGISLATIVE AUTHORITY: STBG: 23 U.S.C.A, Section 133, Surface Transportation Block Grant Program funds allocated or subject to allocation to the Agency.

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.



Project Location Map
GREENBELT WESTERN EXTENSION
ROTHERWOOD DR. TO LEWIS LN.



Graphic Scale





AGENDA ACTION FORM

Budget Ordinance to Appropriate \$12,000.00 from the Tennessee Highway Safety Office (THSO) 2018-2019 Specialized Motorcycle Enforcement Grant

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager 

Action Form No.: AF-94-2019
Work Session: May 6, 2019
First Reading: May 7, 2019

Final Adoption: **May 21, 2019**
Staff Work By: Capt. Randall Gore
Presentation By: Chief David Quillin

Recommendation:

Approve the Budget Ordinance.

Executive Summary:

On April 2, 2019 via AF-63-2019, the Board of Mayor and Aldermen approved the Mayor executing any and all documents necessary to apply for and receive a Tennessee Highway Safety Office (THSO) specialized motorcycle enforcement grant. We have been notified that we were approved for \$12,000.00 in grant funds. The grant will be utilized to enforce motorcycle law violations through saturation patrols.

There are no matching fund requirements.

Attachments:

- 1. Budget Ordinance

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Budget Ordinance to Appropriate \$12,000.00 from the Tennessee Highway Safety Office (THSO) 2018-2019 Specialized Motorcycle Enforcement Grant

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager *af*

Action Form No.: AF-94-2019
Work Session: May 6, 2019
First Reading: May 7, 2019

Final Adoption: May 21, 2019
Staff Work By: Capt. Randall Gore
Presentation By: Chief David Quillin

Recommendation:

Approve the Budget Ordinance.

Executive Summary:

On April 2, 2019 via AF-63-2019, the Board of Mayor and Aldermen approved the Mayor executing any and all documents necessary to apply for and receive a Tennessee Highway Safety Office (THSO) specialized motorcycle enforcement grant. We have been notified that we were approved for \$12,000.00 in grant funds. The grant will be utilized to enforce motorcycle law violations through saturation patrols.

There are no matching fund requirements.

Attachments:

- 1. Budget Ordinance

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT/SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE TENNESSEE HIGHWAY SAFETY OFFICE (THSO) FOR THE YEAR ENDING JUNE 30, 2019; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the General Project/Special Revenue Fund budget be amended by appropriating funds received from the Tennessee Highway Safety Office in the amount of \$12,000 to the TN Highway Safety Motorcycle Enforcement Grant project (NC1907) to enforce motorcycle law violations through saturation patrols. No matching funds are required.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 111: General Project/Special Rev Fund			
TN Highway Safety Motorcycle Enf. Grant			
(NC1907)			
Revenues:	\$	\$	\$
111-0000-337-6010 Safety/Homeland Security	0	12,000	12,000
Totals:	0	12,000	12,000
Expenditures:	\$	\$	\$
111-0000-601-1011 Overtime	0	8,482	8,482
111-0000-601-1020 Social Security	0	918	918
111-0000-601-1030 Health Insurance	0	200	200
111-0000-601-1040 Retirement	0	2,000	2,000
111-0000-601-1050 Life Insurance	0	50	50
111-0000-601-1052 Long Term Disability	0	50	50
111-0000-601-1060 Workmen's Comp	0	200	200
111-0000-601-1061 Unemployment Ins.	0	100	100
Totals:	0	12,000	12,000

SECTION II. That this Ordinance shall take effect from and after its date of passage, as the law direct, the welfare of the City of Kingsport, Tennessee requiring it.

JOHN CLARK, Mayor

ATTEST:

ANGIE MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____



AGENDA ACTION FORM

Enter into Agreement with TDOT for Island Road Improvements

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager 

Action Form No.: AF-97-2019
Work Session: May 6, 2019
First Reading: May 7, 2019

Final Adoption: **May 21, 2019**
Staff Work By: Michael Thompson
Presentation By: Ryan McReynolds

Recommendation: Approve the Resolution and Budget Ordinance.

Executive Summary:

Island Road improvements involves the portion of Island Road from SR-126 (Memorial Boulevard) to the Kingsport City Limits. This project will realign Island Road to the southeast to improve vertical and horizontal roadway geometry for better traffic management and safety. The remaining unused portion of Island Road will be converted into a separated buffered multi use path connecting residential and commercial properties along the former roadway.

The estimated total cost for all phases of this project is \$3,500,000, which will be funded 80% through KMTPO STBG funding source (Federal funds); and the local government is responsible for the 20% matching share (estimated amount of \$700,000).

Therefore we request to enter into a Local Agency Project Agreement with TDOT for Island Road Improvements. It is requested, at this time, to fund this project in the amount of \$300,000; transferring funds from GP1615 311 0000 601 9001 to GP1926 311 0000 601 2023. This transfer will include funding for NEPA, Design, Right-of-Way, CEI, and TDOT ES phases. Local government construction phase funding will be at a later date through the Local Roads Capital Improvement Plan.

Project Data: TDOT Agreement #: 190070; PIN: 128742.00; Federal Project #: STP-M-9108(49); State Project #: 82LPLM-F3-088.

Attachments:

- 1. Resolution
- 2. Budget Ordinance
- 3. Agreement (23 pages)
- 4. Location Map

Funding source appropriate and funds are available: 

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Oiterman	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Budget Ordinance and Enter into Agreement with TDOT for Island Road Improvements

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager 

Action Form No.: AF-97-2019
Work Session: May 6, 2019
First Reading: May 7, 2019

Final Adoption: May 21, 2019
Staff Work By: Michael Thompson
Presentation By: Ryan McReynolds

Recommendation: Approve the Budget Ordinance.

Executive Summary:

Island Road improvements involves the portion of Island Road from SR-126 (Memorial Boulevard) to the Kingsport City Limits. This project will realign Island Road to the southeast to improve vertical and horizontal roadway geometry for better traffic management and safety. The remaining unused portion of Island Road will be converted into a separated buffered multi use path connecting residential and commercial properties along the former roadway.

The estimated total cost for all phases of this project is \$3,500,000, which will be funded 80% through KMTPO STBG funding source (Federal funds); and the local government is responsible for the 20% matching share (estimated amount of \$700,000).

Therefore we request to enter into a Local Agency Project Agreement with TDOT for Island Road Improvements, and to also establish and fund MPO19A for this project. It is requested, at this time, to fund this project in the amount of \$300,000; transferring funds from GP1615 311 0000 601 9001 to GP1926 311 0000 601 2023. This transfer will include funding for NEPA, Design, Right-of-Way, CEI, and TDOT ES phases. Local government construction phase funding will be at a later date through the Local Roads Capital Improvement Plan.

Project Data: TDOT Agreement #: 190070; PIN: 128742.00; Federal Project #: STP-M-9108(49); State Project #: 82LPLM-F3-088.

Attachments:

- 1. Budget Ordinance
- 2. Agreement (23 pages)
- 3. Location Map

Funding source appropriate and funds are available: 

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Oltzman	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE ISLAND ROAD IMPROVEMENTS AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the city has been working on improvements to the Island Road from SR-126 (Memorial Boulevard) to the Kingsport City Limits; and

WHEREAS, the city would like to further the improvements to the road which will realign Island Road to the southeast to improve vertical and horizontal roadway geometry for better traffic management and safety and the remaining unused portion of Island Road will be converted into a separated buffered multi use path connecting residential and commercial properties along the former roadway; and

WHEREAS, The estimated total cost for all phases of this project is \$3,500,000, which will be funded 80% through KMTPO STBG funding source (Federal funds); and the local government is responsible for the 20% matching share (estimated amount of \$700,000); and

WHEREAS, the city would like to enter into a Local Agency Project Agreement with TDOT for Island Road Improvements; and

WHEREAS, funding will be available once the attached budget ordinance has passed at the second reading in May.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That an agreement with the Tennessee Department of Transportation for the Island Road Improvements, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the agreement with Tennessee Department of Transportation for the Island Road Improvements and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution, said agreement being as follows:

Agreement Number:	190070
Project Identification Number:	128742.00
Federal Project Number:	STP-M-9108(49)
State Project Number:	82LPLM-F3-088

State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____ 20__ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the CITY OF KINGSPORT (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

"Island Road, From SR-126 (Memorial Boulevard) to the Kingsport City Limits"

A. PURPOSE OF AGREEMENT

A.1 Purpose:

a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

8.1 General Requirements:

a) Responsible Party		Funding Provided
by		
Funding Provided by Agency or Project.	Responsible Party	Agency or Project
Environmental Clearance by:	AGENCY	PROJECT
Preliminary Engineering by:	AGENCY	PROJECT
Right-of-Way by:	AGENCY	PROJECT
Utility Coordination by:	AGENCY	PROJECT
Construction by:	AGENCY	PROJECT

a) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.

b) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

8.2 Completion Date:

a) The Agency agrees to complete the herein assigned phases of the Project on or before April 30, 2024. If the Agency does not complete the herein described phases of the Project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.

8.3 Environmental Regulations:

a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.

b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.

c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

8.4 Plans and Specifications

a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as

otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.

b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B. 1 (a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.

c) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.

d) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for the land in question.

These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

8.5 Right-of-Way

a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.

b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.

c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.

d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.

d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.

e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude

requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding .

8.7 Detours

a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

8.8 Utilities

a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.

b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:

1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.

2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

8.9 Railroad

a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A:

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.

c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line- item to date, the total amounts charged for the period invoiced, and the total amount

charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.

b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for underpayments on subsequent invoices.

c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) Misrepresentation:

The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) Litigation:

There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) Approval by Department:

The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) Conflict of Interests:

There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) Default:

The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and

any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.

b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment,

wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

a) DBE Policy:

It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.

b) DBE Obligation:

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subcontractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

a) Instructions for Certification - Primary Covered Transactions:

By signing and submitting this Agreement, the Agency is providing the certification set out below.

1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.

5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.

6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered

transactions and in all solicitations for lower tier covered transactions.

7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.

8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;

2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and

4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI - Civil Rights Act of 1964:

a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or

official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.

b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of its subcontracts, the following provision:

1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub- recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.

b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved. The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.

a) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.

b) All books of account and financial records shall be subject to annual audit by the Tennessee

Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.

c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.

b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.

c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D. 24 How Agreement is Affected by Provisions Being Held Invalid:

a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

b) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

c) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.

d) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.

e) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.

f) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

g) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

h) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc.

b) In the event that the Department is made responsible in section B. 1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.

1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount	Open to Public and Vehicular Traffic
\$1.00 - \$200,000	5 Years
>\$200,000 - \$500,000	10 Years
>\$500,000 - \$1,000,000	20 Years

b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

a) If the Project is funded with federal funds the following shall apply: The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the agreement set out herein that do not substantially alter the

material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT FUND BUDGET FOR THE YEAR ENDING JUNE 30, 2019; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the General Project Fund budgets be amended by appropriating \$2,800,000 KMTPO STBG Federal funds 80% and by transferring \$300,000 from Indian Trail Dr. Ext. (GP1615) to the Island Road Improvements Project (GP1926) for the design phase. The local government construction phase funding will be transferred at a later date through the Local Roads Capital Improvement Plan.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 311: General Project Fund			
Indian Trail Dr. Ext. (GP1615)			
Revenues:	\$	\$	\$
311-0000-368-1040 Series 2011 GO Pub Imp	254,796	0	254,796
311-0000-368-1046 Series 2013B GO Pub Imp.	45,000	0	45,000
311-0000-368-1047 Series 2014A GO Bonds	7,741		7,741
311-0000-368-1054 Series 2016 GO (Nov 4)	2,558,464	(300,000)	2,258,464
311-0000-368-2101 Premium From Bond Sale	250,188	0	250,188
311-0000-391-0100 From General Fund	550,845	0	550,845
Totals:	3,667,034	(300,000)	3,367,034
Expenditures:	\$	\$	\$
311-0000-601-2023 Arch/Eng/Landscaping	397,221	5,165	402,386
311-0000-601-4041 Bond Sale Expense	34,346	0	34,346
311-0000-601-9001 Land	761,161	(300,000)	461,161
311-0000-601-9003 Improvements	2,474,306	(5,165)	2,469,141
Totals:	3,667,034	(300,000)	3,367,034

Fund 311: General Project Fund
Island Road Improvements (GP1926)

Revenues:	\$	\$	\$
311-0000-337-9010 FTA/TN Section 5303 80%	0	2,800,000	2,800,000
311-0000-368-1054 Series 2016 GO (Nov 4)	0	300,000	300,000
Totals:	0	3,100,000	3,100,000

Expenditures:	\$	\$	\$
311-0000-601-2023 Ach/Eng/Landscaping	0	550,000	550,000
311-0000-601-9001 Land	0	700,000	700,000

311-0000-601-9003 Improvement

Totals:

0	1,850,000	1,850,000
0	3,100,000	3,100,000

SECTION II. That this Ordinance shall take effect from and after its date of passage, as the law direct, the welfare of the City of Kingsport, Tennessee requiring it.

JOHN CLARK, Mayor

ATTEST:

SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING:
PASSED ON 2ND READING:

Agreement Number: 190070

Project Identification Number: 128742.00

Federal Project Number: STP-M-9108(49)

State Project Number: 82LPLM-F3-088

State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20__ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the CITY OF KINGSPORT (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

"Island Road, From SR-126 (Memorial Boulevard) to the Kingsport City Limits"

A. PURPOSE OF AGREEMENT

A.1 Purpose:

- a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

- a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

a)

	Responsible Party	Funding Provided by Agency or Project.
Environmental Clearance by:	AGENCY	PROJECT
Preliminary Engineering by:	AGENCY	PROJECT
Right-of-Way by:	AGENCY	PROJECT
Utility Coordination by:	AGENCY	PROJECT
Construction by:	AGENCY	PROJECT

b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.

c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

B.2 Completion Date:

a) The Agency agrees to complete the herein assigned phases of the Project on or before **April 30, 2024**. If the Agency does not complete the herein described phases of the Project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.

B.3 Environmental Regulations:

- a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.
- b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.
- c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

- a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.
 - 1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.
- c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for

the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

- a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.
- b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.
- c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.
- d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

- a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if

the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

- c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.
- d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.
- e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

- a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

- a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.
- b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:
 - 1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.
 - 2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

B.9 Railroad

- a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

- a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

- b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.
- c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.
- b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.
- c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

- a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department

to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**

The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**

There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**

The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**

There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**

The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon

demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

- a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

- a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.
- b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

- a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be

made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

- a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

- a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

- a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

- a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

- a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting

entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

- b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

- a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

- a) **DBE Policy:**
It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.

b) **DBE Obligation:**

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

- a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

a) **Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

- 1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- 2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

- 3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
- 5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.
- 6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.
- 8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;
- 2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and
- 4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

- a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to

insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

- a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

- a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

- a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.
- b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of it's subcontracts, the following provision:
 - 1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

- a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

- a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.
- b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

- a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.
- b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

- a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.
- b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

- a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.
- b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.
- c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the

Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

- a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

- a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.
- b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.
- c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

- a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

- a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

- a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.
- b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.
- c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.
- d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

- a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

- a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

- a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

- a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

- a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc
- b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

- a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

- a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

- a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

- a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.
 - 1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

- a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount	=	Open to Public and Vehicular Traffic
\$1.00 - \$200,000	=	5 Years
>\$200,000 - \$500,000	=	10 Years
>\$500,000 - \$1,000,000	=	20 Years

- b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

- a) **If the Project is funded with federal funds the following shall apply:** The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF KINGSPORT

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

By: _____ Date _____ By: _____ Date _____
John Clark **Clay Bright**
Mayor **Commissioner**

**APPROVED AS TO
FORM AND LEGALITY**

**APPROVED AS TO
FORM AND LEGALITY**

By: _____ Date _____ By: _____ Date _____
J. Michael Billingsley **John Reinbold**
Attorney **General Counsel**

EXHIBIT "A"

AGREEMENT #: 190070**PROJECT IDENTIFICATION #:** 128742.00**FEDERAL PROJECT #:** STP-M-9108(49)**STATE PROJECT #:** 82LPLM-F3-088

PROJECT DESCRIPTION: Island Road, From SR-126 (Memorial Boulevard) to the Kingsport City Limits. This project will realign Island Road to the southeast to improve vertical and horizontal roadway geometry for better traffic management and safety. The remaining now unused portion of Island Road will be converted into a separated buffered multi use path connecting residential and commercial properties along the former roadway.

CHANGE IN COST: Cost hereunder is controlled by the Surface Transportation Block Grant Program funding available to or allocable to the Agency.

TYPE OF WORK: Realignment

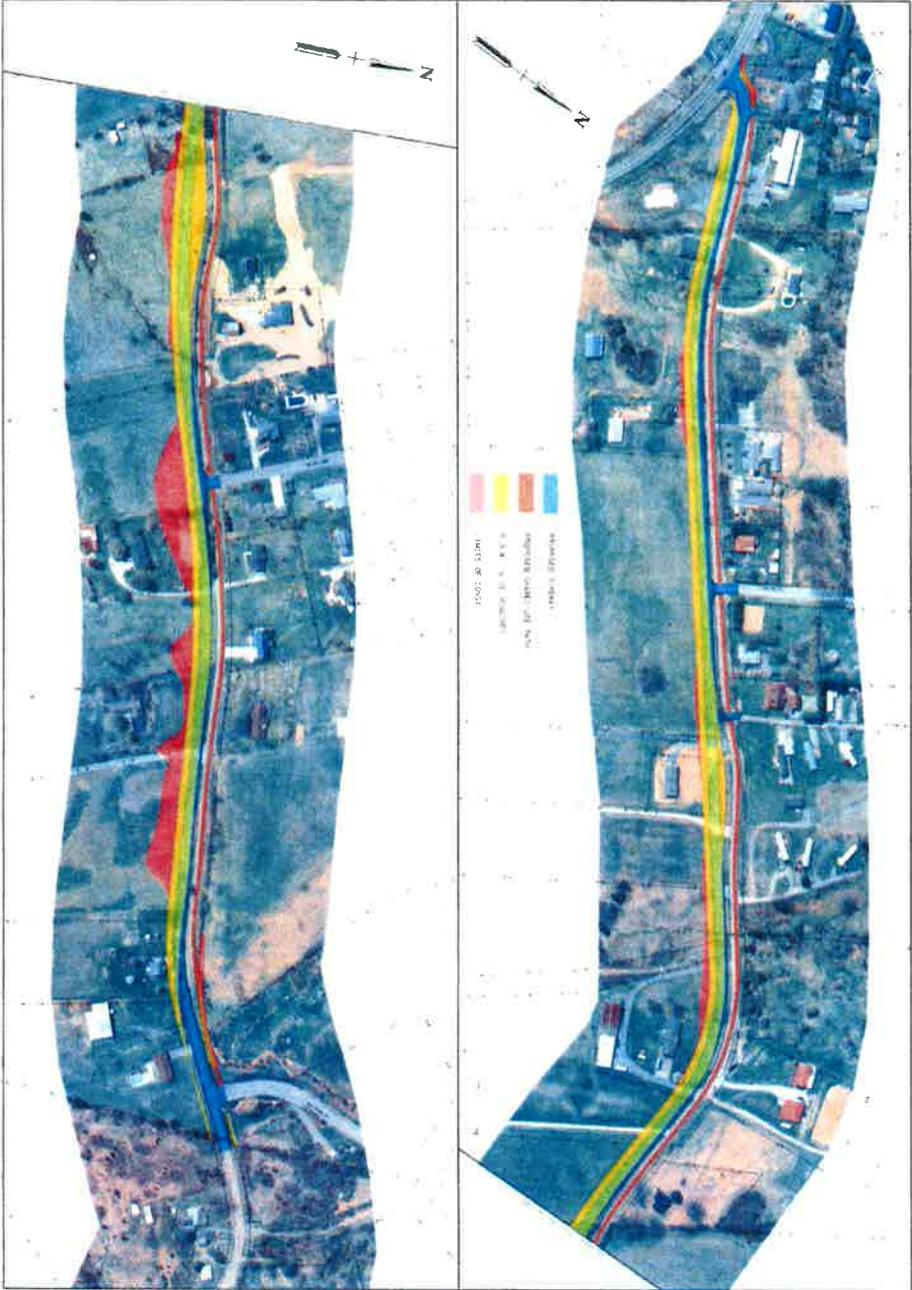
PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-NEPA	STBG	80	0	20	\$150,000.00
PE-DESIGN	STBG	80	0	20	\$150,000.00
RIGHT-OF-WAY	STBG	80	0	20	\$700,000.00
CONSTRUCTION	STBG	80	0	20	\$2,225,000.00
CEI	STBG	80	0	20	\$250,000.00
TDOT ES	STBG	80	0	20	\$25,000.00

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds following expenditure of the most recently approved TIP cost or if the use of said federal funds is ruled ineligible at any time by the Federal Highway Administration.

TDOT ENGINEERING SERVICES (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to ensure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction Inspection and Material and Testing Expenses (Quality Assurance Testing).

LEGISLATIVE AUTHORITY: STBG: 23 U.S.C.A, Section 133, Surface Transportation Block Grant Program funds allocated or subject to allocation to the Agency.

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.



3

DATE: 11/11/11
 DRAWN BY: JAC
 CHECKED BY: JAC

PROPOSED LAYOUT
 ALTERNATE 3
 KINGFISHER, TN

Mattern & Clark
 CONSULTING ENGINEERS
 100 S. 11th St.
 Knoxville, TN 37902
 TEL: 615-582-1100
 FAX: 615-582-1101



AGENDA ACTION FORM

Budget Adjustment Ordinance for FY19

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager

Action Form No.: AF-96-2019
Work Session: May 6, 2019
First Reading: May 7, 2019

Final Adoption: **May 21, 2019**
Staff Work By: Judy Smith
Presentation By: Jeff Fleming

Recommendation:

Approve the Ordinance.

Executive Summary:

The budget adjustment ordinance will transfer \$100,000 to the Satellite Salt Shed project from the Snow Removal project.

It will appropriate \$2,408 received from the Friends of the Library to the Library Governing Board Fund to purchase program supplies.

The budget adjustment will transfer \$50,000 to the Sewer Pump Station O & M project for repairs.

Attachments:

- 1. Ordinance

Funding source appropriate and funds are available: js

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Budget Adjustment Ordinance for FY19

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager

Action Form No.: AF-96-2019
Work Session: May 6, 2019
First Reading: May 7, 2019

Final Adoption: May 21, 2019
Staff Work By: Judy Smith
Presentation By: Jeff Fleming

Recommendation:

Approve the Ordinance.

Executive Summary:

The budget adjustment ordinance will transfer \$100,000 to the Satellite Salt Shed project from the Snow Removal project.

It will appropriate \$2,408 received from the Friends of the Library to the Library Governing Board Fund to purchase program supplies.

The budget adjustment will transfer \$50,000 to the Sewer Pump Station O & M project for repairs.

Attachments:

- 1. Ordinance

Funding source appropriate and funds are available.

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND VARIOUS PROJECTS FOR
THE YEAR ENDING JUNE 30, 2019; AND TO FIX THE
EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the General Project Fund budgets be amended by transferring \$100,000 from the Snow Removal project (GP1741) to the Satellite Salt Shed project (GP1810), transferring \$21,000 from the Renaissance Sky Light project (GP1806) to the Facility Maintenance and Improvements project (GP1903) and by appropriating \$800 to the Police Storage Lot project (GP1925). Close project GP1806.

SECTION II. That the Library Governing Board Fund be amended by appropriating \$2,408 received from the Friends of the Library for program supplies.

SECTION III. That the Sewer Project Fund budgets be amended by transferring \$221,561 WWTP Improvements (SW1700) to the Sewer Fund operating budget for pump station repairs and by transferring \$50,000 from the Sewer Lift Station Improvement Project (ST1702) to the Sewer Pump Station O & M project (SW1903).

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
<u>Fund 311: General Project Fund</u>			
<u>Snow Removal (GP1741)</u>			
<u>Revenues:</u>			
311-0000-391-0100 From General Fund	\$ 190,000	\$ (100,000)	\$ 90,000
Totals:	190,000	(100,000)	90,000
<u>Expenditures:</u>			
311-0000-601-2022 Construction Contracts	\$ 190,000	\$ (100,000)	\$ 90,000
Totals:	190,000	(100,000)	90,000
<u>Fund 311: General Project Fund</u>			
<u>Satellite Salt Shed (GP1810)</u>			
<u>Revenues:</u>			
311-0000-368-1055 Series 2017A GO Bonds	\$ 96,889	\$ 0	\$ 96,889
311-0000-368-2101 Premium From Bond Sale	4,429	0	4,429
311-0000-391-0100 From General Fund	0	100,000	100,000
Totals:	101,318	100,000	201,318

<u>Expenditures:</u>	\$	\$	\$
311-0000-601-4041 Bond Sale Expense	1,318	0	1,318
311-0000-601-9001 Land	47,000	0	47,000
311-0000-601-9006 Purchases Over \$5,000	53,000	100,000	153,000
Totals:	101,318	100,000	201,318

Fund 311: General Project Fund
Renaissance Sky Light (GP1806)

<u>Revenues:</u>	\$	\$	\$
311-0000-368-1055 Series 2017 A GO Bonds	356,553	(21,000)	335,553
311-0000-368-2101 Premium From Bond Sale	16,296	0	16,296
Totals:	372,849	(21,000)	351,849

<u>Expenditures:</u>	\$	\$	\$
311-0000-601-4041 Bond Sale Expense	4,849	0	4,849
311-0000-601-9003 Improvements	368,000	(21,000)	347,000
Totals:	372,849	(21,000)	351,849

Fund 311: General Project Fund
Facility Maint & Improve. (GP1903)

<u>Revenues:</u>	\$	\$	\$
311-0000-368-1055 Series 2017 A GO Bonds	0	21,000	21,000
311-0000-368-1056 Series 2018A GO Bonds	421,097	0	421,097
311-0000-368-2101 Premium From Bond Sale	15,634	0	15,634
Totals:	436,731	21,000	457,731

<u>Expenditures:</u>	\$	\$	\$
311-0000-601-4041 Bond Sale Expense	9,774	0	9,774
311-0000-601-9003 Improvements	426,957	21,000	447,957
Totals:	436,731	21,000	457,731

Fund 137: Library Governing Board

<u>Revenues:</u>	\$	\$	\$
137-0000-364-3000 From Non-Profit Groups	0	2,408	2,408
Totals:	0	2,408	2,408

<u>Expenditures:</u>	\$	\$	\$
137-4540-474-3039 Library Programs Supplies	2,360	2,408	4,768
Totals:	2,360	2,408	4,768

Fund 311: General Project Fund
Police Storage Lot (GP1925)

Revenues:	\$	\$	\$
311-0000-391-0100 From General Fund	0	800	800
Totals:	0	800	800

Expenditures:	\$	\$	\$
311-0000-601-9003 Improvements	0	800	800
Totals:	0	800	800

Fund 110: General Fund

Expenditures:	\$	\$	\$
110-3001-441-2055 Repairs & Maintenance	5,800	(800)	5,000
110-4804-481-7036 General Project Fund	5,961,155	800	5,961,955
Totals:	5,966,955	0	5,966,955

Fund 452: Sewer Project Fund
WWTP Imp. (SW1700)

Revenues:	\$	\$	\$
452-0000-391-0531 Series 2014B GO Bonds	228,768	0	228,768
452-0000-391-4500 From Sewer Fund	377,971	(221,561)	156,410
Totals:	606,739	(221,561)	385,178

Expenditures:	\$	\$	\$
452-0000-606-2023 Arch/Eng/Landscaping	177,510	0	177,510
452-0000-606-9003 Improvements	429,229	(221,561)	207,668
Totals:	606,739	(221,561)	385,178

Fund 412: Sewer Fund

Expenditures:	\$	\$	\$
412-6996-696-7602 Sewer Project Fund	1,245,000	(221,561)	1,023,439
412-5003-501-3020 Operating Supplies & Tools	358,908	221,561	580,469
Totals:	1,603,908	0	1,603,908

Fund 452: Sewer Project Fund
Sewer Lift Station Imp. (SW1702)

Revenues:	\$	\$	\$
452-0000-391-0529 Series 2013B GO Pub Imp	47,490	0	47,490
452-0000-391-4200 From Sewer Fund	612,171	(50,000)	562,171
Totals:	659,661	(50,000)	609,661

Expenditures:	\$	\$	\$
452-0000-606-2023 Arch/Eng/Landscaping	70,000	0	70,000
452-0000-606-9001 Land	14,500	0	14,500

452-0000-606-9003 Improvements	260,000	0	260,000
452-0000-606-9019 Pump Stations	315,161	(50,000)	265,161
Totals:	659,661	(50,000)	609,661

Fund 452: Sewer Project Fund
SW Pump Station O & M (SW1903)

Revenues:	\$	\$	\$
452-0000-391-4200 From Sewer Fund	246,852	50,000	296,852
Totals:	246,852	50,000	296,852

Expenditures:	\$	\$	\$
452-0000-606-9019 Pump Stations	246,852	50,000	296,852
Totals:	246,852	50,000	296,852

SECTION III. That this Ordinance shall take effect from and after its date of passage, as the law direct, the welfare of the City of Kingsport, Tennessee requiring it.

 JOHN CLARK, Mayor

ATTEST:

 SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

 J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING:
 PASSED ON 2ND READING:



AGENDA ACTION FORM

Ordinance to Amend the FY 2019 the General Purpose School Fund and the General Project Fund Budgets

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager *JF*

Action Form No.: AF-105-2019
Work Session: May 6, 2019
First Reading: May 7, 2019

Final Adoption: May 21, 2019
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:

Approve the Ordinance.

Executive Summary:

The Board of Education approved fiscal year 2019 budget amendment number three at their meeting on May 7, 2019. This amendment transfers funds from the General Purpose School Fund Unreserved Fund Balance, in the amount of \$352,044 to the General Project Fund. These funds are being transferred to the General Project Fund to fund paving repairs to the lower portion (former driver education range) of the Dobyys-Bennett parking lot.

Attachments:

1. Ordinance
2. BOE Budget Amendment Number Three – FY 2019

Funding source appropriate and funds are available: *JF*

	Y	N	O
Alder	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Otteman	—	—	—
Clark	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND the GENERAL PURPOSE SCHOOL FUND AND THE GENERAL PROJECTS FUND BUDGETS FOR THE FISCAL YEAR ENDING JUNE 30, 2019; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the General Purpose School Fund Budget be amended by increasing the estimated revenue for Fund Balance Appropriations by \$ and by increasing the appropriation for Fund Transfers by \$. That the General Project Fund Budget be amended by increasing the estimated revenue for the Dobyys-Bennett Science and Technology project (GP1620) – Transfers from School Fund by \$ and by increasing the appropriations for Arch/Engineering Fees by \$; Construction Contracts \$;

Fund 141: General Purpose School Fund

<u>Revenues:</u>	\$	\$	\$
141-0000-392-0100 Fund Balance Appropriations	1,167,861	352,044	1,519,905
Total:	1,167,861	352,044	1,519,905

<u>Expenditures:</u>			
141-7950-881-0590 Fund Transfers	676,943	352,044	1,028,987
Total:	676,943	352,044	1,028,987

Fund 311: General Project Fund
DB Science and Tech Center Project (GP1620)

<u>Revenues:</u>	\$	\$	\$
311-0000-368-1041 2012C GO Bonds	200,000	0	200,000
311-0000-368-1047 2014A GO Bonds	100,000	0	100,000
311-0000-391-2100 Transfer from School Fund	0	352,044	352,044
311-0000-391-2150 Sullivan Co School Bonds	22,875,000	0	22,875,000
Total:	23,175,000	352,044	23,527,044

<u>Expenditures:</u>			
311-0000-601-2022 Construction Contracts	21,002,000	331,999	21,333,999
311-0000-601-2023 Arch/Eng/Landscaping Serv	1,395,000	20,045	1,415,045
311-0000-601-9004 Equipment	778,000	0	778,000
Total:	23,175,000	352,044	23,527,044

SECTION II. That this Ordinance shall take effect from and after its date of passage, as the law direct, the welfare of the City of Kingsport, Tennessee requiring it.

JOHN CLARK, Mayor

ATTEST:

SIDNEY H. COX
City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____

May 7, 2019

KINGSPORT CITY SCHOOLS
FISCAL YEAR 2018-2019
BUDGET AMENDMENT NUMBER THREE

GENERAL PURPOSE SCHOOL FUND

FUND BALANCE APPROPRIATION

The audited Unreserved Fund Balance at June 30, 2018, was \$6,127,644. This amount is almost eight percent of the FY 2019 General Purpose School Fund budget. During FY 2019 there have been Fund Balance appropriations as listing below:

1. Prior year purchase orders	\$ 177,192
2. FY 2019 operating budget	267,600
3. Safe Safety and Safe Schools grants local match	99,480
4. E-rate local match	186,271
5. Kennedy playground	<u>437,318</u>
Total	<u>\$1,167,861</u>

The amount of funding required to repair the lower portion of the Dobyns-Bennett parking lot is \$352,044. If this amount is funded from the Fund Balance account, the new balance would be \$4,607,739. This is 6.0% of the FY 2019 operating budget.

It is recommended that the estimate for Fund Balance Appropriations and that the appropriation Fund Transfers be increased by \$352,044. It is further recommended that these funds be transferred to the General Project Fund for the Dobyns-Bennett Science and Technology Center.

GENERAL PROJECTS FUND

DOBYNS-BENNETT SCIENCE AND TECHNOLOGY CENTER

The current budget for the Science and Technology Center is \$23,175,000. With the additional funding the repair the parking lot the new total will be \$23,527,044. It is recommended that the estimated revenue for Transfers from the School Fund be increased by \$352,044 and that the appropriations for Arch/Engineering Fees and Construction Contracts increased by \$352,044.



AGENDA ACTION FORM

Purchase MathXL Digital Courseware Licensing for Grades 8-12 from Pearson Education

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager

Action Form No.: AF-117-2019
Work Session: May 20, 2019
First Reading: N/A

Final Adoption: May 21, 2019
Staff Work By: Committee
Presentation By: David Frye

Recommendation:

Approve the Resolution.

Executive Summary:

Kingsport City Schools is requesting approval to purchase MathXL Digital Courseware Licensing from Pearson Education for students grades 8-12. On April 9, 2015, the Board of Education approved the recommendation to adopt the TN Board of Education approved Section I Mathematics Textbook adoption list.

KCS Curriculum and Instruction department in collaboration with the Mathematics Textbook Review Committee recommends the purchase of the Pearson MathXL Digital Courseware 2year License to support the delivery of mathematics instruction in grades 8-12. The Pearson resource will integrate into PowerSchool which is our student information system. These resources will provide math teachers curriculum support that aligns to the current academic standards along with applicable assessments

On May 14, 2019, the Board of Education approved the recommendation to purchase 2,000 student licenses. Kingsport City Schools is now recommending the Board of Mayor and Aldermen approve the resolution to purchase MathXL Digital Courseware 2year License for 8th-12th grade, from Pearson Education for the total purchase amount of \$62,643.00.

This purchase will be made with FY 2019 budget funds, account # 141-7100-711.04-49.

Attachments:

- 1. Resolution
- 2. Recommendation & Quote
- 3. Supplemental Information

Funding source appropriate and funds are available:

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR MATHXL DIGITAL COURSEWARE TWO YEAR LICENSES FOR GRADES 8-12 FROM PEARSON EDUCATION

WHEREAS, the Kingsport City Schools would like to purchase MathXL Digital Courseware 2 year Licenses from the Pearson Education for students in 8-12 grades; and

WHEREAS, the city school curriculum and instruction department in collaboration with the Mathematics Textbook Review Committee recommends the purchase of the Pearson resources to support the delivery of instruction in meeting the depth of the current math standards for 8th through 12th grades; and

WHEREAS, pursuant to Section 2-599 of the Kingsport Code, the city manager or his designee has determined in writing that there is only one source for the MathXL Digital Courseware 2 year Licenses; and

WHEREAS, the total purchase amount of the purchase MathXL Digital Courseware 2 year Licenses from the Pearson Education is \$62,643.00; and

WHEREAS, funding for this purchase is available in the school's budget, account numbers 141-7100-711.04-49.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the city manager is authorized to execute a purchase order to the Pearson Education for the purchase of 2,000 MathXL Digital Courseware 2 year Licenses from the Pearson Education for students in 8th through 12th grades in the amount of \$62,643.00.

SECTION II. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION III. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



To: Board of Mayor and Aldermen
From: Rhonda Stringham, Ed.D.
Date: 14 May 2019
Re: Textbook Purchase (Math)

The approved mathematics textbook committees recommended blanket adoption of the state approved Section I mathematics textbook adoption list in April 2015. The State Board of Education approved textbooks and instructional materials were made available for public review and comment at the Administrative Support Center on March 20, 23 and 24, 2015. The Board of Education approved the recommendation for blanket adoption at the April 9, 2015 meeting.

The Section I Mathematics contract period is from June 1, 2015 - June 30, 2021. The following recommendation has been made:

- The district will purchase Pearson Math XL to support the delivery of mathematics instruction in grades 9-12. KCS received a quote from Pearson in the amount of \$62,643. The purchase amount includes digital courseware for two years. This resource will integrate into PowerSchool which is our student information system. These resources will provide math teachers curriculum support in all math content grades 9-12 that aligns to the current academic standards along with applicable assessments.

Inspire. Cultivate. Impact

Facebook: KptSchools
Twitter: @KCS_District
Instagram: KCS_District

WWW.K12K.COM



Brian Tate
 Assistant/Assoc. Principal
 Dobyns Bennett High School
 1 Tribe Way
 Kingsport, TN 37664-2283
 United States

Quote Number: 75913-2
Quote Creation Date: 04-11-2019
Quote Expiration Date: 09-30-2019
Quote Release: 2

MXLS Easy Bridge - DBHS

Price Quote Summary

Solution	Base Amount	Free Amount	Total
MathXL	\$ 62,643.00	\$ 3,297.00	\$ 62,643.00
Solution Subtotal	\$ 62,643.00	\$ 3,297.00	\$ 62,643.00
	Shipping & Handling		\$ 0.00
		Total	\$ 62,643.00

Price Quote Detail

ISBN	Description	Price	Free Qty	Charged Qty	Free Amount	Total Charged
MathXL						
MathXL® for School Licensing - EasyBridge Plus and Auto Customers						
9780328928170	2-YEAR MATHXL FOR SCHOOL VIA EASYBRIDGE DIGITAL COURSEWARE LICENSE GRADE8-12	\$32.97	100	1,900	\$3,297.00	\$62,643.00
	MathXL® for School Licensing - EasyBridge Plus and Auto Customers Subtotal				\$ 3,297.00	\$ 62,643.00
	MathXL Subtotal				\$ 3,297.00	\$ 62,643.00
	Solution Subtotal				\$ 3,297.00	\$ 62,643.00
	Shipping and Handling					\$ 0.00
					Total	\$ 62,643.00

Addendum

To place your order please submit a copy of this price quote with your Purchase Order, and include any other required documentation. You may send the order documents using an electronic form, fax or by mail. Please submit your PO and price via one of the following methods:

e-Form: <https://pearsoncommunity.force.com/support/s/pearson-order-form>

Fax: 1-877-260-2530

Mail: Pearson Education, P.O. Box 6820, Chandler, AZ 85246

Pearson does not accept Credit Card information via postal mail, facsimile, or email. Credit Card information will only be accepted via phone, eCommerce, or OASIS.

For questions regarding your order please call Customer Service: 1-800-848-9500 .

Price quote: This is a price quote for the customer's convenience only, and not an offer to contract. All quotes are subject to review and final acceptance by an authorized representative of Pearson at its offices. Pearson reserves the right to correct typographical, computational or other errors. Pearson's standard terms are net 30 days unless otherwise specified. All pricing is in US Dollars unless otherwise specified. Pricing calculations use multiple decimal places to determine the most accurate extended pricing but are represented in standard currency format. The breakdown of the fees set forth in this quotation is considered Pearson proprietary information and not subject to disclosure by the customer.

Shipping & handling charges (where applicable) are shown on the quote. S&H rates quoted are for standard ground transportation and may not reflect account contracted rates. If expedited shipping is requested, actual charges may be higher. For orders picked up at the Pearson warehouse by the customer or a third party carrier contracted by the customer, a 2% handling charge will be applied to shippable items. The 2% charge will show up on the customer proposal and invoice as a S&H charge.

Taxes: All pricing in this quote is exclusive of any applicable sales, use or other similar taxes or duties. The customer is responsible for any such taxes or duties that may apply; if the customer is tax exempt, evidence of such tax exemption must be provided. Estimated tax may be provided solely for customer convenience. The amount indicated is only an estimate and is intended to be helpful for budgeting purposes. The actual amount of sales tax assessed at the time of invoicing may be more or less.

Platforms: Pearson reserves the right to change and/or update technology platforms, including possible edition updates to customers during the term of access . Customers will be notified of any change prior to the beginning of the new school year.

Return Policy: If you are not entirely satisfied with any of our products, then you may, within one year from the date of purchase, return all materials still in new, unused, salable condition for a full refund, credit, or replacement. All returned materials must be shipped back to Pearson within 30 days of receiving the Return Materials Authorization. All materials sold in a set or a package must be returned complete as originally sold. Materials that were provided gratis must be returned proportionate to the purchased items being returned for refund or credit.

Consumable Worktexts: Subsequent year consumable worktexts will ship each year on the order date of the original order for the duration of their license. Worktexts will ship to the location listed on the original order. Quantities for each grade level and title will remain consistent each year. Changes to quantities of titles previously ordered, shipping location changes, or any other changes to consumable worktext shipments must be made 4 weeks prior to the original order date. Changes should be made using the e-form: <https://www.k12pearson.com/worktext-subscription>.

Annual subscriptions for iLit and Successmaker: Products automatically renew on the anniversary date of the original purchase and will be invoiced accordingly, unless otherwise specified. If you wish to cancel, please let us know in writing prior to the date of renewal by emailing k12customerservice@pearson.com .

Technical support services are included with purchase of Pearson digital products eform:
<https://pearsoncommunity.force.com/support/s/k12-curriculum-support-form> phone: 1-800-234-5832

MyPearson Training which provides online access to on-demand tutorials and interactive webinar sessions is included with purchase of products. <https://mypearsontraining.com/>



Dr. Jeff Moorhouse
Superintendent of Schools

400 Clinchfield Street, Ste. 200
Kingsport, TN 37660

p: (423) 378.2100
f: (423) 378.2120

www.k12k.com

MEMORANDUM

TO: Jeff Fleming, City Manager
FROM: Jeff Moorhouse, Ed.D., Superintendent of Schools
DATE: May 16, 2019
RE: AF-117 CM Sole Source Authorization

Kingsport City Schools is requesting approval to designate Pearson Education as sole source provider of MathXL.

The Kingsport City Schools Mathematics Textbook Committee recommended the blanket adoption of the state approved Section I Mathematics Textbook Adoption list in April 2015. The State Board of Education approved textbooks and instructional materials were made available for public review and comment at the Administrative Support Center on March 20, 23 and 24, 2015. The Board of Education approved the recommendation for blanket adoption at the April 9, 2015 meeting. The Section I Mathematics contract period is from June 1, 2015 - June 30, 2021.

The district would like to purchase Pearson's Math XL to support the delivery of mathematics instruction in grades 9-12. KCS received a quote from Pearson in the amount of \$62,643.00. The purchase amount includes digital courseware for two years. The MathXL product is on the adopted State Board of Education Textbook Adoption list. Since Pearson Education is the publisher of MathXL, this purchase would be considered a sole source purchase as Pearson is the only publisher of MathXL.

The City Code Section 2-599 permits the City Manager to enter into a one source contract when determined to be in the best interest of the City of Kingsport. I am requesting approval of Pearson Education as a one source provider of MathXL and recommending Kingsport City School be allowed to proceed with the purchase from this publisher.

If you are in agreement with this recommendation, I would ask that you sign below so we may have documentation for our records and approval to present to the Board of Mayor and Aldermen with Action Form # AF117-2019. Should you have questions please feel free to call upon me.

Approved By: 
CITY MANAGER, CITY OF KINGSPORT

Date: 5-17-19



AGENDA ACTION FORM

Approve Amendment Two to the Perkins & Will Professional Services Agreement for Architectural Services for the Dobyns-Bennett High School Science and Technology Center Project

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager *JF*

Action Form No.: AF-115-2019
Work Session: May 20, 2019
First Reading: N/A

Final Adoption: May 21, 2019
Staff Work By: Committee
Presentation By: David Frye

Recommendation:

Approve the Resolution.

Executive Summary:

The City of Kingsport executed the professional services agreement with Perkins + Will dated May 3, 2017 for Architectural Services. The Scope of work for this agreement included Construction Documents through Completion of the Dobyns-Bennett High School Addition project. On December 19, 2017, the BMA approved the resolution to Amend the original contract to a percentage of 5.5% of the project total cost.

Due to the project construction schedule extending past the April 30, 2019 contract end date, Perkins + Will has requested an amendment to the Professional Services Agreement to extend the construction administration services through September 30, 2019. In addition to the fees previously approved in the original contract and Amendment One, Perkins+Will has requested an additional fee of \$50,000.00 to extend construction administration services through September 30, 2019.

Attachments:

- 1. Resolution
- 2. Contract
- 3. Recommendation

Funding source appropriate and funds are available: *JF*

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NUMBER 2 TO THE ARCHITECTURAL SERVICES AGREEMENT WITH PERKINS + WILL, INC. FOR THE DOBYNS BENNETT HIGH SCHOOL SCIENCE AND TECHNOLOGY CENTER PROJECT; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, on May, 3, 2017, the board approved a resolution authorizing the mayor to sign an architectural services agreement with Perkins + Will, Inc., which included the construction documents through the completion of the project for the Dobyms Bennett High School Science and Technology Center Project; and

WHEREAS, the project construction has extended past the April 30, 2019 date, the Perkins + Will agreement must be revised to change the contract agreement end date to September 30, 2019; and

WHEREAS, this amendment will extend the contract term to September 30, 2019, Perkins+Will has requested the Professional Services Agreement fees to include an additional proposed fee of \$50,000.00 for extended construction administration services.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That Amendment Number 2 to the agreement with Perkins + Will, Inc. is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an Amendment Number 2 to the agreement with Perkins + Will, Inc. and all other documents necessary and proper to effectuate the purpose of the agreement or this resolution, said amendment being generally as follows:

AMENDMENT NUMBER 2

Amendment Number 2 to the Professional Services Agreement effective May 3, 2017 between Perkins+Will, Inc. and the City of Kingsport for its Kingsport City Schools for Architectural Services for the Dobyms-Bennett High School Science and Technology Center Project.

Article IV Compensation

4.1 Owner agrees to compensate CONSULTANT for Services performed pursuant to Article I, which Services are identified in Appendix A, for an amount not to exceed Five and One Half Percent (5.5%) of the final construction cost. If the final construction cost exceeds Twenty Million Dollars (\$20,000,000.00) the percentage rate will be Five and One Quarter Percent (5.25%). The OWNER also agrees to compensate the CONSULTANT the flat fee of THIRTY THOUSAND DOLLARS AND NO CENTS (\$30,000.00) for programming services. All payments previously made to the CONSULTANT regarding the previous contracted amount of \$937,500.00 will be applied to the amended contract total. *In addition to the compensation agreed upon in Amendment Number 1, the Owner Agrees to compensate the CONSULTANT an additional flat fee of FIFTY THOUSAND DOLLARS AND NO CENTS (\$50,000.00) to extend construction administration services through September 30, 2019.*

Article V Period of Performance

5.1 The scope of the Services to be performed by CONSULTANT shall be fully and finally completed by *September 30, 2019*. Final completion is the completion of all Services and all contract requirements by CONSULTANT.

All other terms and conditions remain the same as in the Agreement effective May 3, 2017.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION II. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the amendment set out herein that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION III. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION IV. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

AMENDMENT NUMBER 2

Amendment Number 2 to the Professional Services Agreement effective May 3, 2017 between Perkins+Will, Inc. and the City of Kingsport for its Kingsport City Schools for Architectural Services for the Dobyns-Bennett High School Science and Technology Center Project.

Article IV Compensation

4.1 Owner agrees to compensate CONSULTANT for Services performed pursuant to Article I, which Services are identified in Appendix A, for an amount not to exceed Five and One Half Percent (5.5%) of the final construction cost. If the final construction cost exceeds Twenty Million Dollars (\$20,000,000.00) the percentage rate will be Five and One Quarter Percent (5.25%). The OWNER also agrees to compensate the CONSULTANT the flat fee of THIRTY THOUSAND DOLLARS AND NO CENTS (\$30,000.00) for programming services. All payments previously made to the CONSULTANT regarding the previous contracted amount of \$937,500.00 will be applied to the amended contract total.

Owner agrees to pay the CONSULTANT additional compensation of FIFTY THOUSAND DOLLARS AND NO CENTS (\$50,000.00) to extend their services until the project is completed. All payments previously made to the CONSULTANT regarding the original contracted amount and compensation agreed to per Amendment 1 will be applied to the amended contract total.

Article V Period of Performance

5.1 The scope of the Services to be performed by CONSULTANT shall be fully and finally completed by *September 30, 2019*. Final completion is the completion of all Services and all contract requirements by CONSULTANT.

All other terms and conditions remain the same as in the Agreement effective May 3, 2017.

PERKINS+WILL, INC.

CITY OF KINGSPORT FOR ITS
KINGSPORT CITY SCHOOLS

BY: _____

BY: _____

Date: _____

Date: _____

Date: _____

ATTEST:

WITNESS:

City Recorder

APPROVED AS TO FORM:

City Attorney

MEMORANDUM

TO: Board of Mayor and Aldermen

FROM: David J. Frye, KCS Chief Finance Officer

DATE: May 14, 2019

SUBJECT: Amendment Two to Perkins Will Architect Agreement

The current agreement with Perkins+Will, for architectural services for the D-B Regional Science and Technology addition, is for construction document phase of the work to the Completion of the project.

With the construction of the project extending past the April 30, 2019 contract agreement end date, Perkins+Will has requested an amendment to the agreement to extend their Professional Services contract for the extended construction administration phase of the project. The latest schedule from BurWil Construction has construction administration phase activities scheduled through July with closed out work in August and September. In addition to the percentage of the total project cost previously approved, Perkins + Will has proposed an additional flat fee of \$50,000.00 be approved to extend their construction administration services through September 30, 2019.

It is recommended that the Board approve the resolution for Amendment Two to the Professional Services Agreement with Perkins+Will, for the D-B Regional Science and Technology addition.

PERKINS+WILL

April 30, 2019

David Frye
Kingsport City Schools
400 Clinchfield Street
Kingsport, TN 37660

Dear David,

As discussed due to the construction schedule extending past the April 30th date, Perkins+Will requests an amendment to our design services contract for the extended construction administration phase of the project. Based on the latest schedule from Burwil Construction, the CA phase and activities will continue in May, June, and July. There will also be continued close out work in August and September.

Our fees for this scope are based on our participation and involvement thus far, with Stephen Trimble remaining on the project and making site visits every two weeks for OAC meetings. We anticipate as the project nears completion Stephen will spend more time on site for punch list review and walkthroughs.

Our proposed fee amendment is \$50,000 for extended construction activities until September 30, 2019. We are excited to see the project finish up and are committed to it's success. Let me know if you have any questions or concerns.

Sincerely,



John Poelker, LEED AP BD+C
Managing Principal

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO TRI-MARK STRATEGIC EQUIPMENT, INC. FOR FOODSERVICE EQUIPMENT FOR SCHOOL NUTRITION SERVICES AT VARIOUS SCHOOL LOCATIONS IN KINGSPORT CITY SCHOOLS

WHEREAS, the School Nutrition Services Program recommends the purchase of foodservice equipment from Tri-Mark Strategic Equipment, Inc. Utilizing the Sourcewell Purchasing Cooperative Contract; and

WHEREAS, the city participates in the Sourcewell Cooperative Purchasing Contract; and

WHEREAS, Sourcewell Cooperative Purchasing has a vendor account with Tri-Mark Strategic Equipment, Inc.; and

WHEREAS, the city, through the Sourcewell Cooperative Purchasing Contract, would like to purchase foodservice equipment from Tri-Mark Strategic Equipment, Inc. for various School Nutrition Services locations within Kingsport City Schools in the amount of \$129,368.32; and

WHEREAS, the equipment listed to be purchased is

WHEREAS, Tri-Mark Strategic Equipment, Inc., has a contract with Sourcewell; and

WHEREAS, in order to purchase the equipment, a purchase order needs to be issued to Tri-Mark Strategic Equipment, Inc., in the amount of \$129,368.32; and

WHEREAS, funding for this equipment is available in schools account number 147-7300-851.07-10.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the city manager is authorized to execute a purchase order to Tri-Mark Strategic Equipment, Inc., for the purchase of foodservice equipment, by School Nutrition Services in the amount of \$129,368.32, as set out in the attached Quote, and marked as an Exhibit A to this resolution.

SECTION II. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION III. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



Jennifer Walker
Supervisor of School Nutrition Services

400 Clinchfield Street, Ste. 200
Kingsport, TN 37660

p: (423) 378.2106
f: (423) 378.2109

jwalker@k12k.com
www.k12k.com

MEMORANDUM

TO: KCS Board of Education
Board of Mayor and Aldermen

FROM: Jennifer Walker, Supervisor School Nutrition Services Program

DATE: 05/07/2018

RE: SNS Equipment Purchase 2019

Recommendation: Approval to Purchase School Nutrition Foodservice Equipment from Tri-Mark Strategic Equipment, Inc.

City of Kingsport School Nutrition Services Program is requesting approval to purchase foodservice equipment items for various School Nutrition Services locations utilizing the Sourcewell Cooperative Purchasing Agreement with Tri-Mark Strategic Equipment, Inc. The City of Kingsport for its School Nutrition Services Program received a quote from Tri-Mark Strategic Equipment, Inc., an authorized distributor of foodservice equipment, in the amount of \$129,368.32.

The quoted price includes delivery and installation of equipment at each location. School Nutrition Services is recommending the Board of Education and the Board of Mayor and Aldermen approve the equipment purchase with Tri-Mark Strategic Equipment, Inc.

All expenditures from this bid are fully funded by the School Nutrition Services budget.

Inspire. Cultivate. Impact

Facebook: KptSchools
Twitter: @KCS_District

WWW.K12K.COM



Foodservice Design, Equipment and Supplies.

Exhibit A

Quote

05/07/2019

To:
Jennifer Walker

Project:
Kingsport City Schools
Kingsport, TN

From:
Strategic Equipment, Inc.
Kevin Horne
3011 Industrial Parkway East
Knoxville, TN 37921
(865) 637-2525
Cell (423) 534-3402

Job Reference Number: 4676

1. Prices are good for 30 days unless specified otherwise in the item description.
2. Current Sales tax is estimated. If applicable, tax will be added at the time of invoice unless there is a signed tax exemption certificate on file at TriMark Strategic.
3. Freight, if applicable will be added at time of final invoice.
4. Special orders require a signed quote along with a 50% deposit at time of order.
5. Special orders and non-stock items are not returnable.
6. Returns are subject to a minimum 25% restocking fee plus restocking freight.
7. Prices do not include installation unless specified.
8. Delivery price includes a one-time combined delivery, multiple trips result in additional charges.
9. Customer to verify compatibility with existing electrical, gas, and plumbing connections.

Item	Qty	Description	Sell	Sell Total
1.2	1 ea	DISHWASHER, CONVEYOR TYPE Hobart Model No. CLPS66EN-BAS+BUILDUP Conveyor Dishwasher, single tank with a Power Scrapper, (202) racks/hour, insulated hinged doors, .62 gallons/rack, stainless steel enclosure panels, microprocessor controls with low temperature & dirty water indicators, NSF pot & pan mode, power scrapper vent cowl curtain kit, ENERGY STAR®, Free factory startup for installations within a 50 mile radius of a Hobart service office; installation beyond 50 miles will be charged at the quoted rate by the local Hobart service office	\$31,401.75	\$31,401.75
	1 ea	Standard warranty - 1-Year parts, labor & travel time during normal working hours within the USA		
	1 ea	CLPS66EN-BASELE0AX 208v/60/3-ph, electric heat only		
	1 ea	CLPS66EN-BASHT15K Electric tank heat 15kW	\$2,179.44	\$2,179.44
	1 ea	CLPS66EN-BASERH30K 30kW electric booster	\$3,737.15	\$3,737.15
	1 ea	CLPS66EN-BASDIR0RL Right to left operation		
	1 ea	CLPS66EN-BASHGTSTD Standard height		
	1 ea	CLPS66EN-BASFETSTD Standard feet		
	1 ea	WS40-NOINSTALL Water Softening System, 2,527 grains/lb capacity, 5 gallons regeneration volume, & salt alarm, holds 1 bag of salt, pricing	\$2,071.02	\$2,071.02

Initial: _____

Item	Qty	Description	Sell	Sell Total
		DOES NOT include standard installation. INSTALLATION BY AUTHORIZED HOBART SERVICE OFFICE IS RECOMMENDED, for steam equipment, a CB15K-SYSTEM or CB30K-SYSTEM is required for treatment of Chlorine & Chloramines (NET)		
	2 ea	VNTHD/E-ADJ E-series vent hood domestic (adjustable)	\$948.72	\$1,897.44
	2 ea	SHTPAN-RACK Rack, 6 sheet pan	\$295.49	\$590.98
	1 ea	CLE/TBL-SWITCH Table LMT switch CLE-Series	\$385.49	\$385.49
	1 ea	CURTAIN-KITSTD KIT CURT'N SPLASH Standard E-SERIES	\$135.00	\$135.00
	1 ea	INSTALL Installation of new dishwasher, consisting of: Removal of old dishwasher Setting in place of new dishwasher Installation of electrical and plumbing to new dishwasher and water softener Properly-sized utilities must be within 3 feet of points of connection	\$4,844.69	\$4,844.69
	1 ea	Custom PANT LEG Modification of pant leg duct to accept new dishwasher. Includes installation	\$2,318.51	\$2,318.51
			ITEM TOTAL:	\$49,561.47
2	ROBINSON MIDDLE SCHOOL			
2.1	1 ea	STEAMER, CONVECTION, BOILERLESS, COUNTERTOP Cleveland Range Model No. 22CET6.1 (Express Ship) (22CET6.14803MCSEX) SteamChef™ 6 Convection Steamer, electric, boilerless, countertop, 1 compartment, (6) full size pan capacity, SureCook controls, 60-minute electro-mechanical timer & manual (Express Ship) (Continuous steaming) bypass switch, left-hand hinged door, controls on right, automatic drain & water level controls, KleanShield™ interior, standard treated & tap water connection, stainless steel exterior, 4" adjustable legs, 480v/60/3-ph, 12 kW, ENERGY STAR®	\$7,969.28	\$7,969.28
	1 ea	1-year parts & labor warranty, standard		
	1 ea	Extended warranty, not to exceed 24 months from date of installation (for K-12 schools only)		
	1 ea	Free Start-Up program, includes: performance check out, equipment demonstration, use & care video, standard		
	1 ea	UNISTAND25 (P/N 111717) Equipment Stand, 25" H, stainless steel	\$1,203.27	\$1,203.27
	1 ea	QT11-CR Optipure Water Treatment System, dual-cartridge, reduces sediments over 0.5 microns, reduces chlorine, includes (1) CTOS-Q10 Catalytic Carbon Filter & (1) CTOS-QCR activated carbon filter	\$322.35	\$322.35
	1 ea	Second year limited warranty on water related parts only when purchasing a steamer and filter from Cleveland. Must include a completed Performance Start-Up (See Cleveland warranty statement for details)		
			ITEM TOTAL:	\$9,494.90
2.3	1 ea	MILK COOLER Nor-Lake Model No. AR084SSS/0-A Dual Access Milk Cooler, 35-3/4" W, drop fronts, 8 case capacity, (2) heavy duty floor racks, NSF-listed floor drain and thermometer, fold back locking doors, stainless steel exterior & interior, four corner bumpers, (4) swivel casters (2 locking), 1/5 HP, 115v/60/1-ph, 1.5 amps, cord, NEMA 5-15P, UL, cUL, UL-Sanitation	\$2,359.35	\$2,359.35

Initial: _____

Item	Qty	Description	Sell	Sell Total
	1 ea	Standard warranty: 3 year parts and labor warranty, 5 year compressor		
	1 ea	Replacement Parts warranty: 90 day warranty on replacement parts		
	1 ea	FREIGHT Freight from factory	\$238.00	\$238.00
			ITEM TOTAL:	\$2,597.35
3	DOBYNS-BENNETT HIGH SCHOOL			
3.1	1 ea	ICE CUBER Scotsman Model No. C0530SA-1 Prodigy Plus® Ice Maker, cube style, air-cooled, self-contained condenser, production capacity up to 525 lb/24 hours at 70°/50° (380 lb AHRI certified at 90°/70°), stainless steel finish, small cube size, 115v/60/1-ph, 15.2 amps, cULus, NSF, CE	\$2,582.59	\$2,582.59
	1 ea	3 year parts & labor warranties		
	1 ea	5 year parts & labor warranties on Evaporator		
	1 ea	5 year parts on compressor & condenser		
	1 ea	AP1-P AquaPatrol™ Plus Water Filtration System, single system, 2.1 gallons per minute max flow, designed for cubers up to 650 lb, and for flakers, nuggets & nugget dispensers up to 1,200 lb, cULus, NSF	\$166.45	\$166.45
	1 ea	FREIGHT Freight from factory	\$128.00	\$128.00
			ITEM TOTAL:	\$2,877.04
4	PALMER CENTER			
4.1	1 ea	REACH-IN REFRIGERATOR Hoshizaki Model No. R2A-FS Steelheart Series Refrigerator, reach-in, two-section, 50.37 cu. ft., top mounted self-contained refrigeration, (6) epoxy coated wire shelves, (2) full height solid hinged doors, digital temperature display/controls, LED interior lighting, stainless steel exterior front & sides, stainless steel interior, (4) 4" heavy duty casters (2 with brakes), R290 Hydrocarbon refrigerant, 1/2 HP, NEMA 5-15P, cETLus, ETL-Sanitation	\$3,472.00	\$3,472.00
	1 ea	Warranty: 3-Year parts & labor on entire machine		
	1 ea	Warranty: 5-Year parts on compressor		
	1 ea	115v/60/1-ph, 7.1 amps, standard		
	1 st	Casters, 4" (set of 4), standard		
	1 ea	FREIGHT Freight from factory	\$409.00	\$409.00
			ITEM TOTAL:	\$3,881.00
5	LINCOLN ELEMENTARY SCHOOL			
5.1	1 ea	ICE CUBER WITH BIN Manitowoc Model No. UDF0310A NEO® Undercounter Ice Maker, cube-style, air-cooled, self contained, 30"W x 28"D x 38-1/2"H, production capacity up to 286 lb/24 hours at 70°/50° (233 lb AHRI certified at 90°/70°), 100 lb ice storage capacity, electronic controls, dice size cubes, 6" adjustable legs with flanged feet (painted gray), 3/4 HP, NSF, cULus	\$2,643.99	\$2,643.99
	1 ea	WARRANTY-ICE-SC 3 year parts & labor (Machine), 5 year parts & labor (Evaporator), 5 year parts & 3 years labor (Compressor), standard		
	1 ea	(-161) 115v/60/1-ph, 10.0 amps, cord with NEMA 5-15P		

Initial: _____

Item	Qty	Description	Sell	Sell Total
	1 ea	AR-10000 Arctic Pure® Primary Water Filter Assembly, includes head, shroud, hardware, mounting assembly, & (1) filter cartridge, 14,000 gallon capacity, 0-600 lbs./ice per day	\$214.99	\$214.99
	1 ea	WARRANTY-ARCPURE 3 year parts & labor warranty on cap, housing, hardware, & mounting assembly (does not refer to filter cartridge), standard		
	1 ea	FREIGHT Freight from factory	\$152.00	\$152.00
			ITEM TOTAL:	\$3,010.98
6	KENNEDY ELEMENTARY SCHOOL			
6.1	1 ea	STEAMER, CONVECTION, BOILERLESS, COUNTERTOP Cleveland Range Model No. 22CET6.1 (Quick Ship) (22CET62082403MCSQS) SteamChef™ 6 Convection Steamer, electric, boilerless, countertop, 1 compartment, (6) full size pan capacity, SureCook controls, 60-minute electro-mechanical timer & manual (continuous steaming) bypass switch, left-hand hinged door, controls on right, automatic drain & water level controls, KleanShield™ interior, standard treated & tap water connection, stainless steel exterior, 4" adjustable legs, 208-240v/60/3-ph, 12 kW, ENERGY STAR®	\$7,633.05	\$7,633.05
	1 ea	1-year parts & labor warranty, standard		
	1 ea	Free Start-Up program, includes: performance check out, equipment demonstration, use & care video, standard		
	1 ea	UNISTAND25 (P/N 111717) Equipment Stand, 25" H, stainless steel	\$1,203.27	\$1,203.27
	1 ea	QTI1-CR Optipure Water Treatment System, dual-cartridge, reduces sediments over 0.5 microns, reduces chlorine, includes (1) CTOS-Q10 Catalytic Carbon Filter & (1) CTOS-QCR activated carbon filter	\$322.35	\$322.35
	1 ea	Second year limited warranty on water related parts only when purchasing a steamer and filter from Cleveland. Must include a completed Performance Start-Up (See Cleveland warranty statement for details)		
			ITEM TOTAL:	\$9,158.67
6.2	1 ea	ICE CUBER WITH BIN Manitowoc Model No. UDF0190A NEO® Undercounter Ice Maker, cube-style, air-cooled, self contained, 26"W x 28"D x 38-1/2"H, production capacity up to 198 lb/24 hours at 70°/50° (140 lb AHRI certified at 90°/70°), 90 lb ice storage capacity, electronic controls, dice size cubes, 6" adjustable legs with flanged feet (painted gray), 0.42 HP, NSF, cULus	\$1,965.96	\$1,965.96
	1 ea	WARRANTY-ICE-SC 3 year parts & labor (Machine), 5 year parts & labor (Evaporator), 5 year parts & 3 years labor (Compressor), standard		
	1 ea	(-161) 115v/60/1-ph, 6.0 amps, cord with NEMA 5-15P		
	1 ea	AR-10000 Arctic Pure® Primary Water Filter Assembly, includes head, shroud, hardware, mounting assembly, & (1) filter cartridge, 14,000 gallon capacity, 0-600 lbs./ice per day	\$214.99	\$214.99
	1 ea	WARRANTY-ARCPURE 3 year parts & labor warranty on cap, housing, hardware, & mounting assembly (does not refer to filter cartridge), standard		
	1 ea	FREIGHT Freight from factory	\$112.00	\$112.00

Initial: _____

Item	Qty	Description	Sell	Sell Total
			ITEM TOTAL:	\$2,292.95
7	JACKSON ELEMENTARY SCHOOL			
7.1	1 ea	KETTLE, ELECTRIC, COUNTERTOP Cleveland Range Model No. KET6T (Express Ship) (KET6THWPEX) Kettle, electric, countertop , tilting, 6-gallon capacity, 2/3 steam jacket design, stainless steel exterior finish, support console on right, splash proof, 208/240v/60/3-ph, high wattage (field convertible)	\$4,773.95	\$4,773.95
	1 ea	1-year parts & labor warranty, standard		
	1 ea	Extended warranty, not to exceed 24 months from date of installation (for K-12 schools only)		
	1 ea	Free Start-Up program, includes: performance check out, equipment demonstration, use & care video, standard		
	1 ea	CL6 Lift-Off Cover, 6 gallon, per each kettle	\$288.08	\$288.08
	1 ea	SPKT Single Pantry Faucet, with swing spout & mounting bracket for tilting kettles	\$367.28	\$367.28
	1 ea	ST28 Equipment Stand, for single kettles only, open base with sliding drain drawer & splash screen, 28" x 26", 18" high, stainless steel top and legs, allows unit to be hard piped to a floor drain	\$1,482.55	\$1,482.55
			ITEM TOTAL:	\$6,911.86
8	ADAMS ELEMENTARY SCHOOL			
8.1	1 ea	STEAMER, CONVECTION, BOILERLESS, COUNTERTOP Cleveland Range Model No. 22CET6.1 (Express Ship) (22CET6.14803MCSEX) SteamChef™ 6 Convection Steamer, electric, boilerless, countertop, 1 compartment, (6) full size pan capacity, SureCook controls, 60-minute electro-mechanical timer & manual (Express Ship) (Continuous steaming) bypass switch, left-hand hinged door, controls on right, automatic drain & water level controls, KleanShield™ interior, standard treated & tap water connection, stainless steel exterior, 4" adjustable legs, 480v/60/3-ph, 12 kW, ENERGY STAR®	\$7,969.20	\$7,969.20
	1 ea	1-year parts & labor warranty, standard		
	1 ea	Extended warranty, not to exceed 24 months from date of installation (for K-12 schools only)		
	1 ea	Free Start-Up program, includes: performance check out, equipment demonstration, use & care video, standard		
	1 ea	UNISTAND25 (P/N 111717) Equipment Stand, 25" H, stainless steel	\$1,203.27	\$1,203.27
	1 ea	QT11-CR Optipure Water Treatment System, dual-cartridge, reduces sediments over 0.5 microns, reduces chlorine, includes (1) CTOS-Q10 Catalytic Carbon Filter & (1) CTOS-QCR activated carbon filter	\$322.35	\$322.35
	1 ea	Second year limited warranty on water related parts only when purchasing a steamer and filter from Cleveland. Must include a completed Performance Start-Up (See Cleveland warranty statement for details)		
			ITEM TOTAL:	\$9,494.82
10	ROOSEVELT ELEMENTARY SCHOOL			
10.1	1 ea	STEAMER, CONVECTION, BOILERLESS, COUNTERTOP	\$7,633.05	\$7,633.05

Initial: _____

Item	Qty	Description	Sell	Sell Total
		Cleveland Range Model No. 22CET6.1 (Quick Ship) (22CET62082403MCSQS) SteamChef™ 6 Convection Steamer, electric, boilerless, countertop, 1 compartment, (6) full size pan capacity, SureCook controls, 60-minute electro-mechanical timer & manual (continuous steaming) bypass switch, left-hand hinged door, controls on right, automatic drain & water level controls, KleanShield™ interior, standard treated & tap water connection, stainless steel exterior, 4" adjustable legs, 208-240v/60/3-ph, 12 kW, ENERGY STAR®		
	1 ea	1-year parts & labor warranty, standard		
	1 ea	Extended warranty, not to exceed 24 months from date of installation (for K-12 schools only)		
	1 ea	Free Start-Up program, includes: performance check out, equipment demonstration, use & care video, standard		
	1 ea	UNISTAND25 (P/N 111717) Equipment Stand, 25" H, stainless steel	\$1,203.27	\$1,203.27
	1 ea	QTI1-CR Optipure Water Treatment System, dual-cartridge, reduces sediments over 0.5 microns, reduces chlorine, includes (1) CTOS-Q10 Catalytic Carbon Filter & (1) CTOS-QCR activated carbon filter	\$322.35	\$322.35
	1 ea	Second year limited warranty on water related parts only when purchasing a steamer and filter from Cleveland. Must include a completed Performance Start-Up (See Cleveland warranty statement for details)		
			ITEM TOTAL:	\$9,158.67

11

SEVIER MIDDLE SCHOOL

11.1	1 ea	CONVECTION STEAMER, ELECTRIC, BOILERLESS	\$16,611.60	\$16,611.60
		Cleveland Range Model No. (2) 22CET66.1 SteamChef™ 6 Convection Steamer, electric, boilerless, double stacked, on ES26304066E equipment stand, (6) full size pan capacity per compartment, SureCook controls, 60-minute electro-mechanical timer & manual (continuous steaming) bypass switch, left-hand hinged door, controls on right, automatic drain & water level controls, KleanShield™ interior, standard treated & tap water connection, stainless steel exterior, 4" adjustable legs with flanged feet, UL, cUL, NSF, ENERGY STAR®		
	1 ea	1-year parts & labor warranty, standard		
	1 ea	Extended warranty, not to exceed 24 months from date of installation (for K-12 schools only)		
	2 ea	3 year Convection Steamer Door Warranty, standard		
	1 ea	Performance start-up included at customer request after equipment is installed (Free Water Quality Check included) (contact Cleveland Sales Representative for details)		
	1 ea	(VOS2) (2) 440-480v/60/3-ph, 10.1-12.0 kW, 13.2-14.4 amps, 3-wire	\$672.31	\$672.31
	2 ea	QTI1-CR Optipure Water Treatment System, dual-cartridge, reduces sediments over 0.5 microns, reduces chlorine, includes (1) CTOS-Q10 Catalytic Carbon Filter & (1) CTOS-QCR activated carbon filter	\$322.35	\$644.70
	1 ea	Second year limited warranty on water related parts only when purchasing a steamer and filter from Cleveland. Must include a completed Performance Start-Up (See Cleveland warranty statement for details)		

Initial: _____

Item	Qty	Description	Sell	Sell Total
			ITEM TOTAL:	\$17,928.61
13	1 ea	EQUIPMENT DELIVERY Strategic Equipment, LLC Model No. DELIVERY Delivery, uncrating, and setting in place of equipment. Includes removal of existing equipment if disconnected by school maintenance department	\$3,000.00	\$3,000.00
			ITEM TOTAL:	\$3,000.00
			Total	\$129,368.32

The above prices include shipping, delivery, uncrating, and setting in place. Dishwasher price includes installation as noted.
Prices based on NJPA (Sourcewell) Contract #091918-TMK

Acceptance: _____ Date: _____

Printed Name: _____

Project Grand Total: \$129,368.32



AGENDA ACTION FORM

Authorizing the Purchase of Chromebooks from FireFly Computers for 4th, 5th, 7th, and 8th Grade Students in the Kingsport City School System

To: Board of Mayor and Aldermen
 From: Jeff Fleming, City Manager *JF*

Action Form No.: AF-118-2019
 Work Session: May 20, 2019
 First Reading: N/A

Final Adoption: May 21, 2019
 Staff Work By: Committee
 Presentation By: D. Frye/Scott Pierce

Recommendation:

Approve the Resolution.

Executive Summary:

Kingsport City Schools recommend purchasing 1,765 Acer C732 Chromebooks for the FY19 - 20 4th, 5th, 7th and 8th grade students in the Kingsport City School system at \$281.95 each for a total cost of \$497,647.35.

The pricing offered is based upon the contract award to FireFly Computers through the National Cooperative Purchasing Alliance (NCPA) Contract 01-43. NCPA is a leading national government purchasing cooperative working to reduce the cost of goods and services by leveraging the purchasing power of public agencies in all 50 states. NCPA utilizes state of the art procurement resources and solutions that result in cooperative purchasing contracts that ensure all public agencies are receiving products and services of the highest quality at the lowest prices.

With NCPA, agencies can utilize competitively solicited contracts to help save time and resources while still meeting purchasing requirements. All cooperative purchasing contracts from NCPA have been competitively solicited by a lead agency and meet rigorous cooperative standards and supplier commitments. Each supplier commits to delivering their best overall government pricing so that the City of Kingsport can buy with confidence.

Funding will come from account number 141-7161-711.07-22 (FY 2019-2020).

Attachments:

1. Resolution
2. Recommendation/Quote

Funding source appropriate and funds are available: *JF*

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO FIREFLY COMPUTERS FOR 1,765 ACER C732 CHROMEBOOKS FOR USE BY STUDENTS AT KINGSPORT CITY SCHOOLS

WHEREAS, the Kingsport City School administration recommends the purchase of 1,765 Acer C732 Chromebooks for the FY20 4th, 5th, 7th and 8th grade students in the Kingsport City School system; and

WHEREAS, the cost is \$281.95 for each Chromebook for a total cost of \$497,647.35; and

WHEREAS, the city is a member National Cooperative Purchasing Alliance (NCPA), a cooperative purchasing group, that allows the city to purchase goods and services directly from holders of contracts with the network without conducting the bidding process, as authorized by T.C.A. Section 12-3-1009; and

WHEREAS, FireFly Computers has a contract with NCPA; and

WHEREAS, in order to purchase the computers, a purchase order needs to be issued to FireFly Computers, in the amount of \$497,647.35; and

WHEREAS, funding for this equipment is available in schools account number 141-7161-711-07-22.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the city manager is authorized to execute a purchase order to FireFly Computers, for the purchase of 1,765 Acer C732 Chromebooks for use by Kingsport City Schools in the amount of \$497,647.35.

SECTION II. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION III. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

MEMORANDUM

TO: Board of Education and the Board of Mayor and Aldermen
Dr. Jeffery Moorhouse

FROM: Scott Pierce, Director of Technology

DATE: May 14, 2019

SUBJECT: Chromebooks Purchase

We have received quotes to purchase Chromebooks for the fourth, fifth, seventh and eighth grade students utilizing the KCS budget. Approximately 1,765 devices will be purchased for this 1:1 computer program.

It is recommended the Board approve the purchase of the Acer C732 Chromebooks as the device chosen for the program. The laptops will be purchased utilizing the National Cooperative Purchasing Alliance (NCPA) (Contract 01-43). through FireFly Computers as the partner vendor. The Chromebook will cost \$281.95, which includes the computer, Chrome license, and service fees for a total cost of \$497,647.35

Vendor	Total Unit Cost	Total Cost
Firefly	\$281.95	\$497,647.35
Insight	\$352.36	\$621,916.40
Howard Technology*	\$308.00	\$543,620.00
CDW-G	\$324.03	\$571,906.75

1765 Devices

*did not bid on all components



FireFly Computers
 1271 Red Fox Road
 Saint Paul, MN 55112
 fireflycomputers.com

Quote #: E000000602

Kingsport City School District	Customer Number	Quote Date	Expiration Date	Terms
Jennifer Brotherton 423-378-2154 jbrotherton@k12k.com	70345	4/17/2019	5/17/2019	Net 30

Philip Crawford
 Direct: 651-400-1043
 Fax: 612-392-2155
 Email: PCrawford@fireflycomputers.com

Quantity	Item	Unit Price	Extended Price
1,765	Acer Chromebook C732 11.6" Screen Intel Celeron N3350 Processor 4GB RAM 32GB SSD Chrome OS Wireless + BT 1-Year Warranty	236.99	418,287.35
1,765	Google Chrome OS Management Licenses - Academic	24.00	42,360.00
1,765	FireFly White Glove 300 Units and Above	4.00	7,060.00
1,765	FireFly Asset Tags with White Glove	0.00	0.00
1,765	Bulk Packaging	0.00	0.00

NCPA Contract 01-43

Please send all serial numbers to Jennifer Brotherton: jbrotherton@k12k.com

All invoices need to be sent electronically to: ap@kingsporttn.gov

All invoices need to have this as their billing address:

City of Kingsport
 225 West Center St.
 Kingsport TN 37660

RMA: we are servicing their warranties in an effort to get and retain their business. let's continue servicing their warranties for the time being.
 Per Philip - All RMA's will be handled as Repair and Returns with 2 way shipping until further notice

IMAGING- Leave current image (customer blows it out anyways) DOES NOT want Firefly stickers on any devices. Need to ship orders on 48" x 40" compressed wood pallets Lift Gate required on all palatalized deliveries

Please send all serial numbers to Jennifer Brotherton: jbrotherton@k12k.com

All invoices need to be sent electronically to: ap@kingsporttn.gov



FireFly Computers
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IMAGING- Leave current image (customer blows it out anyways) DOES NOT want Firefly stickers on any devices. Need to ship orders on 48" x 40" compressed wood pallets Lift Gate required on all palatalized deliveries

Sale Amount:	467,707.35
Other/Misc:	0.00
Sales Tax:	0.00
Total Amount:	467,707.35

Terms And Conditions:

Prices reflect a 3% discount for cash/check payment. Credit card payment is accepted without discount. This quote is confidential and is to be viewed solely by individuals within the organization to whom it is addressed. Unauthorized distribution or disclosure of the contents of this quote is prohibited. If you are not from the organization addressed, please notify us immediately so we can prepare a quote specific to you. Prices and availability may change without notice prior to the quote expiration date.

Ordering:

Please email purchase orders to orders@fireflycomputers.com or fax orders to 612-392-2155

Questions:

If you have any questions regarding this quote, please feel free to contact your FireFly Account Manager listed above at your convenience. We pride ourselves on providing you a quick response.



FireFly Computers
 1271 Red Fox Road
 Saint Paul, MN 55112
 fireflycomputers.com

Quote #: E000001163

Kingsport City School District	Customer Number	Quote Date	Expiration Date	Terms
Jennifer Brotherton 423-378-2154 jbrotherton@k12k.com	70345	4/23/2019	5/23/2019	Net 30

Philip Crawford
 Direct: 651-400-1043
 Fax: 612-392-2155
 Email: PCrawford@fireflycomputers.com

Quantity	Item	Unit Price	Extended Price
60	Aver B30 Cart - Wired	499.00	29,940.00
57	Cart Wiring	0.00	0.00
1,143	Ship Devices in Cart(s) with Bubble Bags	0.00	0.00

NCPA Contract 01-43

Please send all serial numbers to Jennifer Brotherton: jbrotherton@k12k.com

All invoices need to be sent electronically to: ap@kingsporttn.gov

All invoices need to have this as their billing address:

City of Kingsport
 225 West Center St.
 Kingsport TN 37660

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 Per Philip - All RMA's will be handled as Repair and Returns with 2 way shipping until further notice

IMAGING- Leave current image (customer blows it out anyways) DOES NOT want Firefly stickers on any devices. Need to ship orders on 48" x 40" compressed wood pallets Lift Gate required on all palatalized deliveries

Please send all serial numbers to Jennifer Brotherton: jbrotherton@k12k.com

All invoices need to be sent electronically to: ap@kingsporttn.gov

All invoices need to have this as their billing address:

City of Kingsport
 225 West Center St.
 Kingsport TN 37660



FireFly Computers
 1271 Red Fox Road
 Saint Paul, MN 55112
 fireflycomputers.com

Quote #: E000001163

Kingsport City School District	Customer Number	Quote Date	Expiration Date	Terms
Jennifer Brotherton 423-378-2154 jbrotherton@k12k.com	70345	4/23/2019	5/23/2019	Net 30

Philip Crawford
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RMA: we are servicing their warranties in an effort to get and retain their business. let's continue servicing their warranties for the time being.
 Per Philip - All RMA's will be handled as Repair and Returns with 2 way shipping until further notice

IMAGING- Leave current image (customer blows it out anyways) DOES NOT want Firefly stickers on any devices. Need to ship orders on 48" x 40" compressed wood pallets Lift Gate required on all palatalized deliveries

Sale Amount:	29,940.00
Other/Misc:	0.00
Sales Tax:	0.00
Total Amount:	29,940.00

Terms And Conditions:

Prices reflect a 3% discount for cash/check payment. Credit card payment is accepted without discount. This quote is confidential and is to be viewed solely by individuals within the organization to whom it is addressed. Unauthorized distribution or disclosure of the contents of this quote is prohibited. If you are not from the organization addressed, please notify us immediately so we can prepare a quote specific to you. Prices and availability may change without notice prior to the quote expiration date.

Ordering:

Please email purchase orders to orders@fireflycomputers.com or fax orders to 612-392-2155

Questions:

If you have any questions regarding this quote, please feel free to contact your FireFly Account Manager listed above at your convenience. We pride ourselves on providing you a quick response.



AGENDA ACTION FORM

Execute the Annual Renewal of the Public Library Service Agreement with the Tennessee State Library and Archives for Services via Holston River Regional Library

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager 

Action Form No.: AF-121-2019
Work Session: May 20, 2019
First Reading: N/A

Final Adoption: May 21, 2019
Staff Work By: Chris Markley
Presentation By: Chris Markley

Recommendation:

Approve the Resolution.

Executive Summary:

This is an annual agreement which makes the library eligible to receive, from the State Library through the Holston River Regional Library (a Multi-County Regional System):

- Professional and technical assistance to library staff and boards valued @ \$30,000
- Annual funds, which over the past 20 years have purchased approximately 27% of our total print collection
- Downloadable ebook, eAudio , magazines and streaming movies available through Overdrive purchased with State/Regional funds and online reference resources/databases valued @ \$1,700,000.
- Statewide courier service valued @ \$10,000
- Access to direct library grants
- Access to State Construction Grant (\$100,000)

Attachments:

1. Resolution
2. 2019-2020 Library Service Agreement

	Y	N	O
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE ANNUAL RENEWAL OF THE PUBLIC LIBRARY SERVICE AGREEMENT WITH THE TENNESSEE STATE LIBRARY AND ARCHIVES TO RECEIVE FUNDING FOR BOOKS, TRAINING, AND SERVICES THROUGH THE HOLSTON RIVER REGIONAL LIBRARY SYSTEM FOR FISCAL YEAR 2019-2020

WHEREAS, the city is eligible to receive fiscal year 2019-2020 Tennessee State Library and Archives funding for books, online resources and professional training, use of the courier service, the automation system, and internet service through the Holston River Regional Library System; and

WHEREAS, receipt of the funding and services requires execution of a renewal of the Public Library Service Agreement with the Tennessee State Library and Archives.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That a Public Library Service Agreement with the Tennessee State Library and Archives to receive funding for books, online resources and professional training, and allow use of courier service, the automation system, and internet service through the Holston River Regional Library System for fiscal year 2019-2020 is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a Public Library Service Agreement with the Tennessee State Library and Archives to receive funding for books, online resources and professional training, and allow use of courier service, the automation system and internet service through the Holston River Regional Library System for fiscal year 2019-2020, and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution, said agreement being as follows:

PUBLIC LIBRARY SERVICE AGREEMENT
Holston River Sullivan County FY 2019-20
Charles A. Sherrill
State Librarian and Archivist

Responsibilities of the following Public Library(ies): Please list libraries below in this box.
Kingsport Public Library

The Public library Board of Trustees will:

1. Confirm and provide proof (upon request) that the library has been legally established in accordance with Tennessee Code Annotated 10-3-101.
2. Furnish annual documents for participation in the Tennessee State Library and Archives Regional System, including, but not limited to:
 - The Public Library Maintenance of Effort Agreement
 - The Public Library Service Agreement
 - The Official Public Library Service Area Population Agreement
 - Official Library Board Appointment form
 - The Public Library Statistics Survey (Data Collection)
 - Tennessee Non-Metropolitan Public Library Standards Survey
 - Board of Trustees minutes and other reports made to the County and/or City governing body

- A Long-range Plan for Library Services and Technology
3. Support the allocation of locally appropriated public funds at a level not less than the amount appropriated in the last fiscal year, as well as the expenditure of locally appropriated funds at a level not less than the total amount expended in the last fiscal year. This is referred to as "Maintenance of Effort" (MOE) in various documents and also applies to library operating hours as detailed in item 4 of this document. (T.C.A. 10- 3-102)
 4. Maintain a schedule of service hours which best meets the needs of the residents and which will not fall below the level set in the preceding year. (T.C.A. 10-3-102) Note: Unduplicated branch hours are included in the service hours provided' system-wide.
 5. Follow all local, state and federal laws and regulations, including, but not limited to, display, provision and transmission of the mail-in or online Application for Voter Registration within the library facilities. (See National Voter Registration Act of 1993) Display posters and provide written material, provided by the Tennessee Division of Elections, educating the public regarding election law changes such as photo identification requirements.
 6. Provide basic library services free to the inhabitants of the city or county. Extend the privileges and facilities of the library to persons residing outside the County or City upon such terms as it may deem proper. (T.C.A. 10-3-107)
 7. Adopt written board bylaws and library usage policies and provide copies to the Regional Library. Bylaws should be reviewed/revised every 3 years and usage policies every 2 years. (*Tennessee Standards For Public libraries 2018: Governance 2-6*)
 8. Follow Open Meetings Law, including adequate public notices (T.C.A. 8-44-103), minutes properly recorded and distributed (T.C.A. 8-44-104). All meetings, including committee meetings, must be open to the public.
 9. Include Regional Director, or regional designee, in all board meetings as a non-voting participant and provide information related to the meetings in a timely manner, including but not limited to library and board official acts.
 10. Participate in trustee continuing education and training provided by the Regional Library and the Tennessee State Library and Archives, including but not limited to Trustee Workshops and the Tennessee Trustee Certification Program.
 11. Require participation of library staff in and reporting of a minimum number of hours of annual training. Training may include a combination of face-to-face and online training.
 - a. Administrative staff: Library directors and administration will receive a minimum of 25 contact hours of library related training annually, of which at least 20 hours will be regionally or state sponsored.
 - b. Paid staff working 20 hours or more: Staff working 20 hours or more per week will receive a minimum of 10 contact hours of library related training annually, of which at least 5 hours are regionally or state sponsored.
 - c. Paid staff working 19 hours or less per week will receive a minimum of 5 hours of library related training annually, of which at least 2 hours are regionally or state sponsored.
 12. Provide complete and correct MARC records compatible with the statewide catalog database (ShareIT), which facilitates the statewide interlibrary loan program.

The following resources, available upon request, will be helpful to public libraries in meeting these responsibilities:

- Tennessee Code Annotated, Title 10
 - Tennessee Standards for Public Libraries, 2018
- Responsibilities of the State Library and Its Regional Libraries**

Subject to availability of resources, the State will:

1. Provide assistance to County and City officials and library board(s) in developing a unified system of public library service for all residents of the county.
2. Provide professional library consultant services to local public library boards and staff, which may include, but not be limited to:
 - Planning and Development
 - Personnel Management
 - Policy Development
 - Recruitment and Hiring of Library Directors
 - Collection Management
 - Grant Preparation Guidance
 - Automation Guidance
 - Facilities Management and Construction Guidance
3. Upon request, furnish technical and technology assistance to local public library boards and staff, which may include, but not be limited to:
 - Materials Acquisitions

- Original Cataloging
 - Data Collection and Analysis
 - Computer Hardware/Software Problem Resolutions
 - Shared ILS Problem Resolutions
4. Allocate and monitor State funds for a collection of library materials on indefinite loan.
 5. Facilitate access to R.E.A.D.S. (Regional eBook and Audiobook Download System) and/or other digital resources provided by the regional library system.
 6. Provide an annual summer reading program workshop and selected library participant materials for promotion and implementation.
 7. Purchase and maintain a collection of print and online professional materials to support the improvement of library and management skills of local public library boards and staff.
 8. Supply statistical information and data pertaining to the operation and use of the library.
 9. Offer training specific to public library trustees, including, but not limited to, the annual Tennessee Trustee Workshops and the Tennessee Trustee Certification program. Offer a minimum of 30 contact hours of workshops and training for library boards and staff. Training may include in-services, workshops, roundtables, or online training
- [Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION IV. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

State of Tennessee



Department of State
Tennessee State Library and Archives
403 Seventh Avenue North
Nashville, Tennessee 37243-0312
(615) 741-7996

PUBLIC LIBRARY SERVICE AGREEMENT

Holston River
Sullivan County
FY 2019-20

Responsibilities of the following Public Library(ies): *Please list libraries below in this box.*
Kingsport Public Library

The Public Library Board of Trustees will:

1. Confirm and provide proof (upon request) that the library has been legally established in accordance with Tennessee Code Annotated 10-3-101.
2. Furnish annual documents for participation in the Tennessee State Library and Archives Regional System, including, but not limited to:
 - The Public Library Maintenance of Effort Agreement
 - The Public Library Service Agreement
 - The Official Public Library Service Area Population Agreement
 - Official Library Board Appointment form
 - The Public Library Statistics Survey (Data Collection)
 - Tennessee Non-Metropolitan Public Library Standards Survey
 - Board of Trustees minutes and other reports made to the County and/or City governing body
 - A Long-range Plan for Library Services and Technology
3. Support the allocation of locally appropriated public funds at a level not less than the amount appropriated in the last fiscal year, as well as the expenditure of locally appropriated funds at a level not less than the total amount expended in the last fiscal year. This is referred to as "Maintenance of Effort" (MOE) in various documents and also applies to library operating hours as detailed in item 4 of this document. (T.C.A. 10-3-102)
4. Maintain a schedule of service hours which best meets the needs of the residents and which will not fall below the level set in the preceding year. (T.C.A. 10-3-102) Note: Unduplicated branch hours are included in the service hours provided system-wide.

Due to the Holston River Regional Library by July 26, 2019

5. Follow all local, state and federal laws and regulations, including, but not limited to, display, provision and transmission of the mail-in or online Application for Voter Registration within the library facilities. (See National Voter Registration Act of 1993) Display posters and provide written material, provided by the Tennessee Division of Elections, educating the public regarding election law changes such as photo identification requirements.
6. Provide basic library services free to the inhabitants of the city or county. Extend the privileges and facilities of the library to persons residing outside the County or City upon such terms as it may deem proper. (T.C.A. 10-3-107)
7. Adopt written board bylaws and library usage policies and provide copies to the Regional Library. Bylaws should be reviewed/revised every 3 years and usage policies every 2 years. (*Tennessee Standards For Public Libraries 2018: Governance 2-6*)
8. Follow Open Meetings Law, including adequate public notices (T.C.A. 8-44-103), minutes properly recorded and distributed (T.C.A. 8-44-104). All meetings, including committee meetings, must be open to the public.
9. Include Regional Director, or regional designee, in all board meetings as a non-voting participant and provide information related to the meetings in a timely manner, including but not limited to library and board official acts.
10. Participate in trustee continuing education and training provided by the Regional Library and the Tennessee State Library and Archives, including but not limited to Trustee Workshops and the Tennessee Trustee Certification Program.
11. Require participation of library staff in and reporting of a minimum number of hours of annual training. Training may include a combination of face-to-face and online training.
 - a. Administrative staff: Library directors and administration will receive a minimum of 25 contact hours of library related training annually, of which at least 20 hours will be regionally or state sponsored.
 - b. Paid staff working 20 hours or more: Staff working 20 hours or more per week will receive a minimum of 10 contact hours of library related training annually, of which at least 5 hours are regionally or state sponsored.
 - c. Paid staff working 19 hours or less per week will receive a minimum of 5 hours of library related training annually, of which at least 2 hours are regionally or state sponsored.
12. Provide complete and correct MARC records compatible with the statewide catalog database (ShareIT), which facilitates the statewide interlibrary loan program.

The following resources, available upon request, will be helpful to public libraries in meeting these responsibilities:

- Tennessee Code Annotated, Title 10
- Tennessee Standards for Public Libraries, 2018

Due to the Holston River Regional Library by July 26, 2019

Responsibilities of the State Library and Its Regional Libraries

Subject to availability of resources, the State will:

1. Provide assistance to County and City officials and library board(s) in developing a unified system of public library service for all residents of the county.
2. Provide professional library consultant services to local public library boards and staff, which may include, but not be limited to:
 - Planning and Development
 - Personnel Management
 - Policy Development
 - Recruitment and Hiring of Library Directors
 - Collection Management
 - Grant Preparation Guidance
 - Automation Guidance
 - Facilities Management and Construction Guidance
3. Upon request, furnish technical and technology assistance to local public library boards and staff, which may include, but not be limited to:
 - Materials Acquisitions
 - Original Cataloging
 - Data Collection and Analysis
 - Computer Hardware/Software Problem Resolutions
 - Shared ILS Problem Resolutions
4. Allocate and monitor State funds for a collection of library materials on indefinite loan.
5. Facilitate access to R.E.A.D.S. (Regional eBook and Audiobook Download System) and/or other digital resources provided by the regional library system.
6. Provide an annual summer reading program workshop and selected library participant materials for promotion and implementation.
7. Purchase and maintain a collection of print and online professional materials to support the improvement of library and management skills of local public library boards and staff.
8. Supply statistical information and data pertaining to the operation and use of the library.
9. Offer training specific to public library trustees, including, but not limited to, the annual Tennessee Trustee Workshops and the Tennessee Trustee Certification program.
10. Offer a minimum of 30 contact hours of workshops and training for library boards and staff. Training may include in-services, workshops, roundtables, or online training.

Due to the Holston River Regional Library by July 26, 2019



Signature, Chair, Kingsport Public Library & Archives Board

Date 5/13/2019

LANE DUKART

Print Name

Date

Bessie Davis, Director of Regional Libraries

References:
Tennessee Code Annotated, Title 10
Tennessee Standards for Non-Metropolitan Public Libraries, 2018

Revised form: 5/3/2019



AGENDA ACTION FORM

Reject All Bids for West Kingsport Pump Station & Force Main – Ridgefields Sanitary Sewer Project

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager 

Action Form No.: AF-112-2019
Work Session: May 20, 2019
First Reading: N/A

Final Adoption: May 21, 2019
Staff Work By: Clabaugh/Ensor
Presentation By: Ryan McReynolds

Recommendation:

Approve the Resolution.

Executive Summary:

Bids were received and opened on May 7, 2019 for the West Kingsport Pump Station & Force Main – Ridgefields Sanitary Sewer project. This project consists of the rehabilitation of the existing West Kingsport wastewater pump station, and installation of 4,900 linear feet of 16” diameter HDPE sewer forcemain. Demolition of the existing Ridgefields wastewater pump station, and installation of 3,600 linear feet of 16” gravity sewer.

There were two (2) bidders for this project, however the bids exceeded the Engineer’s estimate of \$5,478,600. City staff and the Consulting Engineer reviewed both bids for completeness.

It is therefore recommended to reject all bids. The City plans to break the project into two (2) separate projects, incorporate value engineering, and rebid to reduce potential cost. This will provide and allow this project to be built within the budget.

Attachments:

- 1. Resolution
- 2. Bid Tabulation
- 3. Recommendation Letter

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION REJECTING ALL BIDS RELATED TO THE WEST
KINGSPORT PUMP STATION AND FORCE MAIN RIDGFIELD'S
SANITARY SEWER PROJECT

WHEREAS, bids were opened May 7, 2019, for the West Kingsport Pump Station & Force Main – Ridgefields Sanitary Sewer project; and

WHEREAS, WHEREAS, all bids exceeded the project estimate, and therefore the city wants to reject all bids and re-bid at a later date;

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That all bids opened May 7, 2019, for the West Kingsport Pump Station & Force Main – Ridgefields Sanitary Sewer project are rejected.

SECTION II. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

BID TABULATION - West Kingsport PS-Ridgefields SS

Owner: City of Kingsport
 Engineer: Hazen and Sawyer
 Bid Date: Tuesday, May 7, 2019 at 4:00pm

Engineer's OPMC
 Hazen and Sawyer
 Suite 320, 545 Mainstream Dr
 Nashville, TN 37228

Garney Companies, Inc.
 200 Clutchfield Av
 Nashville, TN 37210

Haren Construction Company, Inc.
 1715 Hwy 411 N
 Etowah, TN 37331

Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Mobilization and General Conditions	1	LS	\$ 453,900.00	\$ 453,900.00	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00
2	Existing conditions documentation	1	LS	\$ 5,100.00	\$ 5,100.00	\$ 40,000.00	\$ 40,000.00	\$ 25,000.00	\$ 25,000.00
3	Sewer Flow Control and Bypass Pumping for the Project (Direct Reimbursement for bypass pumping equipment rental, delivery, setup, maintenance, and pickup) Amount paid will be directly taken from bypass system supplier monthly invoices	1	A	\$ 320,000.00	\$ 320,000.00	\$ 320,000.00	\$ 320,000.00	\$ 320,000.00	\$ 320,000.00
3a	Allowance for Fuel used based on Engine Hours, Average RPM and Average \$/gallon price (with appropriate supporting calculations and fuel delivery invoices with site address listed)	1	A	\$ 140,000.00	\$ 140,000.00	\$ 140,000.00	\$ 140,000.00	\$ 140,000.00	\$ 140,000.00
4	West Kingsport PS Upgrade and PS Site Improvements. All Inclusive with the exception of specific line items listed below, 5-10, (Ends at forcemain transition from ductile to HDPE, includes 18"x18" MJ reducer and connection to HDPE MJ adapter)	1	LS	\$ 1,679,400.00	\$ 1,679,400.00	\$ 2,799,000.00	\$ 2,799,000.00	\$ 2,900,500.00	\$ 2,900,500.00
5	West Kingsport PS Cleaning, Surface Preparation and Concrete M/C Coating (for the entire interior of the pump station including walls, underside of the slabs, beams and concrete elements as shown on the Drawings)	8,500	SF	\$ 37.09	\$ 315,300.00	\$ 20.00	\$ 170,000.00	\$ 30.00	\$ 255,000.00
6	West Kingsport PS Thin Concrete Repair 0.5" to 1.5" thick	500	SF	\$ 70.00	\$ 35,000.00	\$ 75.00	\$ 37,500.00	\$ 90.00	\$ 45,000.00
7	West Kingsport PS Moderate Concrete Repair >1.5" to 3" thick	250	SF	\$ 150.00	\$ 37,500.00	\$ 162.00	\$ 40,500.00	\$ 190.00	\$ 47,500.00
8	West Kingsport PS Leaking Crack Waterproof Injection Grout	100	LF	\$ 65.00	\$ 6,500.00	\$ 106.00	\$ 10,600.00	\$ 70.00	\$ 7,000.00
9	6" Ornamental Fence including 20' Slide Gate (motorized) and 3' Man Gate	255	LF	\$ 75.69	\$ 19,300.00	\$ 160.00	\$ 40,800.00	\$ 240.00	\$ 61,200.00
10	Cementitious Coating applied to Exdener walls of West Kingsport Pump Station as specified in 09800 and as shown on drawings, A201, Note 1	3800	SF	\$ 6.16	\$ 23,400.00	\$ 3.00	\$ 11,400.00	\$ 8.50	\$ 24,700.00
11	18" HDPE DR 21 Sanitary Sewer Forcemain	4,900	LF	\$ 88.02	\$ 431,300.00	\$ 160.00	\$ 784,000.00	\$ 225.00	\$ 1,102,500.00
12	Ridgefields Rd Crossing, Horizontal Directional Drill (HDD) Installation, includes all DR11 18" HDPE Forcemain, provide, install, and test all materials needed for a complete and functional installation	1	LS	\$ 86,800.00	\$ 86,800.00	\$ 620,000.00	\$ 620,000.00	\$ 300,000.00	\$ 300,000.00
13	Sta. 28+10 to 28+50, Insert DR21 18" HDPE into existing 24" steel casing using spacers and install end seals	1	LS	\$ 5,200.00	\$ 5,200.00	\$ 12,000.00	\$ 12,000.00	\$ 10,000.00	\$ 10,000.00
14	Industry Drive (Hwy 355) Crossing, 24" Steel Casing-Bore & Jack Installation, includes all DR21 18" HDPE Forcemain, provide, install, and test all materials needed for a complete and functional installation	1	LS	\$ 156,900.00	\$ 156,900.00	\$ 82,000.00	\$ 82,000.00	\$ 75,000.00	\$ 75,000.00
15	Clay Check Dams every 400' along 16" forcemain	12	EA	\$ 500.00	\$ 6,000.00	\$ 800.00	\$ 9,600.00	\$ 725.00	\$ 8,700.00
16	8" Dia. Manhole at Headworks	1	EA	\$ 50,000.00	\$ 50,000.00	\$ 125,000.00	\$ 125,000.00	\$ 100,000.00	\$ 100,000.00
17	Asphalt Surface TDOT 411-01 11, Grading "E", PG64-22	530	TN	\$ 40.19	\$ 21,300.00	\$ 165.00	\$ 87,450.00	\$ 200.00	\$ 106,000.00
18	Asphalt Binder TDOT 307-01 07, Grading "BM", PG64-22	370	TN	\$ 63.78	\$ 23,600.00	\$ 155.00	\$ 57,350.00	\$ 200.00	\$ 74,000.00
19	Mill Existing Asphalt	4,900	SY	\$ 5.00	\$ 24,500.00	\$ 12.00	\$ 58,800.00	\$ 17.00	\$ 83,300.00
20	Aggregate Base Asphalt or Sidewalk, TDOT 303-01 01	1,600	SY	\$ 18.06	\$ 28,900.00	\$ 30.00	\$ 48,000.00	\$ 24.00	\$ 38,400.00
21	Misc. Concrete for Pipe encasement, cap, and thrust restraint	160	CY	\$ 100.00	\$ 16,000.00	\$ 150.00	\$ 24,000.00	\$ 267.00	\$ 42,720.00
22	Air Release Valves and Vents	4	EA	\$ 15,000.00	\$ 60,000.00	\$ 30,000.00	\$ 120,000.00	\$ 17,500.00	\$ 70,000.00
23	Temporary Greenway Access (10' wide x 6'deep, Compacted Crushed Stone Basin over Geotextile Fabric)	1	LS	\$ 1,500.00	\$ 1,500.00	\$ 15,000.00	\$ 15,000.00	\$ 75,000.00	\$ 75,000.00
24	Greenway Trail Signage, Painted Pavement Markings, Etc. returned to their existing location and/or repaired/replaced in kind	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 15,000.00	\$ 15,000.00	\$ 8,000.00	\$ 8,000.00
25	Traffic Control Plan and Implementation	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 15,000.00	\$ 15,000.00	\$ 37,000.00	\$ 37,000.00
26	Ridgefields Pump Station Demolition	1	LS	\$ 80,700.00	\$ 80,700.00	\$ 77,000.00	\$ 77,000.00	\$ 35,000.00	\$ 35,000.00
27	16" Ductile Iron Sanitary Gravity Sewer, provide, install, and test all materials needed for a complete and functional installation	3,170	LF	\$ 227.57	\$ 721,400.00	\$ 780.00	\$ 2,472,600.00	\$ 775.00	\$ 2,456,750.00
28	8" PVC DR 35 Sanitary Gravity Sewer, provide, install, and test all materials needed for a complete and functional installation	250	LF	\$ 100.00	\$ 25,000.00	\$ 220.00	\$ 55,000.00	\$ 150.00	\$ 37,500.00
29	Cleanout Assembly and Lateral Connection	5	EA	\$ 3,120.00	\$ 15,600.00	\$ 5,000.00	\$ 25,000.00	\$ 1,000.00	\$ 5,000.00
30	4' Diameter Manholes	13	EA	\$ 8,892.31	\$ 115,600.00	\$ 14,000.00	\$ 182,000.00	\$ 17,000.00	\$ 221,000.00
31	Manhole Demolition and Abandonment	3	EA	\$ 666.67	\$ 2,000.00	\$ 2,500.00	\$ 7,500.00	\$ 2,750.00	\$ 8,250.00
32	Cap and Fill End of Existing Sewer Pipe	2	EA	\$ 600.00	\$ 1,200.00	\$ 500.00	\$ 1,000.00	\$ 1,750.00	\$ 3,500.00
33	Inside Drop Connection to Manhole	3	EA	\$ 1,366.67	\$ 4,100.00	\$ 8,500.00	\$ 25,500.00	\$ 2,500.00	\$ 7,500.00
34	Layout and As-built Survey and Record Drawings	1	LS	\$ 12,300.00	\$ 12,300.00	\$ 60,000.00	\$ 60,000.00	\$ 21,000.00	\$ 21,000.00
35	NPODES Compliance, Erosion Prevention and Sediment Control, including but not limited to Silt Fence, Construction Entrances, Erosion Mats, Rock check dams, and Street Sweeping per the Project SWPPP	1	LS	\$ 26,900.00	\$ 26,900.00	\$ 120,000.00	\$ 120,000.00	\$ 175,000.00	\$ 175,000.00
36	Temporary Seeding and Fertilizer with Straw Mulch	12,000	SY	\$ 0.50	\$ 6,000.00	\$ 1.25	\$ 15,000.00	\$ 1.50	\$ 18,000.00
37	Permanent Seeding and Fertilizer with Straw Mulch	12,000	SY	\$ 0.69	\$ 8,280.00	\$ 1.25	\$ 15,000.00	\$ 2.00	\$ 24,000.00
38	Final Site Cleanup, and Closeout Documents	1	LS	\$ 37,600.00	\$ 37,600.00	\$ 82,500.00	\$ 82,500.00	\$ 20,000.00	\$ 20,000.00
39	Asbestos and Lead Paint Abatement for the work required in the West Kingsport PS and the Ridgefields PS	1	LS	\$ 4,500.00	\$ 4,500.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
40	Project Contingency Allowance, if directed by Owner/Engineer	1	A	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
41	Field Quality Control Testing Allowance	1	A	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
Base Bid Total				\$	5,117,600.00	\$	9,161,100.00	\$	9,328,000.00

Alt 1	OPEN CHANNEL SEWAGE GRINDERS	LS	1	\$	361,000.00	\$	180,000.00	\$	200,000.00
Alt 1 Total				\$	361,000.00	\$	180,000.00	\$	200,000.00
Grand Total				\$	5,478,600.00	\$	9,341,100.00	\$	9,528,000.00

Michael L. Orr
 Michael L. Orr, P.E.

#107627

I hereby certify that the above Bid Tabulation is true and correct for the bids received by City of Kingsport on Tuesday May 7, 2019 at 4:00pm EST, and represents the bids for the West Kingsport PS-Ridgefields SS, 2018-C01

* math error on bid form



Hazen and Sawyer
 200 W Martin Luther King Blvd., Suite 1000
 Chattanooga TN 37402 • 423-308-7223

May 14, 2019

Niki Ensor, P.E.
 W/WW Facilities Manager
 620 W. Industry Dr.
 Kingsport, TN 37660

Re: 2018-C1 West Kingsport Pump Station and Force Main - Ridgefields Sanitary Sewer

Dear Ms. Ensor,

The project entitled “West Kingsport Pump Station and Force Main - Ridgefields Sanitary Sewer” was advertised on March 24, 2019 and a non-mandatory pre-bid meeting was held on April 3, 2019. Two proposals were received and read aloud by the Purchasing Dept. on May 7, 2019 and are tabulated below. A detailed summary of the two proposals is included in the attached Bid Tabulation Summary.

	Base Bid Price	Alt. 1	Alt. 2	Total
Contractor	West Kingsport PS&FM - Ridgefields GS	Open Channel Sewage Grinder	NA	NA
Garney Companies, Inc.	\$9,161,100.00	\$180,000.00		\$9,341,100.00
Haren Construction Company, Inc.	\$9,328,000.00	\$200,000.00		\$9,528,000.00

Information included in both proposals were reviewed for completeness. Based on our review of the information provided and confirmation of the construction budget allocated by the City of Kingsport we *recommend all bids be rejected* and the project broken into two physical components to rebid with value engineering items incorporated to reduce costs.

We appreciate the opportunity provided us in assisting the City of Kingsport with this project. Please contact us if you have any questions.

Sincerely,

Michael L. Orr, PE
 Project Manager

Enclosure

c: File: 50054-001



AGENDA ACTION FORM

Execute a Notice of Approval Pursuant to Notice of Land Use Restrictions

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager

Action Form No.: AF-106-2019
Work Session: May 20, 2019
First Reading: N/A

Final Adoption: May 21, 2019
Staff Work By: M. Billingsley.
Presentation By: M. Billingsley.

Recommendation:

Approve the Resolution.

Executive Summary:

The Carousel Park Playground is located on property formally owned by Quebecor, which is subject to certain restrictions.

The city received a letter regarding approval of the use of the property for the playground from the Tennessee Department of Environment and Conservation. It is preferable to record the letter and Notice in the office of the Register of Deeds for Sullivan County in Blountville.

Attachments:

- 1. Resolution

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Olterman	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A
NOTICE OF APPROVAL PURSUANT TO NOTICE OF LAND
USE RESTRICTIONS ON PROPERTY FORMALLY OWNED BY
QUEBECOR

WHEREAS, the Carousel Park Playground is located on property formally owned by Quebecor, which is bound by certain environmental restrictions; and

WHEREAS, the city received a letter regarding approval of the use of the property for the playground from the Tennessee Department of Environment and Conservation and the letter and a Notice are preferable to be recorded in the office of the Register of Deeds for Sullivan County in Blountville.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the Notice of Approval Pursuant to Notice of Land Use Restrictions to be recorded in the Register of Deeds for Sullivan County in Blountville.

SECTION II. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION III. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



AGENDA ACTION FORM

Agreement between the City of Kingsport and MATE Inspiration for Innovation for Use of the Kingsport Aquatic Center

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager *JF*

Action Form No.: AF-120-2019
Work Session: May 20, 2019
First Reading: NA

Final Adoption: May 21, 2019
Staff Work By: Billingsley/Cox
Presentation By: Chris McCart

Recommendation:

Approve the Resolution.

Executive Summary:

The Kingsport Aquatic Center is honored to host the 2019 MATE International ROV Competition in June. Approval of this agreement authorizes the use of the facility as well as the required insurance necessary to host the event.

Attachments:

- 1. Resolution

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Begley	—	—	—
Cooper	—	—	—
George	—	—	—
McIntire	—	—	—
Oltzman	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH MATE INSPIRATION FOR INNOVATION AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the Kingsport Aquatic Center is hosting the 2019 MATE International ROV (Remote Operated Vehicle or Underwater Robot) Competition; and

WHEREAS, the agreement sets out the terms of use for the aquatic center for the event.
Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That an agreement with MATE Inspiration for Innovation for the Kingsport Aquatic Center to host the 2019 MATE International ROV Competition is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the agreement MATE Inspiration for Innovation and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution, said agreement being as follows:

AGREEMENT

This Agreement ("Agreement") is made and entered into by and between the City of Kingsport, Tennessee, a municipal corporation of the State of Tennessee and ("City"), and MATE Inspiration for Innovation ("Host"), located at Monterey Peninsula College, 980 Fremont Street, Monterey , CA 93940.

WITNESSETH:

City owns and operates the Kingsport Aquatic Center located at 1820 Meadowview Parkway, Kingsport, Tennessee ("Site").

Host desires to use the Site for part of its 2019 MATE International ROV Competition ("Event") scheduled for June __, 2019.

City can lease the Center to Host for part of the Event.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the Parties agree as follows:

ARTICLE 1 AGREEMENT TERM, FEES, AND DELIVERABLES

§ 1.1 Term. The term of this Agreement, and the specific period during which Host may use the Site for the Event, including the time(s) and date(s) for move-in/out, are as follows:

- Overall Term June __, 2019 - June __, 2019
- Move-in and set up June __, 2019
- Event Days June __, 2019 - June __, 2019
- Move out and take down June __, 2019

§ 1.2 Event Fee(s). Host shall pay to City the following fees:

FEE TYPE	AMOUNT	DUE ON DATE
Facility Use		30 days after invoice
City services, material, labor		30 days after invoice
late fee	1.0% per month	Due on payment, see § 1.4

§ 1.3 Fees for Additional City Services and Other Items. Upon timely request by Host and approval of the City Manager, City may provide reasonable additional services, materials, or labor in support of the Event. Host shall reimburse City for City's actual cost to provide any additional services, materials, or labor to Host beyond those specified in the joint staffing plan, including, but not limited to additional costs related to:

- Site preparation;
- Site clean-up;
- waste disposal;
- removal of Host's property, or restoration of Site; and
- any other service requested by Host.

Host shall pay City for all such additional costs within thirty (30) days of receipt of an invoice from City, which invoice City shall transmit to Host no later than thirty (30) days after the end of the Term.

§ 1.4 Late Fee. City shall assess Host a late payment fee, as specified in Section 1.2, until Host pays any balance remaining after the date a fee is due.

§ 1.5 Deliverable Documents. Host shall deliver the following documents to City no later than the specified date:

Deliverables	Due date	Reference
Schedule of Activities (Attachment A)		§ 2.1
Site Plan (Attachment A)		§ 2.2/§ 2.4
Registered Agent; Authority to do Business (Attachment A)		§ 8.2
Security Plan (Attachment A)		§ 3.3
Insurance Documentation		§ 6.3
Applicable Event Sanctioning		§ 6.3
Signs, media collateral, advertising (Attachment A)		§ 3.1
Permit(s), License(s) (if applicable)		§ 2.4, 5.1, 9.7

ARTICLE 2 SCOPE OF EVENT AND SITE USE

§ 2.1 Scope of Event. Host will use the Site to present the Event to the public. All the activities comprising the Event shall be identified in a Schedule of Activities, which shall be provided by Host to City for approval prior to the signing of this Agreement. City may withhold approval in its sole discretion. The Schedule of Activities shall be included in **Attachment A**. Host understands and agrees that the Event shall include only the activities outlined in the Schedule of Activities, and any changes to the Event activities as identified must receive the prior written approval of the City Manager.

§ 2.2 Scope of Site Use. The Site Plan, which is part of **Attachment A**, indicates the designated areas of the Site that Host may use for the Event. City will provide staff support as described in the Site Plan for the purpose of presenting the Event.

§ 2.3 Event Parking and Parking Control. The Host may use parking spaces available at Site's parking lot on a first come basis for participant and spectator parking during the Event. The Host will enforce Site's parking restrictions and provide any parking control equipment or staff necessary to comply with this Section, at Host's sole expense. Scheduling and maintaining of other parking is the sole responsibility of the Host.

§ 2.4 Concessions, Smoking and Liquor. Host shall not sell food and beverage items and shall not contract with concessionaires to do so at the Event. Only City shall sell food and beverage items. Smoking and liquor are not permitted on any property that comprises the Aquatic Center, including the parking lots.

§ 2.5 Additional Limits on Use. City retains its authority to limit the number of persons attending the Event, if necessary, to prevent harm to public health, safety and welfare. Host and City shall cooperate in good faith to implement all reasonable measures needed to ensure that the Event does not unreasonably interfere with other Site uses, activities, or events that may coincide with the Event or with the operation of the YMCA located in the same building as the Site.

§ 2.6 Property Removal. No later than the end of Move-out as specified in Section 1.1, Host shall remove from the Site all property, goods, and effects belonging to Host and its employees, agents, volunteers, or Event participants, or caused by it to be brought upon the Site for the Event. If Host does not remove such property by the end of Move-out, City shall have the right to remove and/or store such property, goods, and effects at Host's expense. Host assumes all risk of damage and/or loss, by theft or otherwise, to the property, goods, and effects of Host, its employees and/or its purveyors, volunteers, or Event participants, incurred during any removal and/or storage activities by City.

§ 2.7 Site Condition at End of Term. Host shall surrender the Site to City in equal or better condition than existed at the beginning of Move-in as specified in Section 1.1. If the City must perform or pay for any work to restore or repair the Site, then Host shall reimburse the City for the cost of such work as provided under Section 1.3. Host will not be held responsible for any damage to the Site caused by any other event.

§ 2.8 Host's Responsibilities Site Policy and Safety Procedures. In addition to other responsibilities set forth herein:

a) Host is solely responsible for ensuring that all Event organizations, officials, participants and spectators, and all Host employees, agents and volunteers, comply with the (rules and procedures), included in Attachment B.

b) Host is solely responsible for the participant's, spectator's and official's safety and their behavior during the term of this Agreement. This responsibility includes time using any part of the Site before, during and after event sessions.

c) The Host's specific responsibilities shall be found in the Facility Use Permit or other attachments to this Agreement, including, but not limited to, the Schedule of Activities, and in the Agreement body itself.

ARTICLE 3 EVENT INFRASTRUCTURE AND STAFFING

§ 3.1 Event Signage. Event related signage may be posted on Site no earlier than the beginning of Move-in as specified in Section 1.1. Host shall coordinate signage with the City Representative, identified in Section 8.1. All sign shall comply with all ordinances of the City. The Host will provide all necessary signage. Displays must be professionally produced (computer generated paper signs acceptable) and affixed in a manner that does not leave a residue. Host shall not post signage on painted surfaces or on artwork in the facility. Framed display boards near the entrances may be used for posting result sheets using scotch tape. Deck level posting may be done on the natatorium white boards or in the hallways leading to the locker rooms. **Team, Event and sponsorship banners are restricted to the lower railings of the spectator balconies.** Exceptions may be arranged in written agreement with the City Representative. The City shall not be responsible to replace signage that is lost or damaged.

§ 3.2 Lighting and Sound Equipment. Host, at its own expense and liability, shall be responsible for any lighting or sound broadcasting equipment required to produce the Event above and beyond the Site's existing infrastructure; and Host shall further be responsible to use such equipment in compliance with all applicable laws, rules and regulations.

§ 3.3 Security. Host is responsible to provide security to maintain order and promote the safety of persons attending the Event and protection of personal property. No later than the date specified in Section 1.5, Host shall submit a Security Plan as part of **Attachment A**. Host will assess its own risks and, if it deems appropriate or prudent, or both, provide additional security personnel for the Event. Host shall pay the costs of security directly to the provider.

ARTICLE 4 ADVERTISING

§ 4.1 Site Name. Host shall refer to the Site in all printed materials, radio, television, audio, video, Internet and all other media as Kingsport Aquatic Center.

§ 4.2 City Authority. City shall have sole right and authority to maintain, operate, license and authorize advertisements, promotional activities and displays that exist upon the Site prior to the Event. Host shall not mask or drape any existing City advertising or displays, and Host shall not permit any of its employees, purveyors, volunteers, or event participants to do so.

§ 4.3 Advertising Restrictions. Host understands that the advertising of tobacco products and alcoholic beverages, including wine and beer is strictly prohibited. Host expressly covenants that neither it nor any of its sponsors will at any time display, promote or advertise any tobacco products, alcoholic beverages, including wine and beer, or other subject matter expressly prohibited by the City Representative. Host further agrees that any violation of this Article by it or its sponsors shall be a material breach of its contractual obligations to the City pursuant to this Agreement.

ARTICLE 5 COPYRIGHTED MATERIAL

§ 5.1 Copyright Usage. Host agrees to obtain all necessary licenses and take all other necessary steps to insure that all use of copyrighted and trademarked materials at the Event during the Term of this Agreement complies with United States and any other applicable copyright and trademark law.

§ 5.2 Indemnification. Host agrees to indemnify and defend, at its own expense, the City, its elected and appointed officials, agents, and employees from any and all liability arising from copyright or trademark infringement and/or consequential damages that others may suffer as a result of Host's use of copyrighted or trademarked materials at the Site during the Term of this Agreement.

ARTICLE 6 RISK OF LOSS; HOLD HARMLESS; INSURANCE

§ 6.1 Risk. Host assumes all risk of damage to its property, as well as all risk of the loss by theft or otherwise, of any property of Host, its employees, exhibitors, or Event participants; and no claim shall be made upon the City because of any such loss. Host specifically understands, acknowledges, and agrees that it, its employees, exhibitors, and participants park and leave their vehicles on the Site at their own risk. As between the parties, Host shall be responsible for the provision of security during the Term of this Agreement for any property brought onto the Site by Host, its employees, exhibitors, or participants.

§ 6.2 Hold Harmless and Indemnification. Host expressly agrees to protect, defend, indemnify and hold harmless the City, its elected and appointed officials, employees, and agents from and against liability for any claims (including all demands, suits, and judgments) for damages arising out of injury

to persons or damage to property where such injury or damage is caused by, arises out of, or is incident to the scope of activities under this Agreement. Host's obligations under this Article shall include, but not be limited to:

- a) The duty to promptly accept tender of defense and provide defense to City at Host's own expense.
- b) Indemnification of claims, including those made by the Host's own employees and/or agents for this purpose.
- c) If City incurs any judgment, award and/or cost arising from this Agreement, including attorney's fees to enforce the provisions of this article, then all such fees, expenses, and costs shall be recoverable from Host.
- d) A hold harmless provision to protect City similar to this provision shall be included in all Contractors Agreements entered into by Host in conjunction with this Agreement.

§ 6.3 Insurance. Host and its contractors shall procure and maintain commercial general liability insurance against claims for injuries of persons or damages to property, which may arise from or in connection with Host's use of the Site for the Event. Notwithstanding any other provision within this Agreement, Host shall procure and maintain for the duration of the Event the following insurance in the minimum amount listed against claims for injuries of persons or damages to property, which may arise from or in connection with Host's use of the Kingsport Aquatic Center:

1. Commercial General Liability Insurance in the amount of not less than \$5,000,000 per occurrence combined limits for bodily injury and property damage, and such shall be at least as broad as that provided by Commercial General Liability "occurrence" ISO form CG 00 01. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement. Such insurance shall contain or be endorsed to contain a provision that includes City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Host, including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds. Proof of additional insured status up to and including copies of endorsements and/or policy wording will be required.

2. Comprehensive Automobile Liability including owned, hired, and non-owned vehicles with a combined single limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Host. If there are no owned vehicles, Host may provide written certification of such and provide coverage limited to hired and non-owned vehicles.

3. Workers Compensation and Employer's Liability, (without restriction as to whether covered by Workmen's Compensation law):

A. Workers Compensations according to Tennessee law

B. Employer's Liability of at least \$100,000

§ 6.3.1 The required liability insurance policies (except Workers Compensation) are to be endorsed to:

- Name "City of Kingsport, its officers, officials, employees, and volunteers" as additional insured with respect to use of the Site as outlined in this Agreement (ISO Form CG 20 26 or its equivalent);

- Such coverage shall be primary and non-contributory insurance as respects City;

- State that Host's and/or Contractors insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability;

- State that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after forty-five (45) days prior written notice to City's Risk Manager, 1324 Midland Drive, Kingsport, Tennessee 37664 Host must provide City with a renewal certificate no more than fifteen (15) days after renewal. Proof of policy provisions regarding notice of cancellation will be required.

§ 6.3.2 On the date listed in § 1.5 for Insurance Documentation, Host shall furnish City's Risk Manager with original certificates and amendatory endorsements effecting coverage required by this section. Host shall provide certified copies of endorsements and policies if requested by City's Risk Manager in lieu of or in addition to certificate and amendatory endorsement.

§ 6.3.3 All general liability policies must be written on an occurrence basis.

§ 6.3.4 For any claims related to this Agreement, Host's insurance coverage shall be primary insurance as respects City, its officers, officials, employees, and volunteers. Other than the insurance required by this section any insurance or self-insurance programs covering City, its officials, officers, employees, and volunteers shall be excess of Host's insurance and shall not contribute with it. The insurance required by the Agreement must be obtained from insurance companies with an A.M. Best rating of at least an A and a Financial Category rating of at least VII. All insurance shall be purchased

and maintained with insurance companies lawfully authorized to do business in Tennessee. The insurance required by this Agreement shall apply on a primary basis, non-contributory with any insurance and/or self-insurance maintained by City. The insurance required by this Agreement shall include a Waiver of Subrogation in favor of City. The insurance required by the Agreement shall be written for not less than limits of liability specified above or required by law, whichever coverage is greater.

§ 6.3.5 Receipt and review by City of any copies of endorsements, insurance policies, or insurance certificates shall not relieve Host of the obligation to comply with the insurance provisions of this Agreement.

§ 6.3.6 Host's failure to comply with the requirements of this section shall be a material breach of the Agreement and will be cause for immediate termination of the Agreement by City.

§ 6.3.7 Any deductible or self-insured retention must have been declared to and approved by City' Risk Manager, and the deductible and/or self-insured retention of the policies shall not limit or apply to Host's liability to City and shall be the sole responsibility of Host.

§ 6.3.8 If the effectiveness of Host's insurance is conditioned on the Event being sanctioned by the governing body of a sports or other organization, then on or before the Event sanctioning deadline specified in § 1.5 Host shall provide City with written proof that the Event is properly sanctioned.

§ 6.3.9 By requiring such minimum insurance as specified herein, neither party is deemed to, nor construed to, have assessed the risks that may be applicable to the other party to this Agreement. Host will assess its own risks and, if it deems appropriate or prudent, or both, maintain greater limits or broader coverage.

ARTICLE 7 TERMINATION

§ 7.1 Termination. City Manager, at his option, shall have the right to terminate this Agreement if Host:

- a) changes the Schedule of Activities without prior approval of City;
- b) fails to comply with any of the provisions of this Agreement; or
- c) fails to comply with county, state, or federal statutes, regulations, or requirements.

Such termination will not be deemed a breach of the Agreement by City. If practicable, without endangering the public health, safety, or welfare, City will provide Host with notice of the failure and a reasonable amount of time to remedy such failure to City's satisfaction. Host hereby expressly waives the right to claim or recover any damages from City on account of such termination of this Agreement by City. Host will be fully responsible for all costs and damages of any kind, including legal defense costs related to claims by third parties that may arise from cancellation of the Event by Host or termination of this Agreement by City.

§ 7.2 Fee Retention. In the event of Termination, City may retain all fees paid, and immediately take possession of the Site.

ARTICLE 8 COMMUNICATION

§ 8.1 City Liaison. City's Representative to Host for the Event and for purposes of administering this Agreement is _____, who can be reached at _____ (phone number) or at _____ (email address).

§ 8.1 Registered Agent. On or before the deadline specified in Section 1.5, Host shall provide proof of evidence of authority to transact business in Tennessee, and provide City with the name of its registered agent. Failure to comply with this Article shall constitute a material breach of this Agreement by Host.

§ 8.2 Notices. Any notice or communication hereunder shall be in writing, and may be given by registered or certified mail. If given by registered or certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid. If given otherwise than by registered or certified mail, it shall be deemed to have been given when delivered and received by the party to whom it is addressed. Such notices or communications shall be given to the parties hereto at the following addresses:

City

Host

Either party hereto may, at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the foregoing address to which such notice or communication shall be given.

ARTICLE 9 GENERAL TERMS AND CONDITIONS

§ 9.1 Taxes. The Host agrees to pay, on a current basis, all taxes or assessments levied on its activities and property; provided, however, that nothing contained herein shall modify the right of the Host to contest any such tax, and the Host shall not be deemed to be in default as long as it shall, in good faith, be contesting the validity or amount of any such taxes.

§ 9.2 Books, Records, and Inspections. Host shall keep accurate books and accounts of the matters upon the basis of which the Use Fee and other payments specified in Article 1 are to be computed and ascertained. Such books and records shall be open and available for inspection by City upon the official request of the City Manager during regular working hours between Monday and Friday, during or after the Term of this Agreement. City will keep the information acquired from the examination of such books and records confidential and it will not disclose any of such information directly or indirectly or use such information for any purpose during the Term of this Agreement or any time thereafter; EXCEPT with respect to the disclosure of information concerning the amount of the Use Fee and other payments made to City pursuant to Article 1, and EXCEPT with respect to the disclosure of information which is required by the laws of the State of Tennessee. The Agreement and any documents or material, in any format, including, but not limited to, paper, electronic, or virtual, that are a part of the Agreement or are otherwise a public record pursuant to the Tennessee Open Records Act, set out in T. C. A. §10-7-503 et seq. is not confidential information under in provision of the Agreement and are subject to disclosure in whole or in part., without regard to any provision contained in the Agreement declaring information confidential. Additionally, Provider agrees City must, upon proper request from a citizen, release public documents and records as defined by T. C. A. § 10-7-503 et seq., even if identified as confidential by a party, including the Agreement and all records created and maintained related to the Agreement without the requirement to disclose such request to Provider or providing Provider with the time to obtain a protective order.

§ 9.3 Powers of City. Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of City. City employees and officials shall have the right, at all times, to enter upon the Site in the performance of their duties. City may make routine repairs or alterations to the Site at any and all times using its best efforts not to disrupt the Event. For repair and/or alteration work resulting from an emergency, City may interfere with Host's use of the Site.

§ 9.4 Impossibility. The performance of this Agreement, by either party, is subject to causes beyond the control of either party making it illegal, impossible or impracticable to hold, reschedule or relocate the Event, including, without limitation: acts of God; war; government regulation or advisory; disasters, fire, accidents or other casualty; strikes or threat of strikes; civil disorder; acts and/or threats of terrorism; curtailment of transportation services or facilities; cost or availability of power; or similar causes. Either party may terminate or suspend its obligations under this Agreement if such obligations are prevented by any events such as those set forth above to the extent such events are beyond the reasonable control of the party whose performance is prevented.

§ 9.5 Nondiscrimination. Host agrees to comply with all applicable United States federal, state and county laws regarding nondiscrimination, and specifically agrees not to unlawfully discriminate against any employee or applicant for employment because of age, race, color, religion, creed, sex, national origin, marital status, sexual orientation, or the presence of any sensory, mental, or physical handicap.

§ 9.6 Non-Waivers. Neither the waiver by either party to this Agreement of any breach of any covenant, condition, or provision thereof, nor the failure of either party to seek redress for violation of, nor failure of either party to insist upon strict performance of, any such covenant, condition, or provision, shall be considered to be a waiver of any such covenant, condition, or provision or of any subsequent breach thereof.

§ 9.7 Governing Law, Venue, Jurisdiction, Interpretation. The Agreement and the rights and obligations of the parties are governed by the laws of the State of Tennessee, without regard to its conflict of laws principles. If a dispute arises between the parties, including any aspect of the Agreement, and it cannot be resolved by mutual agreement, any party may resort to resolution of the dispute by litigation in the state or federal courts for Kingsport, Sullivan County, Tennessee. The parties waive their right to a jury trial. Mandatory and exclusive venue and jurisdiction for any disputes shall be in state courts or federal for Kingsport, Sullivan County, Tennessee. If there is any question regarding the interpretation of any County rule or regulation, the County decision will govern and shall be binding upon Host.

§ 9.8 Permits. As between City and Host, Host is solely responsible to obtain all necessary permits and licenses necessary to conduct the Event. Host shall be responsible for compliance with all applicable laws, statutes, codes, and regulations, including without limitation those relating to providing a safe working environment to employees.

§ 9.9 Compliance with Laws. Host represents that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement. Host is familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the performance of the Services, including compliance with all Equal Employment Opportunity laws, the Fair Labor

Standards Act, Occupational Safety and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA).

§ 9.10 Captions, Number, Gender. The captions of the text of articles, sections or subsections are included only for convenience of reference. Captions shall be disregarded in the construction and interpretation of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa, and the use of any gender shall include the other genders.

§ 9.11 Entire Agreement. This Agreement constitutes the entire Agreement between City and Host and may not be altered, amended, or modified except by an instrument in writing signed by the parties hereto with the same formality as this Agreement.

§ 9.12 Legal Relations. Nothing contained herein shall make, or be deemed to make, City and Host a partner of one another and this Agreement shall not be construed as creating a partnership or joint venture. This Agreement shall create no right, duty, or cause of action in any person or entity not a party to it.

§ 9.13 Attachment List. The following is a list of the Attachments that are part of this Agreement. Specific documents are listed on the Attachment cover page:

§ 9.14 No Liability of City Officials and Employees. No member, official, or employee of City shall be personally liable to Host or any other person or entity, including a third party beneficiary, in the event any provision of the Agreement is unenforceable; there is any default or breach by City; for any amount which may become due under the Agreement; or on any obligations under the terms of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first signed below.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the agreement set out herein that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of May, 2019.

JOHN CLARK, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY