AGENDA

BOARD OF MAYOR AND ALDERMEN
WORK SESSION

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

Board of Mayor and Aldermen

Mayor Patrick W. Shull, Presiding
Vice Mayor Colette George
Alderman Jennifer Adler
Alderman Betsy Cooper
Alderman Darrell Duncan
Alderman Tommy Olterman
Alderman James Phillips

Leadership Team

Chris McCartt, City Manager
Ryan McReynolds, Deputy City Manager
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, Communications Director
Ken Weems, Interim Development Services Director

1. Call to Order
2. Roll Call
3. Transit Update – Chris Campbell
4. Review of Items on November 5, 2019 Business Meeting Agenda
5. Adjourn

Next Work Session Nov. 18

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.

City of Kingsport

Project Status in Pictures

November 5, 2019

1 Greenbelt Extension

The elevated walkway is approximately 75% complete and pathway grading is approximately 80% complete.

2 Sanitary Sewer - W Center Street

Project is approximately 80% complete with remaining work happening in the W Center St Right-of-Way.

3 Sanitary Sewer - Border Regions

Current work includes the installation of the sewer line at the intersection of Mitchell and Fordtown Rd.

4 City Hall Relocation - Phase 1

Crews are currently working on floors 3 and 6 of the soon-to-be new City Hall.

Status Updates on Active Projects sorted by Cost

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
$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	12/31/2021	TDOT, MTPO and City staff met 8/13/19 to discuss scope. A revised scope and contract are expected.
$6,000,000.00	Michael Thompson	**Main Street Rebuild**	The reconstruction of Main Street from Sullivan Street to Clay Street. [City & MTPO Funded]	6/1/2021	MOU was approved by BMA July 2019. Working on obtaining AEP easements.
$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.	12/31/2020	Plans and specification have been finalized. Target bid date set for January 2020. Following rebid of West Kingsport.
$3,867,000.00	Chad Austin	**Border Regions Sewer Extensions Areas**	Sewer extensions to serve the Border Regions Annexations in the vicinity of Tri-Cities Crossing and Fordtown Rd.	3/7/2020	Area 2/Mitchell Road/Pickens Road bid opening scheduled for November 7.
$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**	Rehab of West Kingsport SLS (#119) and installation of new forcemain to the WWTP.	6/1/2020	Received bids on 10/8. Apparent low bidder is J. Cumby at $6,320,780. Take it to BMA for approval on10/5/19.
$3,312,698.00	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.	6/1/2020	Framing continues.
$2,888,300.00	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	8/8/19 - Held progress meeting. Sewer SCADA - Finish installing pads and racks for equipment at SLS. Water SCADA - received FCC radio authorization for water sites. Will begin radio pathway study.
$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	A progress meeting was held with KPD on 8/27/19 to review layouts. Architects continue to work on plans.
$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	Awaiting Notice to proceed with the environmental document from TDOT.
$997,475.00	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]	8/31/2020	Staff met with TDOT on 9/18. Still working to address some design elements and finalize right of way.

Text in blue denotes changes in the past two weeks. Red box denotes past due, yellow box denotes due within 30 days, green denotes due more than 30

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
$937,442.00	Kitty Frazier	**Kingsport Greenbelt - Eastern Extension - Phase 1 (2019-C6)**	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	Grading and Boardwalk construction continues
$661,140.00	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	Staff met with TDOT on 9/18. Still working to address some design elements and finalize right of way.
$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	Finishing up with final coat of painting on exterior and interior of tank. Will have to have Cure Time on interior before dissinfection. Looking at the time around Thannksgiving for completion and tank back on line.
$481,183.00	Ryan McReynolds	**Wilcox Bridge (Wilcox Dr. & E. Sullivan St.)**	Bridge re-painting and landscaping	12/31/2019	Contractor is still working to satisfy CSX requirements. Start date TBD.
$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.	7/30/2021	
$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

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Status Updates on Active Projects sorted by Completion Date

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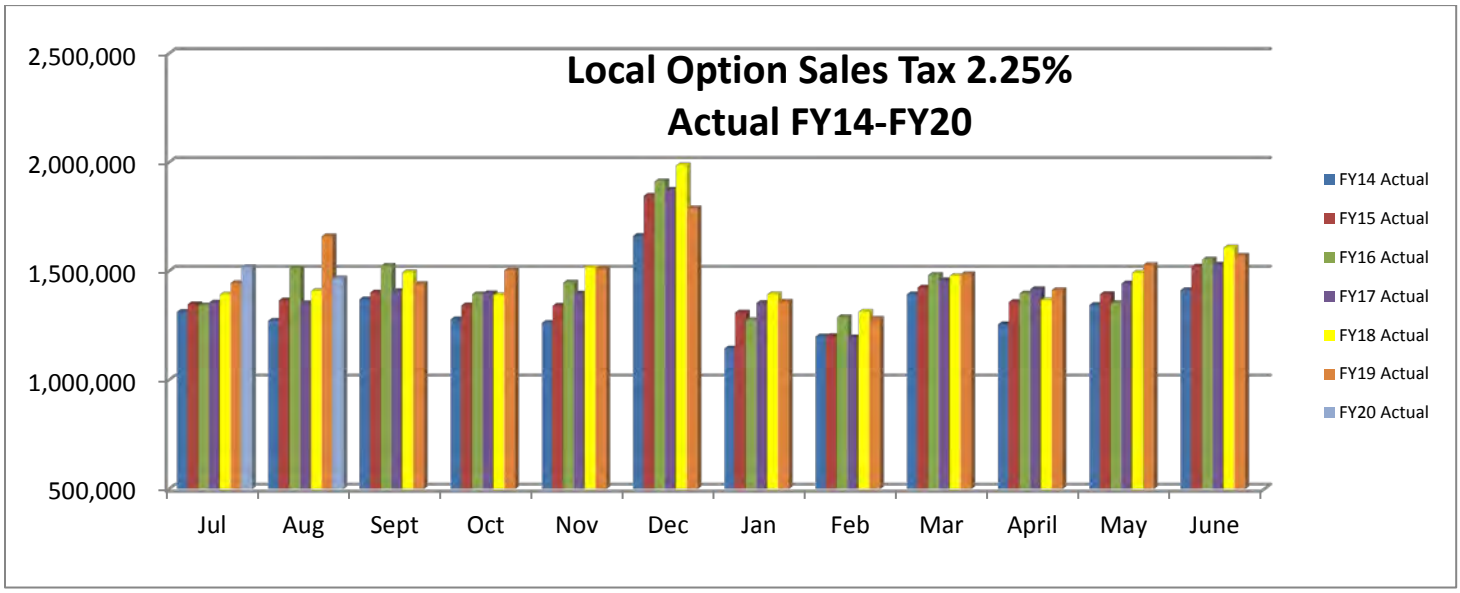
BMA Report, November 4, 2019

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	FY20 Actual	Adopted FY20 Budget	Variance FY20 Over/ Under Budget	Variance FY20 Over/Under Prev. Year Actual	% of Growth FY20 Over/Under Prev. Year Actual	% of Growth FY20 Over/ Under Budget
Jul	$ 1,312,286	$ 1,346,896	$ 1,341,027	$ 1,354,948	$ 1,392,147	$ 1,444,727	$ 1,517,710	$ 1,474,300	$ 43,410	$ 72,983	5.05%	2.94%
Aug	$ 1,271,614	$ 1,365,262	$ 1,513,366	$ 1,351,703	$ 1,408,119	$ 1,660,189	$ 1,466,245	$ 1,488,900	$ (22,655)	$ (193,944)	-11.68%	-1.52%
Sept	$ 1,369,878	$ 1,401,017	$ 1,523,474	$ 1,407,707	$ 1,493,952	$ 1,440,056		$ 1,445,618				
Oct	$ 1,278,027	$ 1,342,308	$ 1,392,699	$ 1,397,511	$ 1,389,451	$ 1,503,032		$ 1,445,705				
Nov	$ 1,261,963	$ 1,340,457	$ 1,446,687	$ 1,396,643	$ 1,515,210	$ 1,510,894		$ 1,519,047				
Dec	$ 1,661,378	$ 1,845,794	$ 1,911,650	$ 1,873,531	$ 1,985,601	$ 1,788,766		$ 1,884,702				
Jan	$ 1,143,685	$ 1,309,305	$ 1,274,292	$ 1,353,575	$ 1,392,917	$ 1,358,902		$ 1,382,547				
Feb	$ 1,198,993	$ 1,201,182	$ 1,287,536	$ 1,194,890	$ 1,312,713	$ 1,280,154		$ 1,291,256				
Mar	$ 1,392,759	$ 1,424,090	$ 1,481,645	$ 1,457,518	$ 1,477,699	$ 1,484,980		$ 1,491,207				
April	$ 1,255,243	$ 1,357,635	$ 1,396,651	$ 1,416,452	$ 1,366,099	$ 1,412,517		$ 1,428,727				
May	$ 1,343,786	$ 1,393,582	$ 1,353,162	$ 1,442,890	$ 1,492,028	$ 1,527,469		$ 1,502,537				
June	$ 1,411,977	$ 1,520,599	$ 1,552,713	$ 1,529,681	$ 1,608,149	$ 1,571,086		$ 1,579,454				
Total	**$ 15,901,589**	**$ 16,848,127**	**$ 17,474,902**	**$ 17,177,049**	**$ 17,834,085**	**$ 17,982,773**	**$ 2,983,955**	**$ 17,934,000**	**$ 20,755**	**$ (120,961)**	**-3.32%**	**0.71%**



AGENDA

BOARD OF MAYOR AND ALDERMEN

BUSINESS MEETING

Tuesday, November 5, 2019, 7:00 p.m.
City Hall, 225 W. Center St., Courtroom, 2nd Floor

Board of Mayor and Aldermen

Mayor Patrick W. Shull, Presiding
Vice Mayor Colette George
Alderman Jennifer Adler
Alderman Betsy Cooper
Alderman Darrell Duncan
Alderman Tommy Olterman
Alderman James Phillips

City Administration

Chris McCartt, City Manager
Ryan McReynolds, Deputy City Manager
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, Communications Director
Ken Weems, Interim Development Services Director

I. CALL TO ORDER

II.A. PLEDGE OF ALLEGIANCE TO THE FLAG

II.B. INVOCATION – Pastor Greg Burton, Colonial Heights Baptist Church

III. ROLL CALL

IV.A. RECOGNITIONS & PRESENTATIONS

1. Proclamation – Volunteer Literacy Recognition Day (Mayor Shull)

IV.B. APPOINTMENTS

1. Appointments to the Demolition by Neglect Committee (AF: 239-2019) (Mayor Shull)
    - Appointments

V. APPROVAL OF MINUTES

1. Work Session – October 14, 2019
2. Business Meeting – October 15, 2019

VI. COMMUNITY INTEREST ITEMS

A. PUBLIC HEARINGS

1. Amend Zoning Text to Create a Definition for Funeral and Interment Services (AF: 213-2019) (Ken Weems)
   - Second Public Hearing
   - Ordinance – Second Reading & Final Adoption

2. Vacate Unimproved Right-of-Way Named Alabama St Located off Hollis St (AF: 251-2019) (Jessica Harmon)
   - Public Hearing
   - Ordinance – First Reading

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. Budget Ordinance to Appropriate Funds from the Tennessee Highway Safety Office's (THSO) FY '20 Coordinator Grant (AF: 243-2019) (David Quillin)
   - Ordinance – First Reading

2. Accept a Private Monetary Donation for the Police K-9 Program and Appropriate Funds (AF: 250-2019) (David Quillin)
   - Resolution
   - Ordinance – First Reading

3. Enter into Agreement with TDOT for Resurfacing of Various Roads (AF: 248-2019) (Ryan McReynolds)
   - Ordinance – First Reading

4. Sewer Budget Adjustment Ordinance for FY20 (AF: 258-2019) (Ryan McReynolds)
   - Ordinance – First Reading

5. Amend the City Code by Adding a New Section in Chapter 62, Offenses and Nuisances, Pertaining to Permanent or Temporary Structures on Public Rights-of-Way (AF: 253-2019) (Chris McCartt)
   - Ordinance – First Reading

6. Award Contract to J. Cumby and Budget Ordinance to Transfer Funds for the West Kingsport Sewer Lift Station and Force Main Project (AF: 257-2019) (Ryan McReynolds)
    - Ordinance – First Reading

C. <u>BUSINESS MATTERS REQUIRING FINAL ADOPTION</u>

1. Appropriate Funds from the USDOJ/Office of Justice Programs Bulletproof Vest Partnership Funding (AF: 231-2019) (David Quillin)
    - Ordinance – Second Reading & Final Adoption

2. Appropriate Creative Placemaking Grant Funds from the Tennessee Arts Commission (AF: 232-2019) (Hannah Powell, Jessica Harmon)
    - Ordinance – Second Reading & Final Adoption

3. Appropriate Funds from the USDOJ/Bureau of Justice Assistance Grant FY 2019 Local Solicitation (AF: 237-2019) (David Quillin)
    - Ordinance – Second Reading & Final Adoption

D. <u>OTHER BUSINESS</u>

1. Approve and Adopt the City of Kingsport Americans with Disabilities Act (ADA) 2019 Self-Evaluation and Transition Plan Update (AF: 201-2019) (Mike Billingsley, George DeCroes)
    - Resolution

2. Amend Agreement with Barge Design Solutions for Main Street Redevelopment Project (AF: 233-2019) (Ryan McReynolds)
    - Resolution

3. Agreement with the Treasury Department of the State of Tennessee Establishing a LGIP Account for the Island Road Improvements Project (AF: 238-2019)
    - Resolution

4. Approving the Donation of City-Owned Property Located on Gibson Mill Road to Sullivan County Government to Construct a New EMS Station (AF: 246-2019)
    - Resolution

5. Approving a Public Transportation Agency Safety Plan for the Kingsport Area Transit Service (AF: 249-2019) (Chris Campbell)
    - Resolution

6. Approving a Purchase Agreement for the Real Property Located at 526 Sequoyah in the City (AF: 247-2019) (Chris McCartt)
    - Resolution

7. Approve Lease with Serenity Improvement at the Renaissance Center (AF: 252-2019) (Hannah Powell)
    - Resolution

8. Approve the Purchase of Bentek Software (AF: 241-2019) (George DeCroes)
    - Resolution

9. Authorizing FY20 Community Development Partner Agreements (AF: 256-2019) (Ken Weems)
    - Resolution

10. Awarding the Bid for the Purchase of Two (2) Automated Refuse/Recycling Trucks (AF: 254-2019) (Ryan McReynolds, Steve Hightower)
    - Resolution

VII. CONSENT AGENDA

1. Execute a Signature Authority Form Allowing the Chief of Police or Designee to Complete Grant Reports as Required by the Tennessee Highway Safety Office (THSO) for the Tennessee Highway Safety Office's FY '20 Coordinator Grant (AF: 242-2019) (David Quillin)
    - Resolution

2. Approval of Easement and Right-of-Way (AF: 244-2019) (Ryan McReynolds)
    - Offer

3. Apply for and Receive the Tennessee Agriculture Enhancement Program Grant (AF: 245-2019) (Chris McCartt, Kristie Leonard)
    - 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

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Appointments to the Demolition by Neglect Committee

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-239-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: Nathan Woods
Presentation By: Mayor Shull

Recommendation:
Approve appointments.

Executive Summary:
It is recommended to reappoint Liza Harmon as the Historic Zoning Commission representative and to appoint Megan D. Allphin to the Demolition by Neglect Committee. If approved by the Board of Mayor and Aldermen the recommended table reflects term dates.

Terms are three years with no term limits. The commission is comprised of three (3) members, one Historic Zoning Commission representative, one licensed engineer familiar with structural engineering if available and the City Building Official.

Current Committee:			
Member	**Term Expires**	**No. of Terms**	**Eligibility**
Liza Harmon	6/30/17	2	HZC Rep
Randy Beckner	Moved	1	Engineer

Recommended Committee:			
Member	**Term Expires**	**No. of Terms**	**Eligibility**
Liza Harmon	11/5/22	3	HZC Rep
Megan Allphin	11/5/22	1	Engineer

Attachments:
1. Megan Allphin Bio

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

Megan D. Allphin
515 Lazy Lane
Kingsport, TN 37663

mdallphin@matternandcraig.com
423-245-4970

Megan Allphin is a Civil Engineer with Mattern & Craig looking to better serve our community. She has experience serving as a project engineer for several projects with experience in various areas of transportation engineering including preliminary engineering report, roadway safety audit reports, roadway geometric design, traffic impact studies, stream relocations, utility relocations, storm drainage design and specialized training in erosion prevention and sediment control.

Minutes of the Regular Work Session of the
Board of Mayor and Aldermen, City of Kingsport, Tennessee
Monday, October 14, 2019, 4:30 PM
Council Room – City Hall

PRESENT: Board of Mayor and Aldermen
Mayor Patrick W. Shull, Presiding
Alderman Jennifer Adler
Alderman Betsy Cooper
Alderman Darrell Duncan
Alderman Colette George
Alderman Tommy Olterman

City Administration
Chris McCartt, City Manager
Joseph E. May, Interim City Attorney
Sidney H. Cox, City Recorder

1. CALL TO ORDER: 4:30 p.m. by Mayor Patrick W. Shull.

2. ROLL CALL: By Deputy City Recorder Marshall. Absent: Alderman James Phillips.

3. SAFETY UPDATE. Risk Manager Terri Evans gave a presentation on this item highlighting trends and statistics since 2017. There was some discussion as she answered questions from the board.

4. REVIEW OF AGENDA ITEMS ON THE OCTOBER 15, 2019 REGULAR BUSINESS MEETING AGENDA. City Manager McCartt and members of staff gave a summary or presentation for each item on the proposed agenda. There were no items which were discussed at greater length or received specific questions or concerns.

5. ADJOURN. Seeing no other matters presented for discussion at this work session, Mayor Shull adjourned the meeting at 5:01 p.m.

ANGELA MARSHALL
Deputy City Recorder

PATRICK W. SHULL
Mayor

Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee
Tuesday, October 15, 2019, 7:00 PM
Large Court Room – City Hall

PRESENT:

Board of Mayor and Aldermen

Mayor Pat Shull, Presiding
Vice Mayor Colette George
Alderman Jennifer Adler
Alderman Betsy Cooper
Alderman Darrell Duncan
Alderman Tommy Olterman
Alderman James Phillips

City Administration

Chris McCartt, 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 Pat Shull.

II.A. PLEDGE OF ALLEGIANCE TO THE FLAG: James Hill, Citizens Fire Academy.

II.B. INVOCATION: Carl Strickler, Retired Minister.

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

IV.A. RECOGNITIONS AND PRESENTATIONS.

1. Tennessee Highway Safety Office Challenge Award (Vice Mayor George)
2. Fire Citizens Academy (Alderman Phillips)

IV.B. APPOINTMENTS/REAPPOINTMENTS. None.

V. APPROVAL OF MINUTES.

Motion/Second: Cooper/Duncan, to approve minutes for the following meetings:

A. September 30, 2019 Regular Work Session
B. October 1, 2019 Regular Business Meeting

Approved: All present voting "aye."

VI. COMMUNITY INTEREST ITEMS.

A. PUBLIC HEARINGS. None.

PUBLIC COMMENT. Mayor Shull 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. Appropriate Funds from the USDOJ/Office of Justice Programs Bulletproof Vest Partnership Funding (AF: 231-2019) (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 DEPARTMENT OF JUSTICE FOR THE YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE
Passed on first reading: All present voting "aye."

2. Appropriate Creative Placemaking Grant Funds from the Tennessee Arts Commission (AF: 232-2019) (Hannah Powell, Jessica Harmon).

Motion/Second: Olterman/Phillips, to pass:
AN ORDINANCE TO AMEND THE GENERAL PROJECT SPECIAL REVENUE FUND BUDGETS BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE TENNESSEE ARTS COMMISSION FOR THE YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE
Passed on first reading: All present voting "aye."

3. Appropriate Funds from the USDOJ/Bureau of Justice Assistance Grant FY19 Local Solicitation (AF: 237-2019) (David Quillin).

Motion/Second: George/Cooper, to pass:
AN ORDINANCE TO AMEND THE JUSTICE ASSISTANT GRANT FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE US DOJ/BUREAU OF JUSTICE ASSISTANCE PROGRAMS FOR THE YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE
Passed on first reading: All present voting "aye."

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION.

1. Appropriate Funds Received from ALA Great Stories Club: Growing Up Brave on the Margins Grant for the Library (AF: 216-2019) (Chris McCartt).

Motion/Second: Adler/George, to pass:
ORDINANCE NO. 6821, AN ORDINANCE TO AMEND THE GENERAL PROJECT-SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE AMERICAN LIBRARY ASSOCIATION FOR THE YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE
Passed on second reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

2. Appropriate Funds from the Tennessee Highway Safety Office (THSO) FY20 Grant (AF: 223-2019) (David Quillin).

Motion/Second: George/Duncan, to pass:
ORDINANCE NO. 6822, 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, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE
Passed on second reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

3. Appropriate Grant Funds from the Tennessee Arts Commission (AF: 215-2019) (Hannah Powell)

Motion/Second: Phillips/Cooper, to pass:
ORDINANCE NO. 6823, AN ORDINANCE TO AMEND THE GENERAL PROJECT SPECIAL REVENUE FUND BUDGETS BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE TENNESSEE ARTS COMMISSION FOR THE YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE
Passed on second reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

4. Budget Adjustment for FY20 Water and Sewer Funds (AF: 227-2019) (Ryan McReynolds)

Motion/Second: George/Adler, to pass:
ORDINANCE NO. 6824, AN ORDINANCE TO AMEND VARIOUS PROJECTS FOR THE YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE
Passed on second reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

5. Budget Adjustment for FY20 (AF: 226-2019) (Chris McCartt)

Motion/Second: Phillips/George, to pass:
ORDINANCE NO. 6825, AN ORDINANCE TO AMEND VARIOUS PROJECTS FOR THE YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE
Passed on second reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

6. Ordinance to Appropriate the Funds for Materials Agreement with The Edinburgh Group, LLC Related to the Edinburgh South Phase 3 of the Edinburgh Development (AF: 230-2019) (Ryan McReynolds)

Motion/Second: George/Duncan, to pass:
ORDINANCE NO. 6826, AN ORDINANCE TO AMEND THE WATER AND SEWER PROJECT FUNDS BY TRANSFERRING FUNDS TO THE EDINBURGH PHASE 3 MATERIALS AGREEMENT PROJECTS (WA2051 AND SW2051); AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE
Passed on second reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

D. OTHER BUSINESS.

1. Bid Award for the Purchase of One (1) Cab Chassis with Articulating Grabber/Loader (AF: 234-2019) (Ryan McReynolds, Steve Hightower).

Motion/Second: George/Cooper, to pass:
Resolution No. 2020-066, A RESOLUTION AWARDING THE BID FOR THE PURCHASE OF ONE CAB CHASSIS WITH ARTICULATING GRABBER/LOADER TO TRIAD FREIGHTLINER OF TN LLC AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME
Passed: All present voting "aye."

2. Bid Award for the Purchase of One (1) Day Cab Road Tractor (AF: 235-2019) (Ryan McReynolds, Steve Hightower)

Motion/Second: Olterman/Adler, to pass:
Resolution No. 2020-067, A RESOLUTION AWARDING THE BID FOR THE PURCHASE OF ONE DAY CAB ROAD TRACTOR TO TRIAD FREIGHTLINER OF TN LLC AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME
Passed: All present voting "aye."

3. Reject Proposals for Optional Life Insurance (AF: 240-2019) (George DeCroes).

Motion/Second: George/Cooper, to pass:
Resolution No. 2020-068, A RESOLUTION REJECTING ALL PROPOSALS RELATED TO THE OPTIONAL LIFE INSURANCE
Passed: All present voting "aye."

VII. CONSENT AGENDA.
(These items are considered under one motion with a roll call vote.)

Motion/Second: George/Cooper, to adopt:

1. Approval of Easements and Rights-of-Way (AF: 236-2019) (Ryan McReynolds).

Approve:
APPROVE OFFERS FOR EASEMENTS AND RIGHTS-OF-WAY FOR THE MYRTLE STREET AREA I&I SANITARY SEWER REHABILITATION PROJECT
Passed: All present voting "aye."

2. Approve 2019 Soccer Agreements with Tri-Cities United (AF: 221-2019) (Chris McCartt).

Pass:
Resolution No. 2020-069, A RESOLUTION APPROVING AGREEMENTS WITH TRI-CITIES UNITED SOCCER CLUB, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENTS AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT
Passed: All present voting "aye."

VIII. COMMUNICATIONS.

A. CITY MANAGER. Mr. McCartt congratulated the police department for their award and pointed out that numerous departments throughout the city that were recognized at the State of the City breakfast. Mr. McCartt noted this week was fall break and many staff members were out. Lastly he congratulated the band on their competition at ETSU.

B. MAYOR AND BOARD MEMBERS. Alderman Duncan commented on the many events coming up in the area: Kingsport Theatre Guild will be performing The Crucible, Your Kingsport Chamber's BrewHaHa and the Wine and Whiskey Festival. He also noted this month was breast cancer awareness month and the ongoing Big Wigs campaign. Alderman Cooper stated as a breast cancer survivor she appreciated all the efforts being made. She also noted there was a lot going on and to get out and enjoy the fall weather. Alderman George mentioned the Wine and Whiskey festival as well as the Fall Festival at the Farmers Market Saturday morning. Alderman Phillips stated he was glad to be back and hopes they have fixed being able to watch the BMA meeting on TV because he could not see it from home last time. Mr. Phillips also promoted the Halloween Bash at the Farmers Market which will be a two day event this year. Alderman Adler commented on the new initiatives at ETSU that provides grant money for service projects in the area. Alderman Olterman commented on the football season for local school and noted the success of the DB volleyball team as well. Mayor Shull congratulated the City Manager on his recent State of the City address.

C. VISITORS. Mr. Joe Carr commented on pollution.

IX. ADJOURN. Seeing no other business for consideration at this meeting, Mayor Shull adjourned the meeting at 7:48 p.m.

ANGELA MARSHALL Deputy City Recorder	PATRICK W. SHULL Mayor

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Amend Zoning Text to Create a Definition for Funeral and Interment Services

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-213-2019
Work Session: September 30, 2019
First Reading: October 1, 2019

Final Adoption: November 5, 2019
Staff Work By: Ken Weems
Presentation By: Ken Weems

Recommendation:

- Hold second public hearing
- Approve ordinance amending the zoning text to create a definition for funeral and interment services

Executive Summary:

At the request of a local funeral home owner/operator, planning staff proposes creation of a definition for "funeral and interment services" to be added to the city zoning code. The proposed definition will clarify that cremation services are an appropriate accessory use for a building that is used for funeral services. Adjacent city and county zoning codes currently allow cremation services as accessory uses for funeral homes. Trinity Memorial made the request for the zoning text amendment. The four other existing city funeral homes (Carter-Trent, Hamlett-Dobson, Clark, and Oak Hill) were notified of the zoning text change proposal. Carter-Trent has chosen to remain neutral on the proposal while thanking staff for the foresight regarding the funeral industry and cremation trends. No other public comment was received on the proposal. Once approved, this zoning text change will allow cremation as an accessory use for all existing and new funeral homes. Currently, the only reference to cremation in city zoning is as a principal use in an industrial zone. During their September 19, 2019 regular meeting, the Kingsport Regional Planning Commission voted unanimously to send a favorable recommendation in support of the zoning text change to the Board of Mayor and Aldermen. The notice of public hearing was published on September 16, 2019.

Attachments:

1. Notice of Public Hearing
2. Zoning Text Amendment Ordinance
3. Staff Report

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Amend Zoning Text to Create a Definition for Funeral and Interment Services

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-213-2019
Work Session: September 30, 2019
First Reading: October 1, 2019

Final Adoption: October 15, 2019
Staff Work By: Ken Weems
Presentation By: Ken Weems

Recommendation:

- Hold public hearing
- Approve ordinance amending the zoning text to create a definition for funeral and interment services

Executive Summary:

At the request of a local funeral home owner/operator, planning staff proposes creation of a definition for "funeral and interment services" to be added to the city zoning code. The proposed definition will clarify that cremation services are an appropriate accessory use for a building that is used for funeral services. Adjacent city and county zoning codes currently allow cremation services as accessory uses for funeral homes. Trinity Memorial made the request for the zoning text amendment. The four other existing city funeral homes (Carter-Trent, Hamlett-Dobson, Clark, and Oak Hill) were notified of the zoning text change proposal. Carter-Trent has chosen to remain neutral on the proposal while thanking staff for the foresight regarding the funeral industry and cremation trends. No other public comment was received on the proposal. Once approved, this zoning text change will allow cremation as an accessory use for all existing and new funeral homes. Currently, the only reference to cremation in city zoning is as a principal use in an industrial zone. During their September 19, 2019 regular meeting, the Kingsport Regional Planning Commission voted unanimously to send a favorable recommendation in support of the zoning text change to the Board of Mayor and Aldermen. The notice of public hearing was published on September 16, 2019.

Attachments:

1. Notice of Public Hearing
2. Zoning Text Amendment Ordinance
3. Staff Report

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN to all citizens of the City of Kingsport, Tennessee, to all persons interested, and the public at large that the City of Kingsport Board of Mayor and Aldermen will conduct a Public Hearing during its regular business meeting on Tuesday, October 1, 2019 to consider amending the Code of Ordinances to add a definition for funeral and interment services to Sec. 114-1. - Definitions of the Code of Ordinances. The regular business meeting will begin at 7:00 p.m. in the large courtroom located on the second floor of City Hall, at 225 W. Center Street, Kingsport, Tennessee.

All interested persons are invited to attend this meeting and public hearing. A detailed description of the zoning text amendment is on file in the offices of the City Manager, City Library, and Planning Manager for inspection. Additional information concerning this proposal may be obtained by contacting the Kingsport Planning Division of the Development Services Department, telephone 423-229-9485.

CITY OF KINGSPORT
Angie Marshall, Deputy City Clerk
P1T: 9/16/19

PRE-FILED
CITY RECORDER

Revised 10/16/19

ORDINANCE NO._____

AN ORDINANCE TO FURTHER AMEND THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, SECTION 114-1; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, AS FOLLOWS:

SECTION I. That Section 114-1 of the Code of Ordinances, City of Kingsport, Tennessee is amended by adding the following definition to the Section 114-1. - Definitions:

Funeral and interment services means a building or part thereof used for funeral services. Such building may contain space and facilities for the accessory uses of (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the storage of caskets, funeral urns, and other related funeral supplies; (c) the storage of funeral vehicles; and (d) facilities for cremation. Where funeral and interment services are permitted, a funeral chapel shall also be permitted.

SECTION II. Any person violating any provisions of this ordinance shall be guilty of an offense and upon conviction shall pay a penalty of FIFTY DOLLARS ($50.00) for each offense. Each occurrence shall constitute a separate offense.

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

_____
PATRICK W. SHULL
Mayor

ATTEST:

_____
SIDNEY H. COX
City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY
City Attorney

PASSED ON 1ST READING_____
PASSED ON 2ND READING_____

Funeral and Interment Services Zoning Text Amendment

Property Information	City-wide		
Address			
Tax Map, Group, Parcel			
Civil District			
Overlay District			
Land Use Designation			
Acres			
Existing Use		**Existing Zoning**	
Proposed Use		**Proposed Zoning**	

Owner /Applicant Information	
Name: Weston Leonard **Address: 1221 Stewball Circle** **City: Kingsport** **State: TN** **Zip Code: 37660** **Email: Weston@tmcenters.com** **Phone Number: 423.723.8177**	**Intent:** To amend Chapter 114, Article I, Section 114-1 – Definitions of Kingsport's Zoning Code to create a definition for Funeral and Interment Services.

Planning Department Recommendation
(Approve, Deny, or Defer) The Kingsport Planning Division recommends APPROVAL

Planner:	Ken Weems, AICP	Date:	8/30/19
Planning Commission Action		**Meeting Date:**	**9/19/19**
Approval:			
Denial:		Reason for Denial:	
Deferred:		Reason for Deferral:	

INTENT

To amend Chapter 114, Article I, Section 114-1 – Definitions of Kingsport's Zoning Code to create a definition for Funeral and Interment Services.

Introduction:

Acting on application from a local funeral home owner/operator, planning staff drafted a zoning text change (below) that adds a definition for the principal land use of Funeral and Interment Services.

The applicant desires to add a crematory to his existing funeral home. The City's existing zoning text identifies Funeral and Interment Services as an appropriate use in B-3 and B-4P zones, however the use is not defined in the Definitions section of the zoning code. The only reference of crematory use in the zoning code is for a standalone crematory that is restricted to industrial zones (M-1, M-1R, and M-2 zones).

The proposed definition will clarify that cremation service is an appropriate accessory use for a building that is used for funeral services. It should be noted that existing zoning for Bristol, Johnson City, Sullivan County, and Washington County already provide for cremation services as an appropriate accessory use for funeral homes.

The City of Kingsport currently contains 5 funeral homes. None of the existing funeral homes contain crematories, and no standalone crematories exist inside city limits. This text amendment proposal would allow crematory accessory use for all existing funeral home buildings as well as any new funeral homes where they are permitted.

Proposed Code Change:

The proposed definition of Funeral and Interment Services recommended for addition to Section 114-1. Definitions:

Funeral and interment services, means a building or part thereof used for funeral services. Such building may contain space and facilities for the accessory uses of (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the storage of caskets, funeral urns, and other related funeral supplies; (c) the storage of funeral vehicles; and (d) facilities for cremation. Where funeral and interment services are permitted, a funeral chapel shall also be permitted.

09-07

APPLICATION
Zoning Text Amendment (City)

Kingsport

APPLICANT INFORMATION:

Last Name. **LEONARD**	First **JAMES**	M.I. **W**	Date **08/30/2019**
Street Address. **1221 Stewball Circle**		Apartment/Unit #	
City **Kingsport**	State **TN**	ZIP **37660**	
Phone **423-723-8177**	E-mail Address		

PROPERTY INFORMATION: IF APPLICABLE

Tax Map Information	Tax map: **76**	Group:	Parcel: **19.3** Lot: **4**
Street Address. **1221 Stewball Circle**		Apartment/Unit #	
Current Zone. **B4-P**	Proposed Zone. **B4-P. NO CHANGE**		
Current Use. **Funeral Home**	Proposed Use	**Funeral Home with Accessory Crematory Use**	

DISCLAIMER AND SIGNATURE

By signing below I state that I have read and understand the conditions of this application and have been informed as to the location, date and time of the meeting in which the Planning Commission will review my application. I further state that I am/we are requesting that the current zoning code be amended.

Signature _____ Date 9/3/19

Signed before me on this 3rd day of September

a notary public for the State of Tennessee

County of Sullivan

TIMOTHY CHARLES CLARK STATE OF TENNESSEE NOTARY PUBLIC SULLIVAN COUNTY MY COMMISSION EXPIRES 5-22-2023

Notary _____

My Commission Expires 5/22/2023

CITY PLANNING OFFICE

Received Date:	Received By:
Application Fee Paid:	
Planning Commission Meeting Date	
Board of Mayor and Alderman Meeting Date	
Previous requests or file numbers	
Signature of City Planner	Date

09-07

Tel: 423-723-8177
Fax: 423-723-8169

1221 Stewball Circle
Kingsport, TN 37660

To Whom it may concern,

My name is Weston Leonard the owner of Trinity Memorial Funeral Home in Kingsport. Trinity was opened in Nov 2013 and since its opening has grown rapidly in the past 6 years. I will be launching a new corporate brand that has been pre-approved for $50 million in acquisitions. The new entity will be purchasing existing funeral homes within a 500 mile radius of our area.

I am hoping to get the zoning text change made to our existing Trinity location to allow a 6,000 square foot expansion to put the corporate offices, headstone business, casket business, and crematory open to other funeral homes to use as well. This will be a $2 million dollar investment to bring a much needed state of the art crematory to our area

Sincerely yours,

Weston Leonard

Owner

First Viewable Crematory for Public in East TN

There are no crematories within 45 miles that are setup to allow families to assist with the process. Why is this important? Cremations are almost to 60% in Tennessee and rising. However there is a missing piece of closure that graveside services provide. In several studies of people who chose cremations for their loved ones their seems to be a lack of finality or closure like traditional burials provide at graveside.

Our goal is to create a crematory that is well kept with a viewing area for the family and pastor to have a "cremation side" service and help provide that closure that has been missing. We firmly believe this will become a normal part of the immediate family's process when dealing with grief and cremation is chosen.

We have also worked with many families who wanted to view for religious reasons. In the Hindu religion the family must do part of the ceremony at the crematory and then push the box into the machine. We also have hispanic families that needed to be present when the box was placed into the machine. Outside of religious we do see more and more people wanting to witness the process. Some out of concern from seeing news reports of cremating the wrong person and some for just peace of mind.

The crematory will be available for other funeral homes to use as well. We expect to see an increase in hotel bookings at the next door Holiday Inn Express as more families come in from out of town to be part of these services. We currently work with them to provide a discounted funeral rate and often families stay there when attending a service at our facility.

Below is an idea of what a viewing room would look like.

There are around 2,400 cremations completed in East TN annually. The majority of funeral homes do not have a crematory they rely on stand alone crematories. The Tri-Cities has a lack of available crematories and so customer service and time it takes to complete the process are woefully lacking. Trinity alone does 300 cremations a year currently. Below is a list public crematories in our area:

BRISTOL: In the city limits in the garage of Oakley Cook Funeral Home right on the parkway 2223 Volunteer Pkwy, Bristol, TN 37620

ELIZABETHTON: Teatrick Cremations & Pet Cremations 220 N Riverside Drive in the Downtown area

JOHNSON CITY: 1428 TN-91 Professional Cremation Services. Limited capacity older machines used by 5 funeral homes about 800 year.

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Vacate Unimproved Right-of-Way Named Alabama St Located off Hollis St

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-251-2019
Work Session: November 4, 2019
First Reading: November 5, 2019

Final Adoption: November 19, 2019
Staff Work By: Jessica Harmon
Presentation By: Jessica Harmon

Recommendation:

- Hold public hearing
- Approve ordinance vacating a portion unimproved right-of-way named Alabama St. located off Hollis St.

Executive Summary:

This is a request to vacate approximately 208 feet in of unimproved right-of-way named Alabama Street, totaling 0.178 acres. The original right-of-way was platted in 1917. The purpose of this owner-requested vacating is to allow for the owner to combine the right-of-way area with the current lot to allow for the construction of a new single family home. During their October 2019 regular meeting, the Kingsport Regional Planning Commission voted unanimously to send a favorable recommendation for the vacating to the Board of Mayor and Aldermen. The Notice of Public Hearing was published on October 22, 2019.

Attachments:

1. Ordinance
2. Notice of Public Hearing
3. Legal Description
4. Map
5. Staff Report

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

PRE-FILED
CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE TO VACATE A SECTION OF PUBLIC RIGHT-OF-WAY NAMED ALABAMA STREET LOCATED OFF OF HOLLIS STREET SITUATED IN THE CITY, TWELFTH CIVIL DISTRICT OF SULLIVAN COUNTY; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, after due investigation and careful consideration at a public meeting held on October 17, 2019, the Kingsport Regional Planning Commission has determined that the public interest of the city is best served and warrants vacating that portion of a right-of-way described herein, nor can any future use of the same for right-of-way purposes be reasonably anticipated; and

WHEREAS, as a result of its action at the meeting held on October 17, 2019, the Kingsport Regional Planning Commission recommends to the board of mayor and aldermen to vacate for that portion of a right-of-way described herein; and

WHEREAS, a public hearing before the board of mayor and aldermen of the City of Kingsport, Tennessee, was held on the 5th day of November 2019, and notice thereof published in the Kingsport Times-News on the 22nd day of October, 2019.

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

SECTION I. The city hereby vacates and closes to public use all of a certain section of right-of-way named Alabama Street located off Hollis Street within the City of Kingsport, 12th Civil District of Sullivan County, Tennessee, which for purposes of this vacation is further described as follows:

BEGINNING AT AN 5/8" IRON ROD (NEW) WITH CAP, SAID ROD LOCATED ON THE WESTERLY SIDELINE OF HOLLIS STREET (FORMERLY JUANITA AVENUE), A CORNER TO LOT 1, DIVISION OF LAND OF THE PATION HEIRS (PLAT BOOK 2, PAGE 252B) AND ON THE WESTERLY SIDELINE OF ALABAMA STREET (UNOPENED) THENCE ALONG SAID SIDELINE OF HOLLIS STREET SOUTH 12° 30' 00" WEST, A DISTANCE OF 32.51 FEET TO A 5/8" IRON ROD (NEW) WITH CAP, SAID ROD LOCATED ON THE NORTHERLY SIDELINE OF WEST STONE DRIVE (HIGHWAY 11-W). THENCE ALONG SAID SIDELINE NORTH 89° 44' 44" WEST, A DISTANCE OF 208.00 FEET TO A CONCRETE HIGHWAY MONUMENT AND NORTH 00° 33' 07" EAST, A DISTANCE OF 10.43 FEET TO AN IRON ROD (OLD) WITH ALLEY & ASSOCIATES CAP, SAID ROD A CORNER TO THE DESUBDIVISION OF PART OF LOTS 3, 4, 5, 6 AND 7 MILLER ALLEY AND A 2.067 ACRES PARCEL (PLAT BOOK 50, PAGE 454) AND THE WESTERN TERMINUS OF ALABAMA STREET. THENCE ALONG SAME NORTH 13° 32' 51" EAST, A DISTANCE OF 32.75 FEET TO A 5/8" IRON ROD (NEW) WITH CAP, SAID ROD A CORNER TO LOT 1. THENCE ALONG LOT 1 AND THE NORTHERLY SIDELINE OF ALABAMA STREET SOUTH 86° 50' 17" EAST, A DISTANCE OF 207.58 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINS 0.178 ACRES, MORE OR LESS AND IS A UNOPENED PORTION OF ALABAMA STREET (PLAT BOOK 2, PAGE 252B).

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

_____
PATRICK W. SHULL, Mayor

ATTEST:

_____
SID COX
City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY
City Attorney

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

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN to all citizens of the City of Kingsport, Tennessee, to all persons interested, and the public at large that the City of Kingsport Board of Mayor and Aldermen will conduct a Public Hearing during its regular business meeting on Tuesday, November 5, 2019, to consider the vacating of right-of-way located off Hollis Street. The regular business meeting will begin at 7:00 p.m. in the large courtroom located on the second floor of City Hall, at 225 W. Center Street, Kingsport, Tennessee.

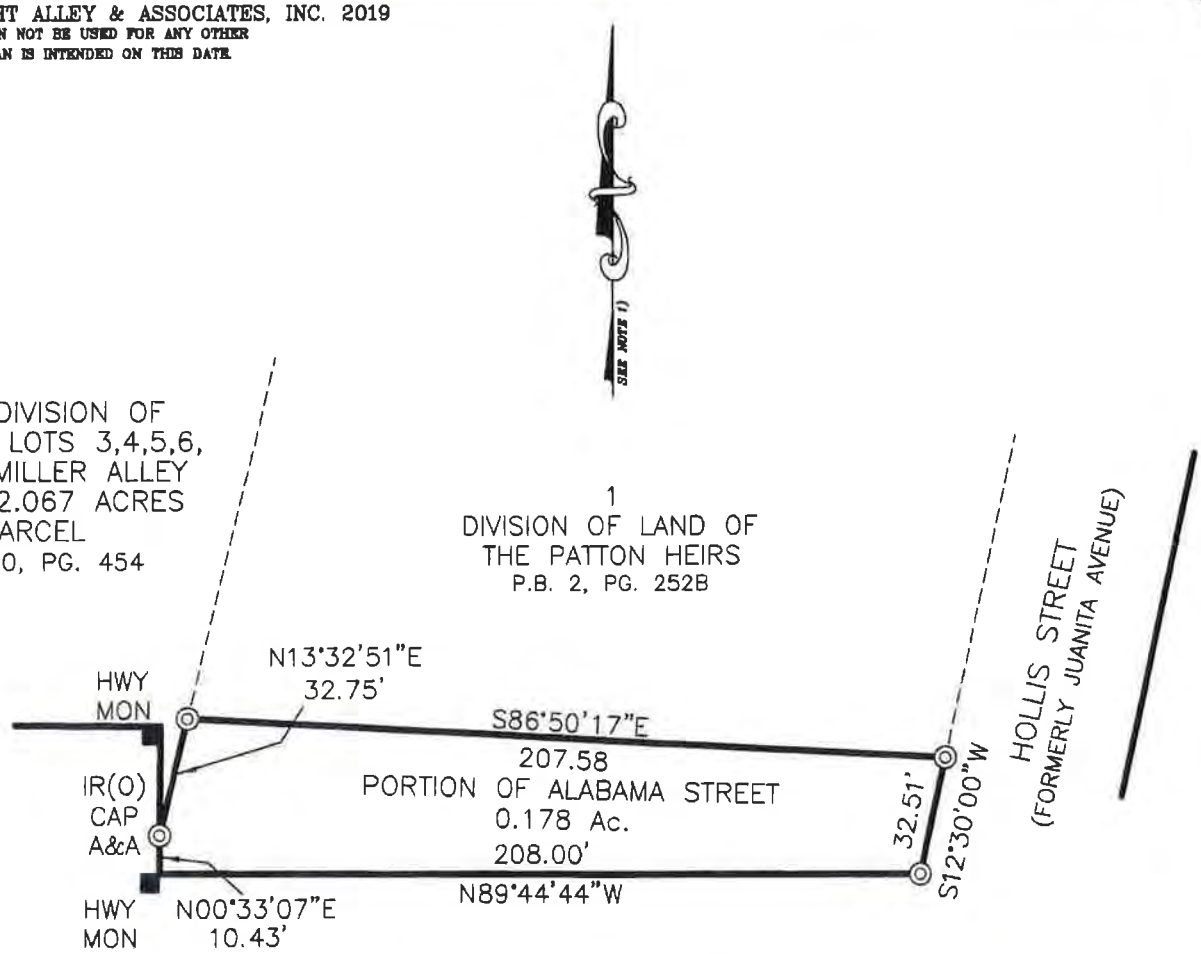
The property proposed for vacating is generally described as follows:

BEGINNING AT AN 5/8" IRON ROD (NEW) WITH CAP,SAID ROD LOCATED ON THE WESTERLY SIDELINE OF HOLLIS STREET (FORMERLY JUANITA AVEN UE), A CORNER TO LOT 1, DIVISION OF LAND OF THE PATION HEIRS (PLAT BOOK 2, PAGE 252B) AND ON THE WESTERLY SIDELINE OF ALABAMA STREET (UNOPENED). THENCE ALONG SAID SIDELINE OF HOLLIS STREET SOUTH 12° 30' 00" WEST,A DISTANCE
OF 32.51 FEET TO A 5/8" IRON ROD (NEW) WITH CAP, SAID ROD LOCATED ON THE NORTHERLY SIDELINE OF WEST STONE DRIVE (HIGHWAY 11-W) . THENCE ALONG SAID SIDELINE NORTH 89° 44' 44" WEST, A
DISTANCE OF 208.00 FEET TO A CONCRETE HIGHWAY MONUMENT AND NORTH oo·33' 07" EAST, A
DISTANCE OF 10.43 FEET TO AN IRON ROD (OLD) WITH ALLEY & ASSOCIATES CAP,SAID ROD A CORNER TO THE DESUBDIVISION OF PART OF LOTS 3, 4,5, 6 AND 7 MILLER ALLEY AND A 2.067 ACRES PARCEL (PLAT BOOK SO, PAGE 454) AND THE WESTERN TERM INUS OF ALABAMA STREET. THENCE ALONG SAME NORTH 13° 32' 51" EAST,A DISTANCE OF 32.75 FEET TO A 5/8" IRON ROD (NEW) WITH CAP,SAID ROD A CORNER TO LOT 1. THENCE ALONG LOT 1AND THE NORTHERLY SIDELINE OF ALABAMA STREET SOUTH 86° 50' 17" EAST, A DISTANCE OF 207.58 FEET TO THE POINT OF BEGINNING,SAID PARCEL CONTA INS
0.178 ACRES, MORE OR LESS AND IS A UNOPENED PORTION OF ALABAMA STREET (PLAT BOOK 2,PAGE 252B).

All interested persons are invited to attend this meeting and public hearing. A detailed map and description is on file in the offices of the City Manager, Kingsport Library, and Planning Office for inspection. Additional information concerning this proposal may be obtained by contacting the Kingsport Planning Division of the Development Services Department, telephone 423-343-9783.

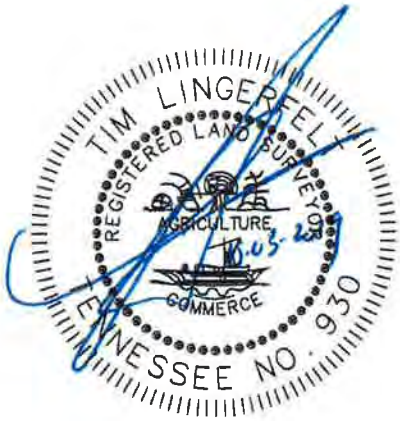
CITY OF KINGSPORT
Angie Marshall, Deputy City Clerk
P1T: 10/22/2019

© COPYRIGHT ALLEY & ASSOCIATES, INC. 2019
THIS MAP CAN NOT BE USED FOR ANY OTHER PURPOSE THAN IS INTENDED ON THIS DATE.



LEGEND

IR(C)	IRON ROD (CAP)
MON	MONUMENT
HWY	HIGHWAY
N.T.S.	NOT TO SCALE
D.B.	DEED BOOK
P.B.	PLAT BOOK
PG	PAGE
[123]	911 ADDRESS



NOTES:
1) NORTH BASED ON REFERENCED PLAT
2) PROPERTY IS ZONED R-1B
SETBACKS TO CONFORM TO ZONING DESIGNATION
3) THIS IS TO CERTIFY THAT I HAVE CONSULTED THE FEDERAL FLOOD INSURANCE ADMINISTRATION BOUNDARY MAP 47163C0040D EFFECTIVE DATE SEPTEMBER 29, 2006 AND FOUND THAT THE ABOVE PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA.
4) JOB NO. 19-11558
5) ACAD FILE 19-11558 MEADE.DWG
6) FIELD INFORMATION ELECTRONIC DATA COLLECTED
7) PLAT REFERENCE: P.B. 2, PG. 252B
8) 5/8" IRON RODS SET WITH CAP ON ALL CORNERS UNLESS OTHERWISE NOTED.
9) I HEREBY CERTIFY THAT THIS IS A CATEGORY I SURVEY AND THE RATIO OF PRECISION OF THIS SURVEY IS BETTER THAN 1:10,000. THIS SURVEY WAS DONE IN COMPLIANCE WITH CURRENT
10) TENNESSEE MINIMUM STANDARDS OF PRACTICE.
11) THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT TITLE AND MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY-AT-LAW.
12) THIS SURVEY MAY BE SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, RESERVATIONS AND RESTRICTIONS, WRITTEN AND UNWRITTEN, RECORDED AND UNRECORDED.

ALLEY & ASSOCIATES, INC.
243 E Market Street
Kingsport, Tennessee 37660
E-mail:tlingerfelt@alleyassociates.com

MAP OF: PORTION OF ALABAMA STREET

OWNER: _____

CIVIL DISTRICT: 12TH COUNTY: SULLIVAN

STATE: TENNESSEE TAX MAP 45G, "A" P/PARCEL 35

SCALE: 1 INCH = 50' DATE: OCTOBER 3, 2019

REFERENCE: PLAT BOOK 2, PAGE 252B

19-11558 FB/PG: N/A

FOR: _____

LEGAL DESCRIPTION

BEGINNING AT AN 5/8" IRON ROD (NEW) WITH CAP, SAID ROD LOCATED ON THE WESTERLY SIDELINE OF HOLLIS STREET (FORMERLY JUANITA AVENUE), A CORNER TO LOT 1, DIVISION OF LAND OF THE PATTON HEIRS (PLAT BOOK 2, PAGE 252B) AND ON THE WESTERLY SIDELINE OF ALABAMA STREET (UNOPENED). THENCE ALONG SAID SIDELINE OF HOLLIS STREET SOUTH 12° 30' 00" WEST, A DISTANCE OF 32.51 FEET TO A 5/8" IRON ROD (NEW) WITH CAP, SAID ROD LOCATED ON THE NORTHERLY SIDELINE OF WEST STONE DRIVE (HIGHWAY 11-W). THENCE ALONG SAID SIDELINE NORTH 89° 44' 44" WEST, A DISTANCE OF 208.00 FEET TO A CONCRETE HIGHWAY MONUMENT AND NORTH 00° 33' 07" EAST, A DISTANCE OF 10.43 FEET TO AN IRON ROD (OLD) WITH ALLEY & ASSOCIATES CAP, SAID ROD A CORNER TO THE DESUBDIVISION OF PART OF LOTS 3, 4, 5, 6 AND 7 MILLER ALLEY AND A 2.067 ACRES PARCEL (PLAT BOOK 50, PAGE 454) AND THE WESTERN TERMINUS OF ALABAMA STREET. THENCE ALONG SAME NORTH 13° 32' 51" EAST, A DISTANCE OF 32.75 FEET TO A 5/8" IRON ROD (NEW) WITH CAP, SAID ROD A CORNER TO LOT 1. THENCE ALONG LOT 1 AND THE NORTHERLY SIDELINE OF ALABAMA STREET SOUTH 86° 50' 17" EAST, A DISTANCE OF 207.58 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINS 0.178 ACRES, MORE OR LESS AND IS A UNOPENED PORTION OF ALABAMA STREET (PLAT BOOK 2, PAGE 252B).

TIM LINGER
REGISTERED LAND SURVEYOR
10-03-2019
TENNESSEE NO. 2080

Aerial w/ Utilities

10/4/2019, 2:39:03 PM

1:2,257

0 0.0175 0.035 0.07 mi

0 0.03 0.06 0.12 km

- Kpt 911 Address
- Sullivan County Parcels
- Hawkins County Parcels
- Water Lines
- Sewer Mains
- Urban Growth Boundary

Web AppBuilder for ArcGIS

Kingsport Regional Planning Commission

Vacating Report
File Number 19-401-00003

Property Information	Right-of-Way Vacating
Address	610 Hollis St
Tax Map, Group, Parcel	R-O-W adjacent to Sullivan County Tax Map 45G Group A Parcel 35
Civil District	12th Civil District
Overlay District	N/A
Land Use Designation	Residential
Acres	+/- .17acres

Applicant #1 Information	**Surveyor Information**
Name: Guy Meade	**Name:** Alley & Associates, INC.
Address: 610 Hollis St	**Address:** 243 E Market Street
City: Kingsport	**City:** Kingsport
State: TN **Zip Code:** 37660	**State:** TN **Zip Code:** 37660
Email: rzvanover@charter.net	**Email:** n/a
Phone Number:	**Phone Number:** (423) 392-8896

Planning Department Recommendation

(Approve, Deny, or Defer)

The Kingsport Planning Division recommends abandonment of a portion of Alabama Street right-of-way adjacent to Tax Map 45G Group A Parcel 35:

- Request reviewed by all city departments & utility providers

Staff Field Notes and General Comments:

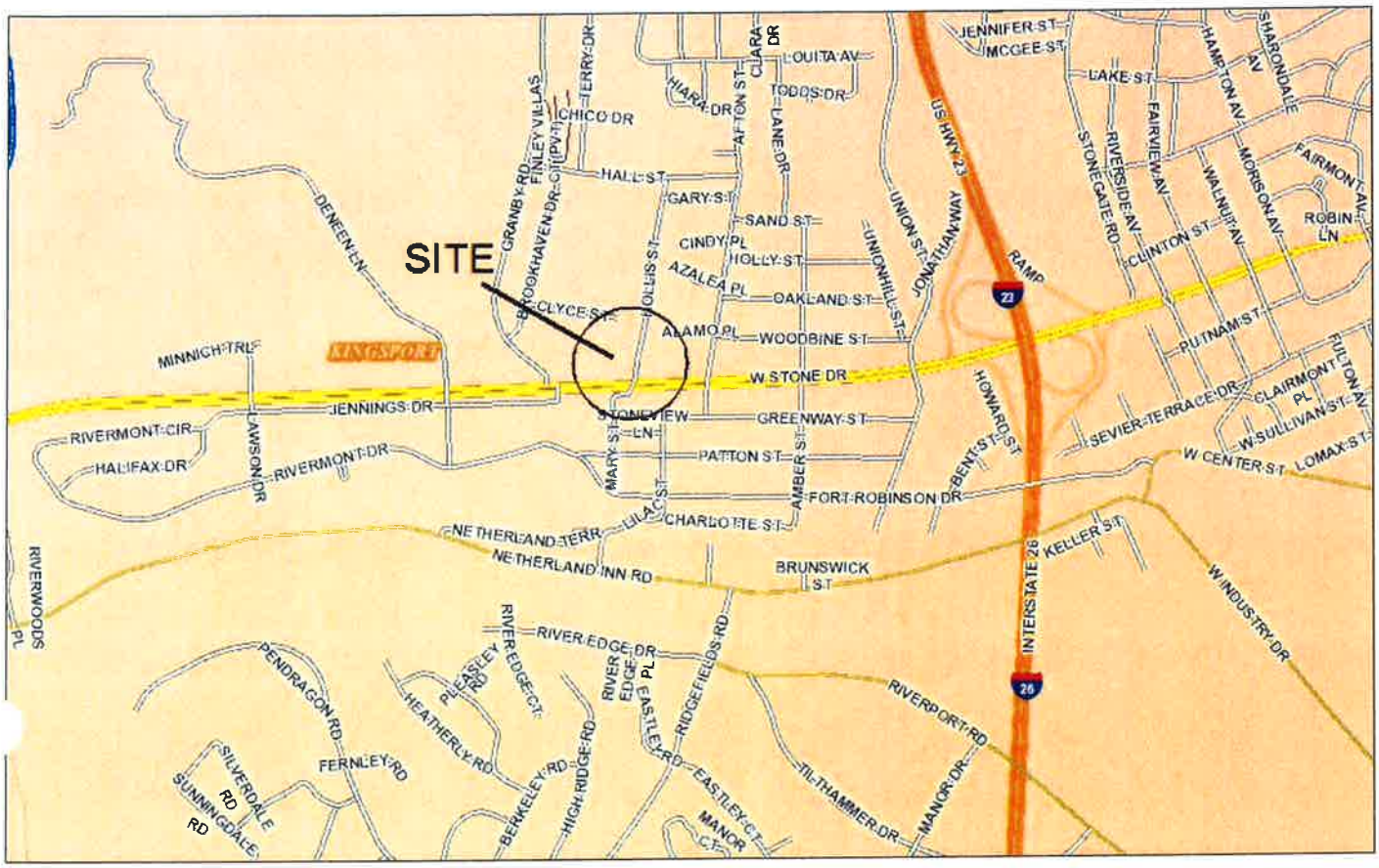
The applicant for this request are the adjacent property owners to the subject area. The requested vacating area consists of 0.178 acres and is approximately 208' in length. The street was originally platted in the early 1900's and has since transformed into W Stone Drive. A portion of the Alabama Street right-of-way was left between the new W. Stone Drive right-of-way and the adjacent property.

All City Departments and Utility providers have reviewed this request. No one sees a need to retain this portion of property as right-of-way for any future use.

Staff recommends vacating the0.178 acres of right-of-way adjacent to Tax Map 45G Group A Parcel 35 based upon staff seeing no future use for the subject property.

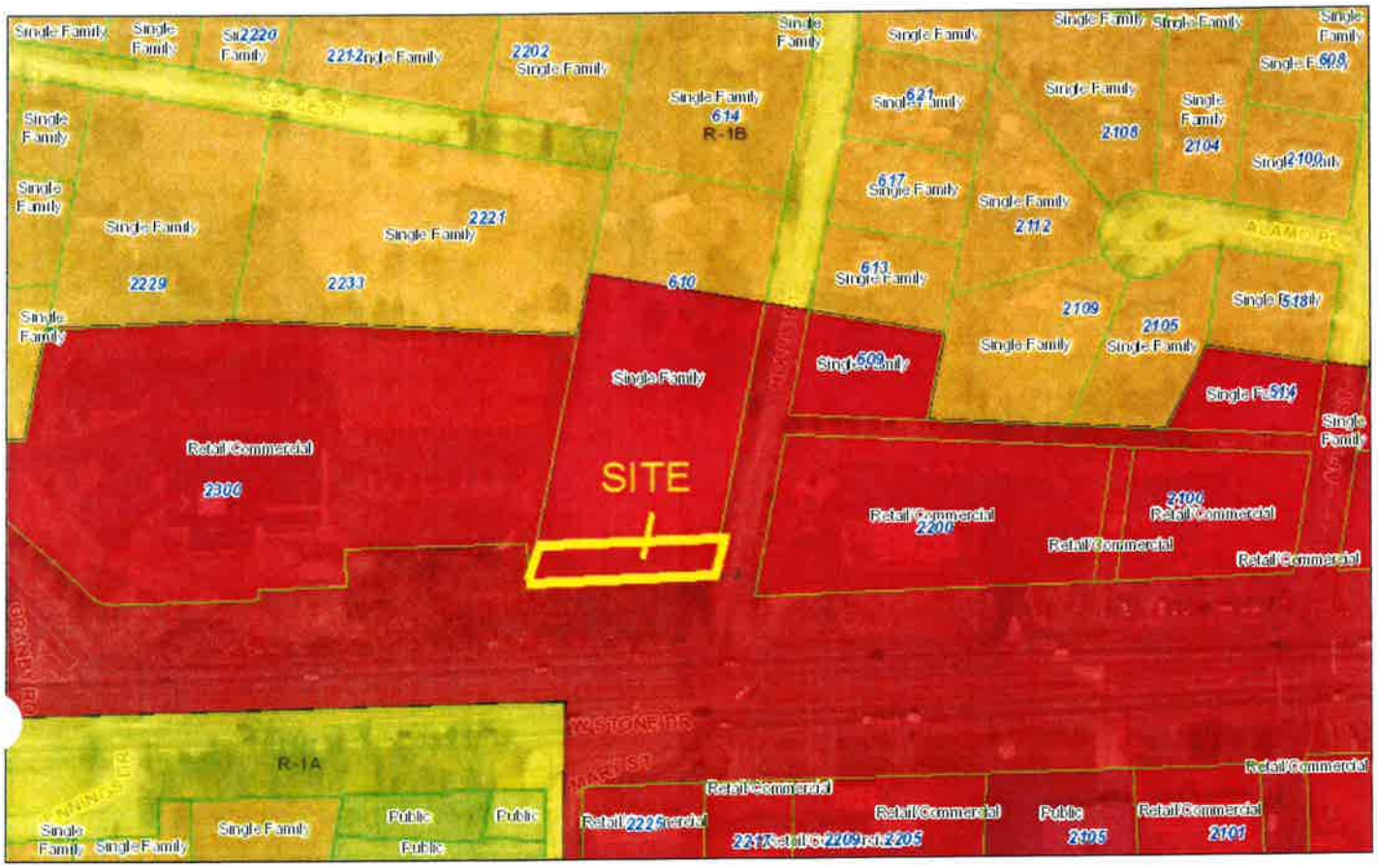
Planner:	Harmon	Date:10/4/19	
		Meeting Date:	**October 17, 2019**

Location Map



Prepared by Kingsport Planning Department for the
Kingsport Regional Planning Commission Meeting on October 17, 2019

Zoning



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1:2,257

0 0.0175 0.035 0.07 mi

0 0.03 0.06 0.12 km

Kpt 911 Address

Sullivan County Parcels

Hawkins County Parcels

Web AppBuilder for ArcGIS

Future Land Use

10/4/2019 2:40:23 PM

1:2,257

0 0.0175 0.035 0.07 mi

0 0.03 0.06 0.12 km

Kpt 911 Address
Sullivan County Parcels
Hawkins County Parcels
Urban Growth Boundary
Future Land Use
Agri/Vacant
Single Family
Multi-Family
Industrial
Retail/Commercial
Public
Utilities

Web AppBuilder for ArcGIS

Aerial w/Utilities

10/4/2019 2:39:03 PM

1:2,257

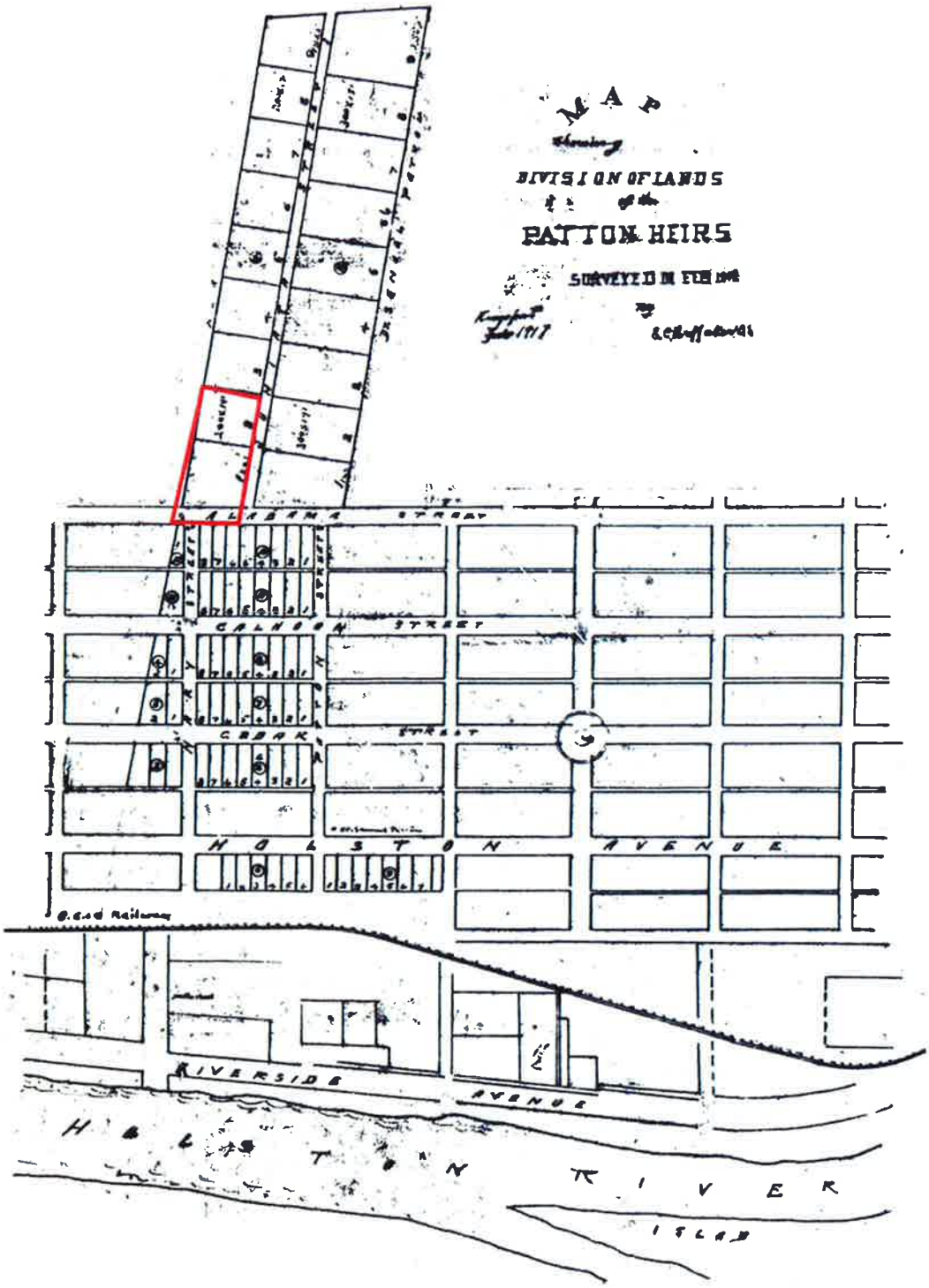
0 0.0175 0.035 0.07 mi

0 0.03 0.06 0.12 km

- Kpt 911 Address
- Sullivan County Parcels
- Hawkins County Parcels
- Water Lines
- Sewer Mains
- Urban Growth Boundary

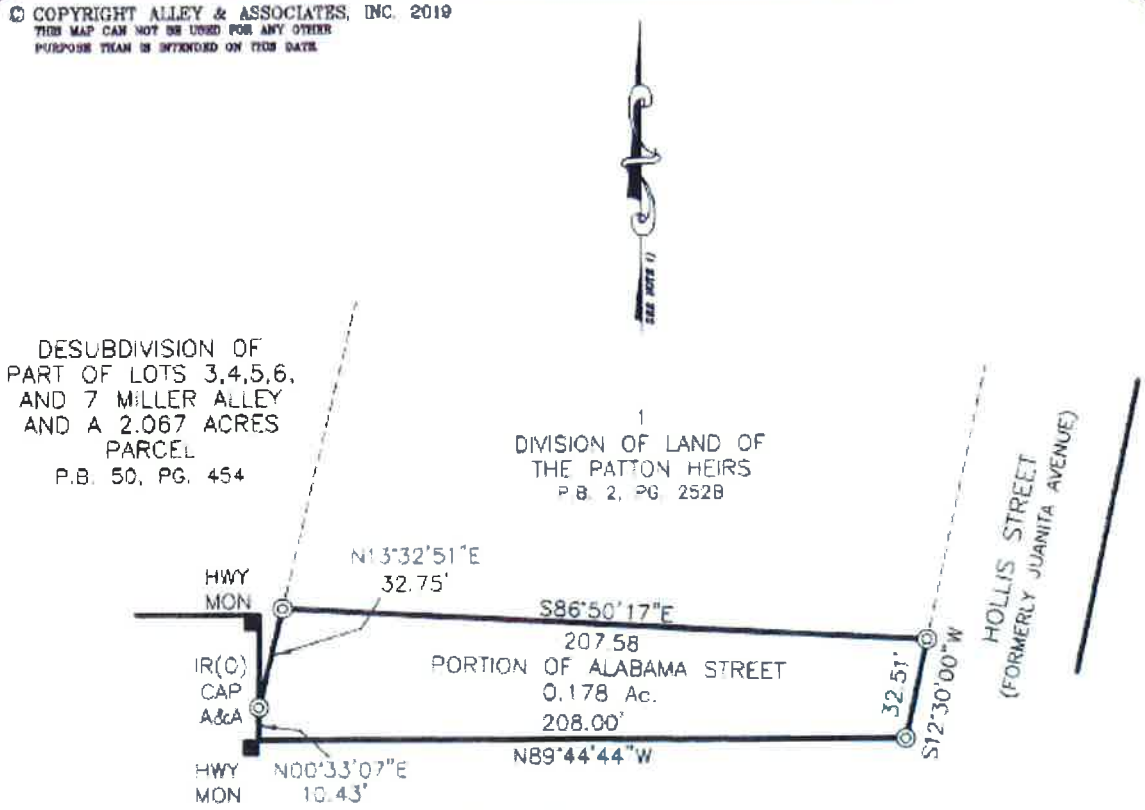
Web AppBuilder for ArcGIS

ORIGINAL PLAT



2-252B

© COPYRIGHT ALLEY & ASSOCIATES, INC. 2019
THIS MAP CAN NOT BE USED FOR ANY OTHER PURPOSE THAN IS INTENDED ON THIS DATE



LEGEND

IR(C)	IRON ROD (CAP)
MON	MONUMENT
HWY	HIGHWAY
N.T.S.	NOT TO SCALE
D.B.	DEED BOOK
P.B.	PLAT BOOK
PG	PAGE
123	911 ADDRESS

NOTES:
1) NORTH BASED ON REFERENCED PLAT
2) PROPERTY IS ZONED R-1B
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ALLEY & ASSOCIATES, INC.
243 E Market Street
Kingsport, Tennessee 37660
E-mail:tlingerfelt@alleyassociates.com

TIM LINGERFELT
REGISTERED LAND SURVEYOR
TENNESSEE NO. 930

MAP OF: PORTION OF ALABAMA STREET

OWNER: _____

CIVIL DISTRICT: 12TH COUNTY: SULLIVAN

STATE: TENNESSEE TAX MAP 46G, "A" P/PARCEL 35

SCALE: 1 INCH = 50' DATE: OCTOBER 3, 2019

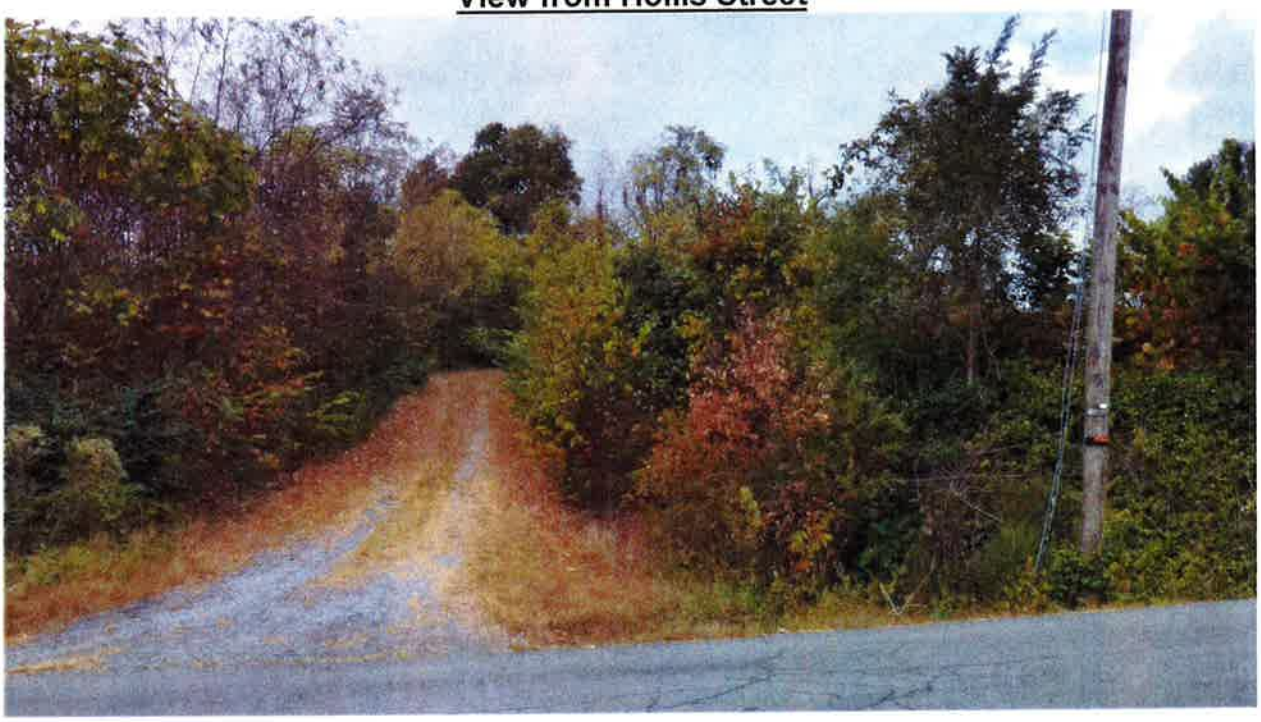
REFERENCE: PLAT BOOK 2, PAGE 252B

19-11556 FB/PG: N/A

FOR: _____

Prepared by Kingsport Planning Department for the
Kingsport Regional Planning Commission Meeting on October 17, 2019

View from Hollis Street



RECOMMENDATION:

Staff recommends sending a favorable recommendation to the Board of Mayor and Alderman for the vacating of 0.178 acres of Alabama St. right-of-way adjacent to Tax Map 45G Group A Parcel 35 based upon staff review and seeing no future use of the property.

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Budget Ordinance to Appropriate Funds from the Tennessee Highway Safety Office's (THSO) FY '20 Coordinator Grant

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-243-2019
Work Session: November 4, 2019
First Reading: November 5, 2019

Final Adoption: November 19, 2019
Staff Work By: Capt. Randall Gore
Presentation By: Chief David Quillin

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
On October 1, 2019 via AF-219-2019, 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) Coordinator grant. We have been notified that we were approved for $20,000.00 in grant funds for the upcoming fiscal year. The grant will be utilized to pay for Officer Matt McGuire's travel/training to various traffic related workshops and conferences. Additional funds will be used for traffic enforcement/education items as well as overtime for officers engaged in traffic enforcement activities.

There are no matching fund requirements.

Attachments:
1. Budget Ordinance

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

PRE-FILED
CITY RECORDER

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, 2020; 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 $20,000 to the THSO Coordinator Grant project (NC2011) to pay for travel/training to various traffic related workshops and conference. Additional funds will be used for traffic enforcement/education items as well as overtime for officers engaged in traffic enforcement activities. No matching funds are required.

Account Number/Description:		**Budget**	**Incr/<Decr>**	**New Budget**
Fund 111: General Project/Special Rev Fund				
THSO Coordinator Grant (NC2011)				
Revenues:		$	$	$
111-0000-337-6010	Safety/Homeland Security	0	20,000	20,000
	Totals:	**0**	**20,000**	**20,000**

Expenditures:		$	$	$
111-0000-601-1011	Overtime	0	450	450
111-0000-601-1020	Social Security	0	40	40
111-0000-601-1030	Health Insurance	0	50	50
111-0000-601-1041	TCRS Retirement	0	120	120
111-0000-601-1050	Life Insurance	0	31	31
111-0000-601-1052	Long Term Disability	0	20	20
111-0000-601-1060	Workmen's Comp	0	50	50
111-0000-601-1061	Unemployment Ins.	0	40	40
111-0000-601-2040	Travel Expense	0	1,500	1,500
111-0000-601-2041	Registration Fees/Tuition	0	1,500	1,500
111-0000-601-3020	Operating Supplies & Tools	0	16,199	16,199
	Totals:	**0**	**20,000**	**20,000**

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.

_____
PATRICK W. SHULL, Mayor

ATTEST:

_____
ANGIE MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Accept a Private Monetary Donation for the Police K-9 Program and Appropriate Funds

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-250-2019
Work Session: November 4, 2019
First Reading: November 5, 2019

Final Adoption: November 19, 2019
Staff Work By: Comm. Bellamy
Presentation By: Chief Quillin

Recommendation:
Approve the Resolution and Ordinance.

Executive Summary:
Kingsport citizen, Fredrick S. Baggett, wishes to make a monetary contribution to the police department in the amount of $2,500.00. The intended purpose of the contribution is "to support the care, maintenance and training of the K-9 animals of the police department." It is with this action that the police department respectfully requests the board to accept the contribution and place the funds into a project line to be utilized for the furtherance of the K-9 program.

Attachments:
1. Resolution
2. Ordinance

	Y	N	O
Adler			
Duncan			
Cooper			
George			
Phillips			
Olterman			
Shull			

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A MONETARY DONATION FOR THE KINGSPORT POLICE DEPARTMENT K-9 PROGRAM

WHEREAS, Frederick S. Baggett would like to donate $2,500.00, to the Kingsport police department; and

WHEREAS, the purpose of the funds are to support the care, maintenance, and training of the K-9 animals of the Kingsport Police Department.

Now therefore,

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

SECTION I. That the donation to the Kingsport police department's K-9 program from Frederick S. Baggett in the amount of $2,500.00, is accepted.

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

ADOPTED this the 5th day of November, 2019.

_____
PATRICK W SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

PRE-FILED
CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT-SPECIAL REVENUE FUND BUDGET BY APPROPRIATING DONATED FUNDS FOR THE YEAR ENDING JUNE 30, 2020; 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 Fredrick S. Baggett in the amount of $2,500 for the K-9 program.

Account Number/Description:	**Budget**	**Incr/<Decr>**	**New Budget**
Fund 111: General Project-Special Revenue Fund			
K-9 Donation (NC1808)			
Revenues:	$	$	$
111-0000-364-1000 From Individuals	4,000	2,500	6,500
Totals:	**4,000**	**2,500**	**6,500**
Expenditures:	$	$	$
111-0000-601-3012 Food	2,000	0	2,000
111-0000-601-3020 Operating Supplies & Tools	2,000	2,500	4,500
Totals:	**4,000**	**2,500**	**6,500**

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.

_____
PATRICK W. SHULL, Mayor

ATTEST:

_____
ANGIE MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Enter into Agreement with TDOT for Resurfacing of Various Roads

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-248-2019
Work Session: November 4, 2019
First Reading: November 5, 2019

Final Adoption: November 19, 2019
Staff Work By: M. Thompson / T. Elsea
Presentation By: Ryan McReynolds

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
As part of our current paving initiatives we have the opportunity to enter into an agreement with TDOT for resurfacing of various roads. This project consists of milling, grading, repairing, ADA improvements, striping, and signage.

The estimated total cost for all phases of this project is $2,500,000, which will be funded 80% through Metropolitan Transportation Planning Organization (MTPO) Surface Transportation Block Grant (STBG) funding source (Federal funds); and the local government is responsible for the 20% matching share (estimated amount of $500,000).

Therefore we request to enter into a Local Agency Project Agreement with TDOT for Resurfacing of Various Roads. It is also requested to transfer funds from NC2007 Street Resurfacing to MP020A Street Resurfacing in the amount of $500,000.

Project Data: TDOT Agreement #: 190342; PIN: 129800.00; Federal Project #: STP-M-9108(51); State Project #: 82LPLM-F3-096.

Attachments:
1. Budget Ordinance
2. Agreement (23 pages)

Funding source appropriate and funds are available: JP

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

PRE-FILED
CITY RECORDER

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MPO PROJECT FUND AND THE GENERAL PROJECTS-SPECIAL REVENUE FUND BUDGETS; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the MPO Fund and the General Project-Special Revenue Fund budgets be amended by transferring $500,000 from the Street Resurfacing project (NC2007) and by appropriating TDOT grant funds in the amount of $2,000,000 to the Street Resurfacing project (MPO20A).

Account Number/Description:		**Budget**	**Incr/<Decr>**	**New Budget**
Fund 111: General Project-Special Revenue Fund				
Street Resurfacing (NC2007)				
Revenues:		$	$	$
111-0000-391-0100	From General Fund	500,000	(500,000)	0
	Totals:	**500,000**	**(500,000)**	**0**
Expenditures:		$	$	$
111-0000-601-2021	Construction Contracts	500,000	(500,000)	0
	Totals:	**500,000**	**(500,000)**	**0**
Fund 110: General Fund				
Expenditures:		$	$	$
110-4804-481-7035	To Gen Proj-Special Rev	2,171,200	(500,000)	1,671,200
110-4804-481-7052	To MPO Fund	67,632	500,000	567,632
	Totals:	**2,238,832**	**0**	**2,238,832**
Fund 122: MPO Fund				
Street Resurfacing (MPO20A)				
Revenues:		$	$	$
122-0000-337-9010	TN Section 5303 80%	0	2,000,000	2,000,000
122-0000-391-0100	From General Fund	0	500,000	500,000
	Totals:	**0**	**2,500,000**	**2,500,000**

Expenditures:		$	$	$
122-0000-609-2023	Arch/Eng/Landscaping	0	247,000	247,000
122-0000-609-9001	Land	0	25,000	25,000
122-0000-609-9003	Improvements	0	2,228,000	2,228,000
	Totals:	**0**	**2,500,000**	**2,500,000**

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

_____
PATRICK W. SHULL, 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: 190342

Project Identification Number: 129800.00

Federal Project Number: STP-M-9108(51)

State Project Number: 82LPLM-F3-096

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:

"Resurfacing of Various Roads in Kingsport"

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 **October 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 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: _____ _____	By: _____ _____
Patrick W. Shull **Date**	**John C. Schroer** **Date**
Mayor	**Commissioner**

APPROVED AS TO FORM AND LEGALITY	APPROVED AS TO FORM AND LEGALITY
By: _____ _____	By: _____ _____
J.M. Billingsley **Date**	**John Reinbold** **Date**
Attorney	**General Counsel**

EXHIBIT "A"

AGREEMENT #: 190342

PROJECT IDENTIFICATION #: 129800.00

FEDERAL PROJECT #: STP-M-9108(51

STATE PROJECT #: 82LPLM-F3-096

PROJECT DESCRIPTION: Resurfacing of Various Roads in Kingsport. Resurfacing of various functionally classified roadways including milling, grading, repairing, ADA improvements, striping, and signage. Road segments are Moreland Drive, from SR-36 to the Kingsport City limits; Meadowview Parkway, from SR-126 to the Kingsport City Limits; Fall Creek Road, from Bridge over Patrick Henry Lake to the Kingsport City limits; Cooks Valley Road, from Harbor Chapel Road to Old Cooks Valley Road; and Netherland Inn Road, from SR-1 to Big Elm Road.

CHANGE IN COST: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

TYPE OF WORK: Resurfacing

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-NEPA	L-STBG	80	0	20	**$25,000.00**
PE-DESIGN	L-STBG	80	0	20	**$200,000.00**
RIGHT-OF-WAY	L-STBG	80	0	20	**$25,000.00**
CONSTRUCTION	L-STBG	80	0	20	**$2,008,000.00**
CEI	L-STBG	80	0	20	**$220,000.00**
TDOT ES	L-STBG	80	0	20	**$22,000.00**

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds if the use of said state or 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.

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Sewer Budget Adjustment Ordinance for FY20

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-258-2019
Work Session: November 4, 2019
First Reading: November 5, 2019

Final Adoption: November 19, 2019
Staff Work By: N. Ensor, J. Smith
Presentation By: Ryan McReynolds

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
This budget adjustment will amend the sewer fund to close out and cleanup projects that have been bid.

A sewer budget clean up ordinance is requested by transferring funds SW1603 and SW1904 to SW1700 WWTP Improvements. Project SW1904 will be closed as a result of these transfers.

Attachments:
1. Budget Ordinance

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

PRE-FILED
CITY RECORDER

ORDINANCE NO.

AN ORDINANCE TO AMEND THE SEWER PROJECT 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 Sewer Project Fund budget be amended by transferring $30,000 from the Lift Station Telemetry project (SW1603) and $30,000 from the Sewer Lift Station Imp project (SW1904) to the WWTP Improvements project (SW1700). Close project SW1904.

Account Number/Description:		Budget	Incr/<Decr>	New Budget
Fund 452: Sewer Project Fund				
Lift Station Telemetry (SW1603)				
Revenues:		$	$	$
452-0000-391-0547	Series 2017 B GO Bonds	2,100,000	0	2,100,000
452-0000-391-4200	From Sewer Fund	681,477	(30,000)	651,477
	Totals:	**2,781,477**	**(30,000)**	**2,751,477**
Expenditures:		$	$	$
452-0000-606-2022	Construction Contracts	2,329,842	(30,000)	2,299,842
452-0000-606-2023	Arch/Eng/Landscaping	446,828	0	446,828
452-0000-606-9006	Purchases $5,000 & Over	4,807	0	4,807
	Totals:	**2,781,477**	**(30,000)**	**2,751,477**
Fund 452: Sewer Project Fund				
Sewer Lift Station Imp (SW1904)				
Revenues:		$	$	$
452-0000-391-4200	From Sewer Fund	300,000	(30,000)	270,000
	Totals:	**300,000**	**(30,000)**	**270,000**
Expenditures:		$	$	$
452-0000-606-2023	Arch/Eng/Landscaping	40,000	0	40,000
452-0000-606-9003	Improvements	260,000	(30,000)	230,000
	Totals:	**300,000**	**(30,000)**	**270,000**

Fund 452: Sewer Project Fund
WWTP Improvements (SW1700)

Revenues:		$	$	$
452-0000-391-0531	Series 2017 B GO Bonds	228,768	0	228,768
452-0000-391-4200	From Sewer Fund	156,410	60,000	216,410
	Totals:	**385,178**	**60,000**	**445,178**

Expenditures:		$	$	$
452-0000-606-2023	Arch/Eng/Landscaping	177,510	30,000	207,510
452-0000-606-9003	Improvements	207,668	30,000	237,668
	Totals:	**385,178**	**60,000**	**445,178**

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

PATRICK W. SHULL, Mayor

ATTEST:

SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

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

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Amend the City Code by Adding a New Section in Chapter 62, Offenses and Nuisances, Pertaining to Permanent or Temporary Structures on Public Rights-of-Way

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.:	AF-253-2019	Final Adoption:	November 19, 2019
Work Session:	November 4, 2019	Staff Work By:	McCartt, Billingsley
First Reading:	November 5, 2019	Presentation By:	Chris McCartt

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Recommendation:
Approve the Ordinance.

Executive Summary:
Management of public rights-of-way for use by the city is important for aesthetic, to protect the public rights-of-way and items located therein from damage, prevent the hindrance of maintenance of the public rights-of-way, and to protect the public safety. The attached ordinance generally prohibits encroachments, and the placement of structures and objects in or on public rights-of-way of the city.

Attachments:
1. Ordinance

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

PRE-FILED
CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, BY ADDING A NEW SECTION TO CHAPTER 62, OFFENSES AND NUISANCES, PERTAINING TO TEMPORARY OR PERMANENT STRUCTURES ON PUBLIC RIGHTS-OF-WAY; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; TO PROVIDE FOR THE SEVERABILITY OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE;

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

SECTION I. That the Code of Ordinances, City of Kingsport, Tennessee, is hereby amended by adding a new section following Section 62-49, which shall be designated Section 62-50 and shall read as follows:

Sec. 62-50 Placing Encroachments, Structures, or Objects on or in Public Rights-of-Way.

(a) The board of mayor and aldermen finds that unauthorized encroachments, structures, or objects that are not easily moved or are permanent that are placed on or in the public right-of-way have a the detrimental effect to the aesthetic appearance and natural beauty of the city and its visual attractiveness, can cause damage to the public right-of-way and authorized objects and structures contained therein, can hinder the maintenance of the surface of the public right-of-way, and can endanger the public safety.

(b) As used in this section the term "public right-of-way" means real property that is offered by dedication for public use and used or accepted as a public right-of-way.

(c) Except as set forth herein it shall be unlawful to erect, install, place, leave, or set up any type of encroachment, structure, or object, including items used for shelter, that is temporary, (except if it easily moved and a list is used to facilitate First Amendment rights as discussed in *Tucker v. City of Fairfield*, 398 F.3d 457 (6th Cir. 2005)), or that is permanent on or in the public right-of-way. Nothing in this section shall be construed to prohibit the exercise of rights preserved by the First Amendment of the United States Constitution or Article I, sections 19 and 23 of the Tennessee Constitution.

(d) In addition to other remedies provided by law, such encroachments, objects, and structures are hereby declared to be a public nuisance.

(e) The provisions of this section do not apply to:

(1) Merchandise in the course of lawful receipt or delivery, unless that merchandise remains on or in the public right-of-way for a period longer than two (2) hours, whereupon the provisions of this section apply.

(2) Material deposited on or in public right-of-way for less than two (2) hours, unless the material is deposited with the intent to interfere with free passage or to block or attempt to block or interfere with any person(s) using the public right-of-way.

(3) Utility services, such as electrical, water, gas, telephone, and cable.

(4) Structures on or in public right-of-way pursuant to a permit from the community services division of the city for special events, provided for the time set out in the permit and said permit on file with the city will allow a person to set up a temporary structure(s) on public right-of-way. Such structure(s) shall be inspected by the Fire Marshall to determine proper installation of same.

(5) U.S. mailboxes installed in accordance with the United States Post Office regulations for the purpose of receiving or sending U.S. mail.

(6) The right the property owner may have under Tennessee law to use public right-of-way located on a property owner's property, provided such use is not inconsistent with the use of the public right-of-way by the city.

(7) Items or activities regulated by other provisions of this code, by agreement with the city, or by state law, including but not limited to, sidewalk cafe dining facilities, trees and shrubs, garbage, trash, vehicles, signs, franchises, or right-of-way agreements for utilities.

(f) The public works department and the city police department are authorized and directed to administer and enforce this section. Any encroachment or structure or object placed on or in the public right-or-way or encroachment in violation of this section is a public nuisance. Any structure or object in violation of this section on or in the public right-of-way may be abated by the city, provided it is not occupied or attended to by a person. Unless the structure or object poses a danger to the public or obstructs vehicular or pedestrian movement, prior to abatement of the structure or object by the city, a written warning shall be posted on the structure or object requiring it to be removed within 24 hours of the time listed on the notice. If the structure or object remains after the 24 hour period, or the structure or object is relocated or reappears on the public right-of-way, it may be removed without further notice, and the person(s) or entity(ies) responsible for the unlawful structure or object shall be responsible for the expense incurred by the city incurred in removing the structure or object. Such removed structure or object, and accompanying property may be disposed of by the city unless the owner of claims the property at the office of the city manager within 30 days after the removal of the structure or object.

(g) Any person convicted of a violation of any provision of this code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be fined not less than ten ($10.00) dollars no more than fifty ($50.00) dollars. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies at law or equity, including, but not limited to abatement of nuisances, and injunctive relief.

SECTION III. It is hereby declared that the sections, clauses, sentences, and parts of this ordinance are severable, are not matters of mutual essential inducement, and any of them shall be exscinded if the ordinance would otherwise be unconstitutional or ineffective. If any section, sentence, clause, or phrase of this ordinance should be held invalid

SECTION IV. That this ordinance shall take effect from and after the date of its passage and publication, as the law directs, the public welfare of the City of Kingsport, Tennessee requiring it.

_____
PATRICK W. SHULL, Mayor

ATTEST:

_____
SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING _____
PASSED ON 2ND READING_____

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Award Contract to J. Cumby and Budget Ordinance to Transfer Funds for the West Kingsport Sewer Lift Station and Force Main Project

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-257-2019
Work Session: November 4, 2019
First Reading: November 5, 2019

Final Adoption: November 19, 2019
Staff Work By: Clabaugh/Ensor
Presentation By: Ryan McReynolds

Recommendation:
Approve the Ordinance.

Executive Summary:
Bids were received and opened on October 8, 2019 for the West Kingsport Pump Station & Force Main. This project consists of the rehabilitation of the existing West Kingsport sewer lift station and installation of 4,900 linear feet of 16" diameter sewer forcemain.

Hazen Sawyer and city staff reviewed the bids and recommends awarding the contract to the apparent low bidder, J. Cumby as follows:

Base Bid	$5,841,500
Add Alternate – Grinders	$ 166,500
Deduct Alt – Fencing	$ (45,000)
Total Bid	**$5,963,000**

This project is necessary to ensure compliance with federal and state regulations. The project was approved and funded in the capital improvements plan. However, a budget ordinance is needed to reallocate funds to the appropriate project account. A budget ordinance is requested to transfer $2,630,000 from SW1800, SW1805 and SW1904 to SW1708 West Kingsport SLS Replacement. Project SW1904 will be closed as a result of these transfers.

Attachments:
1. Budget Ordinance
2. Project Map
3. Bid Tabulation
4. Recommendation Letter

Funding source appropriate and funds are available: JP

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

PRE-FILED
CITY RECORDER

ORDINANCE NO.

AN ORDINANCE TO AMEND THE SEWER PROJECT 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 Sewer Project Fund budget be amended by transferring $2,060,000 from the WWTP MMC Replacements project (SW1800), $300,000 from the Sewer Lift Station Improvements project (SW1805), and $270,000 from the Sewer Lift Station Improvements project (SW1904) to the West KPT SLS Replacement project (SW1708). Close project SW1805.

Account Number/Description:		Budget	Incr/<Decr>	New Budget
Fund 452: Sewer Project Fund				
WWTP MMC Replacements (SW1800)				
Revenues:		$	$	$
452-0000-391-0547	Series 2017 B GO Bonds	4,400,000	(2,060,000)	2,340,000
	Totals:	**4,400,000**	**(2,060,000)**	**2,340,000**
Expenditures:		$	$	$
452-0000-606-2023	Arch/Eng/Landscaping	328,136	0	328,136
452-0000-606-9003	Improvements	4,071,864	(2,060,000)	2,011,864
	Totals:	**4,400,000**	**(2,060,000)**	**2,340,000**
Fund 452: Sewer Project Fund				
Sewer Lift Station Improvements (SW1805)				
Revenues:		$	$	$
452-0000-391-4200	From Sewer Fund	300,000	(300,000)	0
	Totals:	**300,000**	**(300,000)**	**0**
Expenditures:		$	$	$
452-0000-606-2023	Arch/Eng/Landscaping	40,000	(40,000)	0
452-0000-606-9003	Improvements	260,000	(260,000)	0
	Totals:	**300,000**	**(300,000)**	**0**
Fund 452: Sewer Project Fund				
Sewer Lift Station Improvements (SW1904)				
Revenues:		$	$	$
452-0000-391-4200	From Sewer Fund	300,000	(270,000)	30,000
	Totals:	**300,000**	**(270,000)**	**30,000**

Expenditures:		$	$	$
452-0000-606-2023	Arch/Eng/Landscaping	40,000	(10,000)	30,000
452-0000-606-9003	Improvements	260,000	(260,000)	0
	Totals:	**300,000**	**(270,000)**	**30,000**

Fund 452: Sewer Project Fund
West KPT SLS Replacements (SW1708)

Revenues:		$	$	$
452-0000-391-0545	Series 2016 GO (Nov 4)	4,140,000	0	4,140,000
452-0000-391-0547	Series 2017 B GO Bonds	0	2,060,000	2,060,000
452-0000-391-4200	From Sewer Fund	0	570,000	570,000
	Totals:	**4,140,000**	**2,630,000**	**6,770,000**

Expenditures:		$	$	$
452-0000-606-2023	Arch/Eng/Landscaping	340,000	50,000	390,000
452-0000-606-9001	Land	35,000	0	35,000
452-0000-606-9003	Improvements	3,765,000	2,580,000	6,345,000
	Totals:	**4,140,000**	**2,630,000**	**6,770,000**

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

_____
PATRICK W. SHULL, Mayor

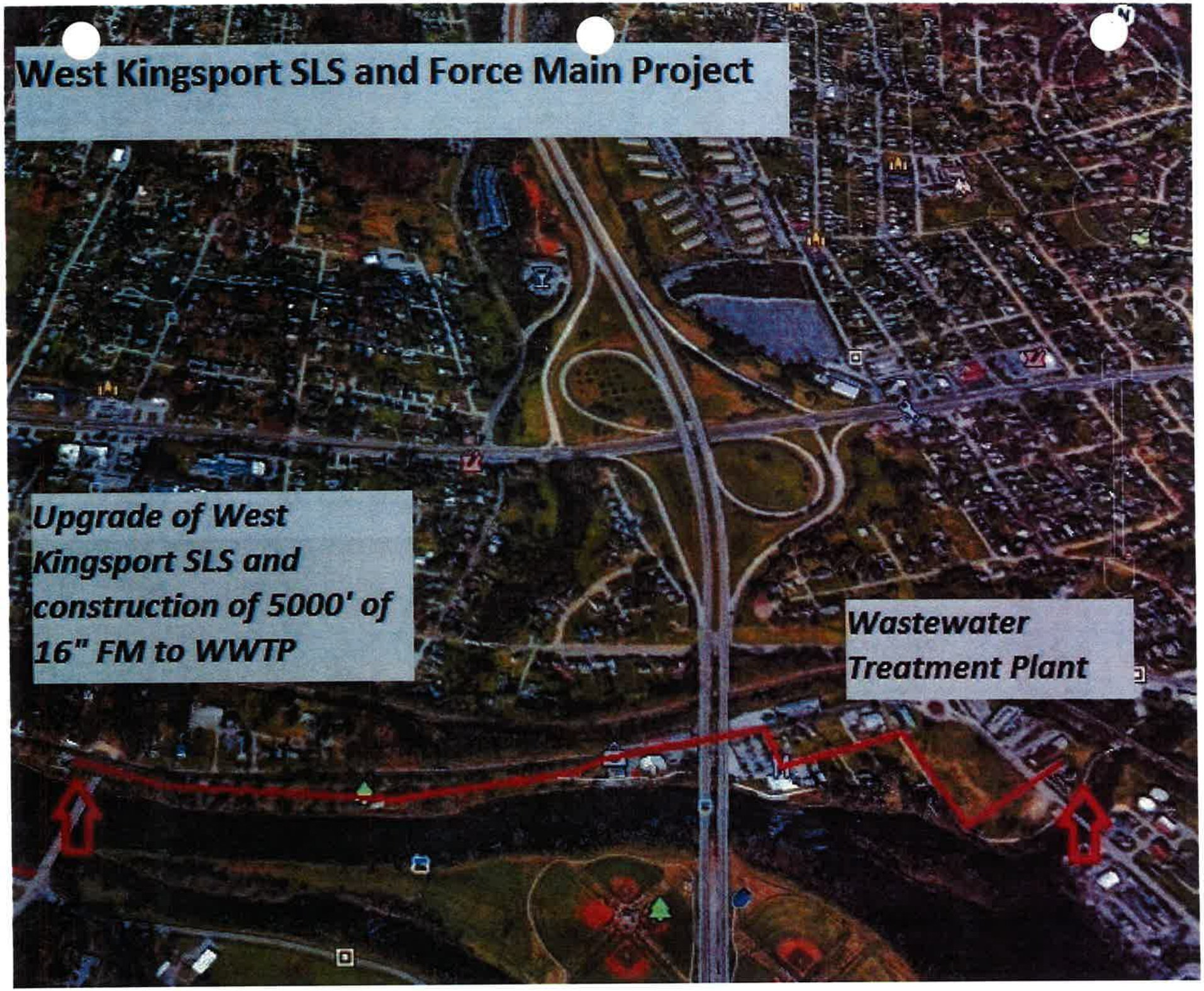
ATTEST:

_____
SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, City Attorney

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


West Kingsport SLS and Force Main Project
Upgrade of West Kingsport SLS and construction of 5000' of 16" FM to WWTP
Wastewater Treatment Plant

BID TABULATION - West Kingsport PS & Forcemain

Owner: City of Kingsport
Engineer: Hazen and Sawyer
Bid Date: Tuesday October 8, 2019 at 4:00pm EST

Item	Description	Qty	Unit	Engineer's OPCC (Hazen and Sawyer) Unit Price	Engineer's OPCC Total	Garney Companies Inc, 200 Crutchfield Av, Nashville TN 37210 Unit Price	Garney Total	Haren Construction Co Inc, 1715 Hwy 41N, Etowah TN 37331 Unit Price	Haren Total	J. Cumby Construction Inc, 165 West Broad St, Cookville TN 38501 Unit Price	J. Cumby Total	Morgan Contracting Inc, 900 Dutch Valley Dr, Knoxville TN 37918 Unit Price	Morgan Total
1	Mobilization and General Conditions	1	LS	$ 499,600.00	$ 499,600.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00
2	Existing Conditions Documentation	1	LS	$ 24,100.00	$ 24,100.00	$ 40,000.00	$ 40,000.00	$ 18,500.00	$ 18,500.00	$ 25,000.00	$ 25,000.00	$ 5,000.00	$ 5,000.00
3	Sewer Flow Control and Bypass Pumping for the Project (Direct Reimbursement for bypass pumping equipment rental, delivery, setup, and pickup) Amount paid will be directly taken from bypass system supplier's monthly invoices. All General Contractor burden shall be incorporated into Line Item 4	1	A	$ 183,200.00	$ 183,200.00	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ 200,000.00
3 a	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	$ 232,600.00	$ 232,600.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00
4	West Kingsport PS Upgrade and PS Site improvements. All inclusive with the exception of specific line items listed below 5-10. (Ends at force main transition from ductile to PVC)	1	LS	$ 1,927,800.00	$ 1,927,800.00	$ 2,950,000.00	$ 2,950,000.00	$ 3,098,400.00	$ 3,098,400.00	$ 2,600,000.00	$ 2,600,000.00	$ 2,040,000.00	$ 2,940,000.00
5	West Kingsport PS Cleaning, Surface Preparation and Concrete MIC 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	$ 27.00	$ 229,500.00	$ 23.00	$ 195,500.00	$ 16.50	$ 140,250.00	$ 25.00	$ 212,500.00	$ 41.00	$ 348,500.00
6	West Kingsport PS Thin Concrete Repair 0.5" to 1.5" thick	500	SF	$ 75.00	$ 37,500.00	$ 74.00	$ 37,000.00	$ 18.00	$ 9,000.00	$ 90.00	$ 45,000.00	$ 17.00	$ 8,500.00
7	West Kingsport PS Moderate Concrete Repair >1.5" to 3" thick	250	SF	$ 163.00	$ 40,750.00	$ 160.00	$ 40,000.00	$ 42.00	$ 10,500.00	$ 186.00	$ 46,500.00	$ 22.00	$ 5,500.00
8	West Kingsport PS Leaking Crack Waterproof Injection Grout	100	LF	$ 99.00	$ 9,900.00	$ 105.00	$ 10,500.00	$ 115.00	$ 11,500.00	$ 154.00	$ 15,400.00	$ 51.00	$ 5,100.00
9	8' Ornamental Fence including 20' Slide Gate (manual) and 3' Man Gate	255	LF	$ 191.00	$ 48,705.00	$ 240.00	$ 61,200.00	$ 150.00	$ 38,250.00	$ 306.00	$ 78,030.00	$ 272.00	$ 69,360.00
10	Cementitious Coating applied to Exterior walls of West Kingsport Pump Station as specified in 09800 and as shown on drawings, A201, Note 1	3800	SF	$ 7.00	$ 26,600.00	$ 3.00	$ 11,400.00	$ 6.00	$ 22,800.00	$ 14.00	$ 53,200.00	$ 15.00	$ 57,000.00
11	16" C905 PVC Sanitary Sewer Force Main	4,400	LF	$ 246.00	$ 1,082,400.00	$ 190.00	$ 836,000.00	$ 264.00	$ 1,161,600.00	$ 230.00	$ 1,012,000.00	$ 266.00	$ 1,170,400.00
12	Ridgefields Rd Crossing, Jack and Bore installation, includes all 16" C905 PVC Force Main, provide, install, and test all materials needed for a complete and functional installation	1	LS	$ 336,500.00	$ 336,500.00	$ 350,000.00	$ 350,000.00	$ 300,000.00	$ 300,000.00	$ 265,000.00	$ 265,000.00	$ 295,000.00	$ 295,000.00
13	Sta. 28+10 to 28+50. Insert 16" C905 PVC into existing 24" steel casing using spacers and install end seals	1	LS	$ 6,000.00	$ 6,000.00	$ 12,000.00	$ 12,000.00	$ 11,000.00	$ 11,000.00	$ 4,800.00	$ 4,800.00	$ 11,228.00	$ 11,228.00
14	Industry Drive (Hwy 355) Crossing, 24" Steel Casing-Bore & Jack Installation, includes all 16" C905 PVC Force main, provide, install and test all materials needed for a complete and functional installation	1	LS	$ 74,800.00	$ 74,800.00	$ 150,000.00	$ 150,000.00	$ 137,500.00	$ 137,500.00	$ 228,000.00	$ 228,000.00	$ 140,000.00	$ 140,000.00
15	Check Dams every 400' along 16" force main	12	EA	$ 592.00	$ 7,104.00	$ 800.00	$ 9,600.00	$ 1,100.00	$ 13,200.00	$ 900.00	$ 10,800.00	$ 1,123.00	$ 13,476.00
16	Connection to Existing Overflow Structure at Headworks (includes structure modifications and interior pipe)	1	EA	$ 12,400.00	$ 12,400.00	$ 36,000.00	$ 36,000.00	$ 82,500.00	$ 82,500.00	$ 9,000.00	$ 9,000.00	$ 60,000.00	$ 60,000.00
17	Asphalt Surface, 2" Min. TDOT 411-01.11, Grading "E", PG64-22	210	TN	$ 116.00	$ 24,360.00	$ 200.00	$ 42,000.00	$ 185.00	$ 38,850.00	$ 212.00	$ 44,520.00	$ 185.00	$ 38,850.00
18	Asphalt Binder, 2" Min. TDOT 307-01.07, Grading "BM", PG64-22	225	TN	$ 230.00	$ 51,750.00	$ 180.00	$ 40,500.00	$ 170.00	$ 38,250.00	$ 206.00	$ 46,350.00	$ 174.00	$ 39,150.00
19	Mill Existing Asphalt, 1.5" Min., Keller St	1,200	SY	$ 13.00	$ 15,600.00	$ 22.00	$ 26,400.00	$ 13.00	$ 15,600.00	$ 16.00	$ 19,200.00	$ 13.00	$ 15,600.00
20	Aggregate Base, TDOT 303-01.01	900	TN	$ 52.00	$ 46,800.00	$ 68.00	$ 61,200.00	$ 30.00	$ 27,000.00	$ 38.00	$ 34,200.00	$ 31.00	$ 27,900.00
21	Misc. Concrete for Pipe encasement, cap, and thrust restraint	250	CY	$ 614.00	$ 153,500.00	$ 140.00	$ 35,000.00	$ 140.00	$ 35,000.00	$ 192.00	$ 48,000.00	$ 140.00	$ 35,000.00
22	Air Release Valves and Vaults	4	EA	$ 15,900.00	$ 63,600.00	$ 30,000.00	$ 120,000.00	$ 16,500.00	$ 66,000.00	$ 14,000.00	$ 56,000.00	$ 16,841.00	$ 67,364.00
23	Temporary Greenway Access (Compacted Crushed Stone Base over Geotextile Fabric)	1	LS	$ 12,800.00	$ 12,800.00	$ 15,000.00	$ 15,000.00	$ 16,500.00	$ 16,500.00	$ 5,000.00	$ 5,000.00	$ 18,000.00	$ 18,000.00
24	Greenway Trail Signage, Painted Pavement Markings, Etc. returned to their existing location and/or repainted/replaced in kind	1	LS	$ 13,600.00	$ 13,600.00	$ 15,000.00	$ 15,000.00	$ 18,700.00	$ 18,700.00	$ 10,000.00	$ 10,000.00	$ 27,000.00	$ 27,000.00
25	Traffic Control Plan and Implementation	1	LS	$ 134,900.00	$ 134,900.00	$ 15,000.00	$ 15,000.00	$ 11,000.00	$ 11,000.00	$ 31,000.00	$ 31,000.00	$ 11,228.00	$ 11,228.00
26	Layout, As-built Survey, and Redlined Record Drawings	1	LS	$ 33,800.00	$ 33,800.00	$ 15,000.00	$ 15,000.00	$ 22,000.00	$ 22,000.00	$ 19,000.00	$ 19,000.00	$ 27,506.00	$ 27,506.00
27	NPDES Compliance, Erosion Prevention and Sediment Control, including but not limited to Silt Fence, Construction Entrances, Erosion EELs, Rock Check Dams, and Street Sweeping per the Project SWPPP	1	LS	$ 44,100.00	$ 44,100.00	$ 60,000.00	$ 60,000.00	$ 110,000.00	$ 110,000.00	$ 58,000.00	$ 58,000.00	$ 110,000.00	$ 110,000.00
28	Temporary Seeding and Fertilizer with Straw Mulch	12,000	SY	$ 3.50	$ 42,000.00	$ 0.50	$ 6,000.00	$ 1.40	$ 16,800.00	$ 1.25	$ 15,000.00	$ 1.50	$ 18,000.00
29	Permanent Seeding and Fertilizer with Straw Mulch	12,000	SY	$ 2.90	$ 34,800.00	$ 0.50	$ 6,000.00	$ 1.40	$ 16,800.00	$ 1.25	$ 15,000.00	$ 1.50	$ 18,000.00
30	Final Site Cleanup, and Closeout Documents	1	LS	$ 42,500.00	$ 42,500.00	$ 50,000.00	$ 50,000.00	$ 55,000.00	$ 55,000.00	$ 19,000.00	$ 19,000.00	$ 58,000.00	$ 58,000.00
31	Asbestos and Lead Paint Abatement for the work required in the West Kingsport PS	1	LS	$ 12,400.00	$ 12,400.00	$ 3,000.00	$ 3,000.00	$ 2,500.00	$ 2,500.00	$ 4,000.00	$ 4,000.00	$ 2,470.00	$ 2,470.00
32	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	$ 50,000.00	$ 50,000.00	$ 50,000.00	$ 50,000.00
33	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	$ 50,000.00	$ 50,000.00	$ 50,000.00	$ 50,000.00
34	Catch Basins (2) and 6" Thick Concrete Apron, Sta 32+50	1	LS	$ -	$ -	$ 35,000.00	$ 35,000.00	$ 44,000.00	$ 44,000.00	$ 12,000.00	$ 12,000.00	$ 44,911.00	$ 44,911.00
	Base Bid	**Total**		**$**	**5,605,669.00**	**$**	**6,084,300.00**	**$**	**6,389,000.00**	**$**	**5,841,500.00**	**$**	**6,488,045.00**
Alt 1	**OPEN CHANNEL SEWAGE GRINDERS**	LS	1	$ 333,900.00	$ 333,900.00	$ 178,500.00	$ 178,500.00	$ 180,000.00	$ 180,000.00	$ 166,500.00	$ 166,500.00	$ 200,000.00	$ 200,000.00
Alt 2	**DEDUCT: BLACK POLYOLEFIN COATED CHAIN LINK FENCE IN LIEU OF ORNAMENTAL PICKET FENCE**	LS	1	$ (25,000.00)	$ (25,000.00)	$ (44,000.00)	$ (44,000.00)	$ (30,000.00)	$ (30,000.00)	$ (45,000.00)	$ (45,000.00)	$ (17,000.00)	$ (17,000.00)
		Alt 1 & 2 Total		**$**	**333,900.00**	**$**	**134,500.00**	**$**	**150,000.00**	**$**	**121,500.00**	**$**	**183,000.00**
		Grand Total		**$**	**5,939,669.00**	**$**	**6,218,800.00**	**$**	**6,539,000.00**	**$**	**5,963,000.00**	**$**	**6,671,045.00**
											Low Bidder		

Michael L. Orr P.E.

#107627

MICHAEL L. ORR — REGISTERED ENGINEER — AGRICULTURE COMMERCE — No. 107627 — STATE OF TENNESSEE — 10/8/19

I hereby certify that the above Bid Tabulation is true and correct for the bids received by City of Kingsport on Tuesday October 8, 2019 at 4:00pm and represents the bids for the West Kingsport PS & Forcemain SW1708

Hazen
Hazen and Sawyer
545 Mainstream Dr. Suite 320
Nashville, TN 37228 – 615 783-1515

October 8, 2019

Niki Ensor, P.E.
W/WW Facilities Manager
620 W. Industry Dr.
Kingsport, TN 37660

Re: SW1708 - West Kingsport Pump Station and Force Main

Dear Ms. Ensor,

The project entitled "West Kingsport Pump Station and Force Main" was advertised on September 8, 2019 and a non-mandatory pre-bid meeting was held on September 17, 2019. Four (4) proposals were received and read aloud by the Purchasing Dept. on October 8, 2019 and are tabulated below. A detailed summary of the proposals are included in the attached Bid Tabulation Summary.

	Base Bid Price	Alt. 1	Alt. 2	Total
Contractor	West Kingsport PS&FM	Open Channel Sewage Grinder	Deduct: Chain Link Fence in lieu of Ornamental	
Garney Companies, Inc.	$6,084,300.00	$178,500.00	$ (44,000.00)	$6,218,800.00
Haren Construction Company, Inc.	$6,389,000.00	$180,000.00	$ (30,000.00	$6,539,000.00
J. Cumby Construction, Inc.	**$5,841,500.00**	$165,500.00	$ (45,000.00)	$5,963,000.00
Morgan Contracting Inc.	$6,488,045.00	$200,00.00	$ (17,000.00)	$6,671,045.00

Information included in the proposals were reviewed for completeness. Based on our review of the information provided we *recommend accepting the low bid submitted by J. Cumby Construction* for the Base Bid Total of **$5,841,500.00**. We do not recommend moving forward with either Alternate submitted with their bid.

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

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Appropriate Funds from the USDOJ/Office of Justice Programs Bulletproof Vest Partnership Funding

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-231-2019
Work Session: October 14, 2019
First Reading: October 15, 2019

Final Adoption: November 5, 2019
Staff Work By: Capt. Randall Gore
Presentation By: Chief David Quillin

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
On May 7, 2019 via AF-95-2019, the Board of Mayor and Aldermen approved the Mayor executing any and all documents necessary to apply for and receive a US Department of Justice Grant for funding of bulletproof vests. We have been notified that we were approved for $10,686.64 in reimbursements for vest expenditures. A fifty percent match is required and the match is provided from the police department operating budget.

Attachments:
1. Ordinance

Funding source appropriate and funds are available: JS

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Appropriate Funds from the USDOJ/Office of Justice Programs Bulletproof Vest Partnership Funding

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-231-2019
Work Session: October 14, 2019
First Reading: October 15, 2019

Final Adoption: November 5, 2019
Staff Work By: Capt. Randall Gore
Presentation By: Chief David Quillin

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
On May 7, 2019 via AF-95-2019, the Board of Mayor and Aldermen approved the Mayor executing any and all documents necessary to apply for and receive a US Department of Justice Grant for funding of bulletproof vests. We have been notified that we were approved for $10,686.64 in reimbursements for vest expenditures. A fifty percent match is required and the match is provided from the police department operating budget.

Attachments:
1. Ordinance

Funding source appropriate and funds are available: DP

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

PRE-FILED
CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT-SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE DEPARTMENT OF JUSTICE FOR THE YEAR ENDING JUNE 30, 2020; 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 grant funds received from the Department of Justice/Bureau of Justice Assistance Bulletproof Vest Partnership to the Bullet Proof Vest project (NC2011) in the amount of $10,687 and requires a 50% local match of $10,687 which is provided for in the Police Department operating budget.

Account Number/Description:		**Budget**	**Incr/<Decr>**	**New Budget**
Fund 111: General Project-Special Revenue				
Bullet Proof Vest Project (NC2011)				
Revenues:		**$**	**$**	**$**
111-0000-331-3800	U.S. Dept. of Justice	0	10,687	10,687
111-0000-391-0100	From General Fund	0	10,687	10,687
	Totals:	**0**	**21,374**	**21,374**
Expenditures:				
111-3020-442-3020	Operating Supplies & Tools	0	21,374	21,374
	Totals:	**0**	**21,374**	**21,374**
Fund 110: General Fund				
Expenditures:				
110-3030-443-3025	Safety Supplies	10,000	(10,000)	0
110-3030-443-3029	Clothing and Uniforms	51,036	(687)	50,349
110-4804-481-7035	General Proj-Spec Rev	2,168,200	10,687	2,178,887
	Totals:	**2,229,236**	**0**	**2,229,236**

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.

_____
PATRICK W. SHULL, Mayor

ATTEST:

_____
SIDNEY H. COX
City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Appropriate Creative Placemaking Grant Funds from the Tennessee Arts Commission

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-232-2019
Work Session: October 14, 2019
First Reading: October 15, 2019

Final Adoption: November 5, 2019
Staff Work By: H. Powell & J. Harmon
Presentation By: H. Powell & J. Harmon

Recommendation:
Approve the Ordinance.

Executive Summary:
Appropriate grant funds from the Tennessee Arts Commission, Creative Placemaking, AF 04-2019, to assist in the funding for the creative alleyway project as an alternative pedestrian walkway in downtown, running parallel to Main Street.

Allocate to NC 2010 $5,035

Grant match is 4:1 ratio with $1,258.75 received from the Downtown Kingsport Association.

Allocate to NC 2010 $1,258.75

Attachments:
1. Ordinance

Funding source appropriate and funds are available: JP

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Appropriate Creative Placemaking Grant Funds from the Tennessee Arts Commission

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-232-2019
Work Session: October 14, 2019
First Reading: October 15, 2019

Final Adoption: November 4, 2019
Staff Work By: H. Powell & J. Harmon
Presentation By: H. Powell & J. Harmon

Recommendation:
Approve the Ordinance.

Executive Summary:
Appropriate grant funds from the Tennessee Arts Commission, Creative Placemaking, AF 04-2019, to assist in the funding for the creative alleyway project as an alternative pedestrian walkway in downtown, running parallel to Main Street.

Allocate to NC 2010 $5,035

Grant match is 4:1 ratio with $1,258.75 received from the Downtown Kingsport Association.

Allocate to NC 2010 $1,258.75

Attachments:
1. Ordinance

Funding source appropriate and funds are available: JS

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

PRE-FILED
CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT SPECIAL REVENUE FUND BUDGETS BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE TENNESSEE ARTS COMMISSION FOR THE YEAR ENDING JUNE 30, 2020; 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 grant funds received from the Tennessee Arts Commission in the amount of $5,035 and by appropriating $1,259 received in donations from the Downtown Kingsport Association to the Creative Placemaking project (NC2010). The grant requires a 4:1 match. The matching funds are provided by the Downtown Kingsport Association. The grant funds will be used for the creative alleyway project as an alternative pedestrian walkway in downtown, running parallel to Main Street.

Account Number/Description:		**Budget**	**Incr/<Decr>**	**New Budget**
Fund 111: General Project Special Rev. Fund				
Creative Partnership Support Grant (NC2010)				
Revenues:		$	$	$
111-0000-332-3200	TN. Arts Commission	0	5,035	5,035
111-0000-364-3000	From Non-Profits	0	1,259	1,259
	Totals:	**0**	**6,294**	**6,294**
Expenditures:		$	$	$
111-0000-601-2020	Professional Consultant	0	5,000	5,000
111-0000-601-3020	Operating Supplies & Tools	0	1,294	1,294
	Totals:	**0**	**6,294**	**6,294**

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.

_____
PATRICK W. SHULL, Mayor

ATTEST:

_____
ANGIE MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, City Attorney

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

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Appropriate Funds from the USDOJ/Bureau of Justice Assistance Grant FY 2019 Local Solicitation

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager

Action Form No.: AF-237-2019
Work Session: October 14, 2019
First Reading: October 15, 2019

Final Adoption: November 5, 2019
Staff Work By: Capt. Randall Gore
Presentation By: Chief David Quillin

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
On August 6, 2019, via Action Form 182, the Board of Mayor and Aldermen approved the Mayor executing any and all documents necessary to apply for and receive a US DOJ Bureau of Justice Assistance Grant. We have been notified that we were approved for $23,540.00 which will be utilized to purchase equipment and/or technology improvements.

There are no matching fund requirements.

Attachments:
1. Budget Ordinance

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Appropriate Funds from the USDOJ/Bureau of Justice Assistance Grant FY 2019 Local Solicitation

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-237-2019
Work Session: October 14, 2019
First Reading: October 15, 2019

Final Adoption: November 5, 2019
Staff Work By: Capt. Randall Gore
Presentation By: Chief David Quillin

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
On August 6, 2019, via Action Form 182, the Board of Mayor and Aldermen approved the Mayor executing any and all documents necessary to apply for and receive a US DOJ Bureau of Justice Assistance Grant. We have been notified that we were approved for $23,540.00 which will be utilized to purchase equipment and/or technology improvements.

There are no matching fund requirements.

Attachments:
1. Budget Ordinance

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

PRE-FILED
CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE JUSTICE ASSISTANT GRANT FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE US DOJ/BUREAU OF JUSTICE ASSISTANCE PROGRAMS FOR THE YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the Justice Assistant Grant Fund budget be amended by appropriating grant funds received from the US DOJ Bureau of Justice Assistant Grant Program (JAG) in the amount of $23,540 to the Justice Assistant Grant Equip /Technology project (JG2001) to purchase equipment and /or technology improvements. No matching funds are required.

Account Number/Description:	**Budget**	**Incr/<Decr>**	**New Budget**
Fund 134: Justice Assist Grant Fund			
Justice Assistant Grant Equip/Technology (JG2001)			
Revenues:	**$**	**$**	**$**
134-0000-331-4537 Bureau of Justice/JAG	0	23,540	23,540
Totals:	**0**	**23,540**	**23,540**
Expenditures:			
134-3030-443-9006 Purchases Over $5,000	0	23,540	23,540
Totals:	**0**	**23,540**	**23,540**

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.

_____
PATRICK W. SHULL, Mayor

ATTEST:

_____
SIDNEY H. COX
City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Approve and Adopt the City of Kingsport Americans with Disabilities Act (ADA) 2019 Self-Evaluation and Transition Plan Update

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-201-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: Billingsley/DeCroes
Presentation By: Billingsley/DeCroes

Recommendation: Approve the Resolution.

Executive Summary:
The city has completed the 2019 ADA Self-Evaluation and Transition Plan Update (Plan) as required by the Americans with Disabilities Act. In November 2016, the city, along with other cities in Tennessee, received a letter from the Deputy Commissioner for the Tennessee Department of Transportation (TDOT), that all state and federal highway funding would be withheld if the city's Plan was not updated and forwarded to TDOT by December 2019. Once the Plan is approved by the board it will be submitted to TDOT, in compliance with their requirements. On October 9, 2019, the Board of Education approved its portion of the 2019 ADA Self-Evaluation and Transition Plan Update. The attached resolution approves the Plan, including the part pertaining to the city schools.

The appendices, are not included in this resolution, but are available for review at city recorder's office and described as follows:

Appendix	Description:
A	Ordinance No. 6741 – Adopting the International Building Code
B	Publication Certificate for ADA Public Access Survey
C	Responses to ADA Public Access Survey
D	Program Accessibility Questionnaire
E	Responses to Program Accessibility Questionnaire
F	Publication Certificate for Citizen Review Survey
G	Citizen Review Survey
H	Comments on Citizen Review Survey
I	Service Animal Policy
J	Facility Reports – City of Kingsport
K	Review of Facilities – Kingsport City Schools
L	Accessibility Design Compliance Affidavit
M	Remaining ADA Procedures
N	Grievance Procedure

Attachments:
1. Resolution
2. Exhibit A - 2019 ADA Self-Evaluation and Transition Plan Update (without Appendices)
3. Exhibit B - ADA Self-Evaluation Certification for TDOT Long Range Planning Division

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. _____

A RESOLUTION APPROVING AND ADOPTING THE CITY OF KINGSPORT AMERICANS WITH DISABILITIES ACT 2019 SELF EVALUATION AND TRANSITION PLAN UPDATE AND IMPLEMENTING THE PLAN IMMEDIATELY AND AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION, INCLUDING A LETTER AND COMPLIANCE FORM TO THE TENNESSEE DEPARTMENT OF TRANSPORTATION SHOWING COMPLIANCE

WHEREAS, the city has completed a self-evaluation and transition plan update as required by Title II of the Americans with Disabilities Act (ADA) of 1990;

WHEREAS, the city is also complying with a 2016 letter from the Tennessee Department of Transportation (TDOT) to ensure that every city and county with fifty (50) or more employees have ADA transition plans, as such plans are necessary for the receipt of federal and state transportation funding; and

WHEREAS, once the plan is approved, the mayor must execute a letter to TDOT certifying the city has complied with the 2016 letter from TDOT Deputy Commissioner, complete an ADA Self-Certification form for the TDOT Long Range Planning Division, and the city must submit an electronic copy of the Plan to TDOT; and

WHEREAS, the funding will be provided by the FY20 budget and the capital improvement plan.

Now therefore,

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

SECTION I. That the City of Kingsport 2019 ADA Self-Evaluation and Transition Plan Update, attached as Exhibit A hereto, along with Appendices A through N, that are not attached due to their length, but are available for review in the City Recorder's Office, is approved, adopted, and is effective immediately.

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 a letter to the Deputy Commissioner for the Tennessee Department of Transportation and all documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the this resolution, and said letter reads as follows:

November ____, 2019

Mr. Paul D. Degges, P.E.
Deputy Commissioner/Chief Engineer
Tennessee Department of Transportation
Bureau of Engineering
Suite 700, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-1402

Re: **Filing of the City of Kingsport 2019 ADA Self-Evaluation and Transition Plan Update**

Deputy Commissioner Degges:

Please accept this letter as the city's documentation on the City of Kingsport's update of its ADA Transition Plan.

Attached is the city's Plan and City of Kingsport Resolution No. ____ adopting the city's 2019 ADA Self-Evaluation and Transition Plan and appendices. The facilities review is 800 +\- pages and is not attached; however, upon request those documents can be made available to you.

Thank you for your attention to this matter. Should you have any questions or need any clarification, please do not hesitate to contact me.

Sincerely,

Patrick W. Shull
COL USA (Ret)
Mayor, City of Kingsport

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

SECTION IV. 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, the ADA Self Certification form to be submitted to the Tennessee Department of Transportation Long Range Planning Division, attached as Exhibit B hereto, and all documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the this resolution.

SECTION V. That a copy of the entire City of Kingsport 2019 ADA Self Evaluation and Transition Plan Update, with appendices, shall be filed with the City Recorder and a copy of the same shall be provided to the ADA Coordinator's Office and the City Attorney's Office.

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

ADOPTED this the 5th day of November, 2019.

_____
PATRICK W. SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

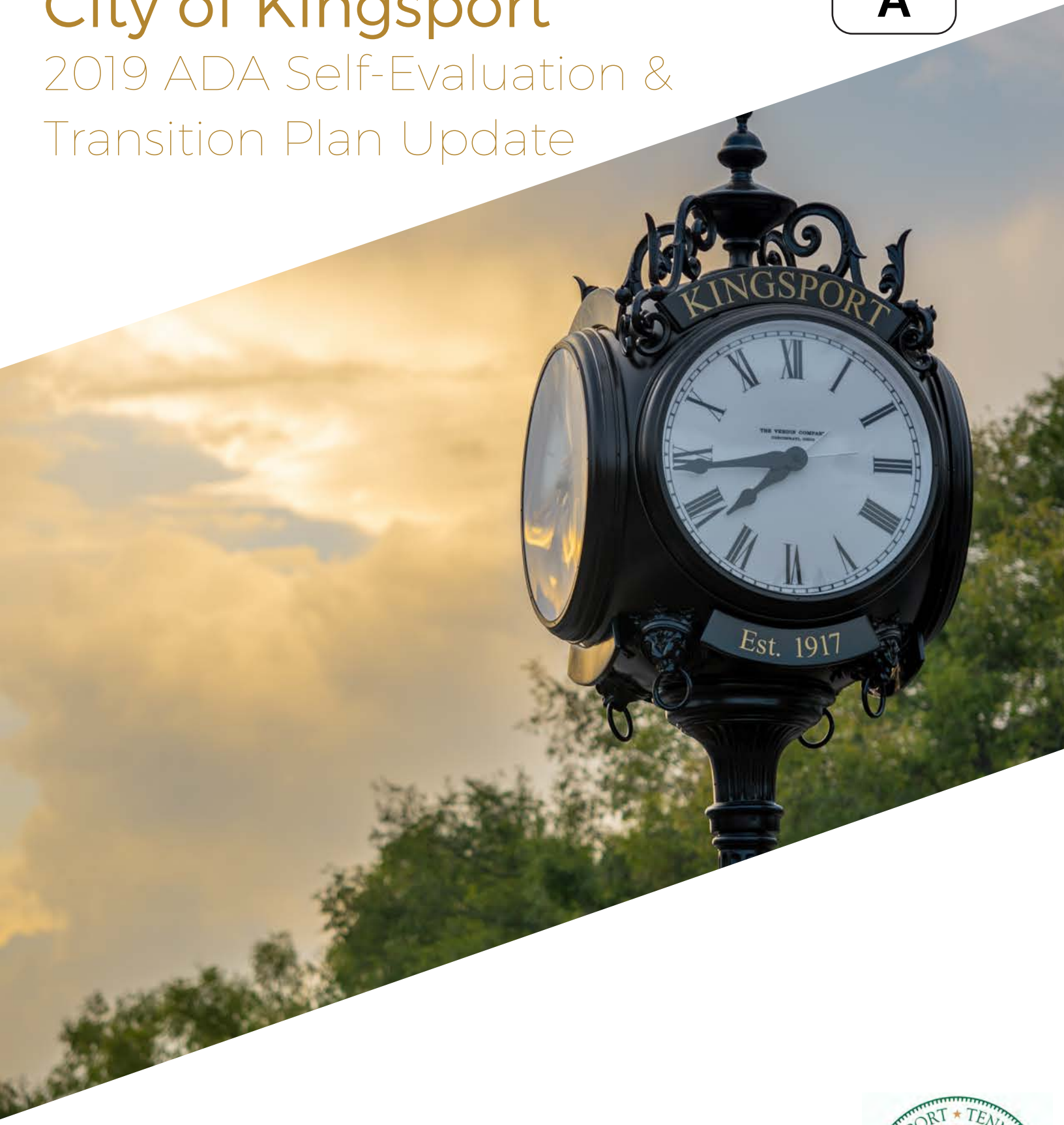
APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

EXHIBIT
A

City of Kingsport

2019 ADA Self-Evaluation & Transition Plan Update



GEORGE DECROES, ADA/504 COORDINATOR, CITY OF KINGSPORT
ANDY TRUE, ADA COORDINATOR, KINGSPORT CITY SCHOOLS
LAMAR SMITH, 504 COORDINATOR, KINGSPORT CITY SCHOOLS

225 W. CENTER STREET | KINGSPORT, TN 37660

CITY of KINGSPORT

ADA SELF-EVALUATION & TRANSITION PLAN UPDATE

ADA/Section 504 Coordinators:	George DeCroes, ADA Coordinator/504 Coordinator Human Resources Director City of Kingsport Andy True, ADA Coordinator Assistant Superintendent Kingsport City Schools Lamar Smith, Ed.D., 504 Coordinator Supervisor Federal Programs Kingsport City Schools
ADA Liaison Committee:	David Austin, City Facilities Management Mike Burnette, Police Department Mike Billingsley, City Attorney, Legal/Risk Keith Bruner, Building Official Amy Deakins, Legal George DeCroes, ADA/Section 504 Coordinator Kristie Leonard, Community Services Administration Angie Marshall, City Clerk Robert Sluss, Fire Department Candace Sherer, Kingsport Area Transit Authority Judy Smith, Budget Michael Thompson, Asst. Public Works Director Rochelle Trent, ADA Representative Michelle Tolbert, Senior Center Andy True, ADA Coordinator, Kingsport City Schools
Community Committee on Accessibility:	<u>Community Members</u>: Joe May James Stoll Robin Wexler Barbara Wheeler Jackie Wolfe <u>City Representatives</u>: Amy Deakins, Legal George DeCroes, ADA/Section 504 Coordinator Michael Thompson, Asst. Public Works Director Rochelle Trent, ADA Representative Andy True, ADA Coordinator, Kingsport City Schools
Cover Photo Credit:	Derek Cress

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Appendix No.	**Description:**
A	Ordinance No. 6741 – Adopting International Building Code
B	Publication Certificate for ADA Public Access Survey
C	Responses to ADA Public Access Survey
D	Program Accessibility Questionnaire
E	Responses to Program Accessibility Questionnaire
F	Publication Certificate for Citizen Review Survey
G	Citizen Review Survey
H	Comments on Citizen Review Survey
I	Service Animal Policy
J	Facility Reports – City of Kingsport
K	Review of Facilities – Kingsport City Schools
L	Accessibility Design Compliance Affidavit
M	Remaining ADA Procedures
N	Grievance Procedure

CITY OF KINGSPORT

ADA SELF-EVALUATION AND TRANSITION PLAN UPDATE

SECTION 1.0

SELF-EVALUATION AND TRANSITION PLAN LEGAL NEED AND PURPOSE

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, is a civil rights law prohibiting discrimination against individuals with disabilities. The ADA consists of five titles outlining protections in the following areas:

- Title I: Employment
- Title II: State and Local Government
- Title III: Public Accommodations and Commercial Facilities
- Title IV: Telecommunications Relay Services
- Title V: Miscellaneous Provisions

The City of Kingsport (City)[1] is obligated to observe all requirements of Title I in its employment practices; Title II in its policies, practices, programs, services, and activities; and any parts of Title IV and Title V that apply to City. Title III only covers businesses and not-for-profit service providers and is not applicable to City.

Title IV of the ADA requires that telephone companies provide telecommunication relay services that allow individuals with hearing or speech impairments to communicate using a teletypewriter (TTY) or another non-voice device. Title V of the ADA includes miscellaneous provisions that are intended to apply broadly across all other titles. Many of these provisions were subsequently included and interpreted by the various federal agencies that issued regulations to implement other titles of the ADA. Title V includes provisions that do not allow the ADA to invalidate or override any other laws (federal, state, and local) to provide equal or greater protections or remedies for individuals with disabilities. Retaliation, intimidation, coercion, threats, or interference with individuals who seek to exercise their rights, or who encourage or aid others to do so, is prohibited.[2]

This document addresses requirements of Title II of the ADA as they apply to City.

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[1] Unless otherwise noted, the use of the term "City" will include Kingsport City Schools (KCS).When KCS is used separately it applies only to the school system.

[2] https://www.adainfo.org/content/more-title-v

Title II of the ADA pertains to programs, services, and activities public entities provide. As a provider of government, services, and programs, City must comply with this section of the ADA as it specifically applies to local government services. Title II of the ADA provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."[3]

This ADA Self-Evaluation and Transition Plan Update is being prepared as required by Title II of the ADA. A public entity must reasonably modify its policies, practices, or procedures to avoid discrimination against individuals with disabilities. This report will assist in identifying policies, programs, and physical barriers to accessibility, and will enable City to develop solutions that will facilitate opportunity for individuals.

As required by Title II of the ADA, and 28 CFR § 35.105[4] and § 35.150[5] City has conducted a self-evaluation and a transition plan of its programs, services, and activities. This document guides planning and implementation of necessary program and facility modifications over the next twenty-five (25) years. This ADA Self-Evaluation and Transition Plan Update establishes ongoing commitment to development and maintenance of its programs, services, and activities.

LEGISLATIVE MANDATE

The development of a transition plan is also a requirement of the Rehabilitation Act of 1973 (Rehab Act) that requires all organizations receiving federal funds make their programs available without discrimination to individuals with disabilities. Section 504 of the Rehab Act states,

> No otherwise qualified handicapped individual in United States shall, solely by reason of handicap, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

[3] 42 U.S.C. § 12132 and 28 CFR § 35.130
[4] 28 CFR § 35.105
[5] 28 CFR § 35.150

Based on the Rehab Act, Congress passed the ADA on July 26, 1990. Title II of the ADA regulations adopts the general ideas of discrimination established under in the Rehab Act. Title II provides protections to individuals with disabilities that are at least equal to those provided by the nondiscrimination provisions of Title V of the Rehab Act. The ADA prohibits City, either directly or through contractual arrangements, from:

- Denying individuals with disabilities opportunity to participate as members of advisory boards and commissions.
- Denying individuals with disabilities opportunity to participate in services, programs, or activities that are not separate or different from those offered, even if City offers permissible separate or different activities.
- Making selections that have the effect of excluding or discriminating against individuals with disabilities when determining location of facilities.

AGENCY REQUIREMENTS

Title II requires operation of each program, service, or activity so that when viewed in its entirety is readily accessible to and usable by individuals with disabilities.[6] Included in Title II are administrative requirements applicable to City, including:

- To notify applicants, participants, beneficiaries, or interested individuals of their rights and the public entity's obligations under Title II.[7]
- To designate a responsible employee (ADA Coordinator) to coordinate its efforts to comply with and carry out the public entity's ADA responsibilities.[8]
- To establish a grievance procedure for resolving complaints related to Title II.[9]
- To conduct a self-evaluation.[10]

[6] 28 CFR §§ 35.149-150
[7] 28 CFR § 35.106
[8] 28 CFR § 35.107(a)
[9] 28 CFR § 35.107(b)
[10] 28 CFR § 35.105

- A self-evaluation is an assessment of public entity's programs, services, and activities and policies and practices that govern administration of them. This can include laws, ordinances, regulations, and manuals. The goal is to determine if policies and practices adversely affect full participation of individuals with disabilities.

- To develop a transition plan.[11]
  - In the event that structural changes to facilities will be undertaken to achieve program accessibility, a transition plan setting forth steps necessary to complete such changes must be developed.
  - The plan shall, at a minimum:
    - Identify physical obstacles in facilities that limit accessibility of its programs or activities to individuals with disabilities.
    - Describe in detail methods that will be used to make facilities accessible.
    - Specify the schedule for taking steps necessary to achieve compliance with this section and, if time-period of transition plan is longer than one year, identify steps that will be taken during each year of transition period.

STATE OF TENNESSEE ACCESSIBILITY REQUIREMENTS

Tennessee Code Annotated, Title 68, Chapter 120, Part 2, known as the "Tennessee Public Buildings Accessibility Act," declares it to be the "policy of the State of Tennessee to make all public buildings accessible to and functional for individuals who have a physical disability."[12] This code section pertains to public buildings, parks, and facilities that were constructed using state or municipal funds or that are owned, leased, rented, contracted, or sublet by City.

INTERNATIONAL BUILDING CODE 2018 AND ANSI/ICC A117.1-2009

City adopted International Building Code (IBC) 2018 by ordinance on July 17, 2018,[13] as the basis for laws and regulations for all new commercial, private, and public buildings within City. IBC, along with 2018 International

[11] 28 CFR § 35.150(d)
[12] Tenn. Code Ann. § 68-120-202, Tennessee Public Buildings Accessibility Act
[13] Ordinance No. 6741 is attached hereto as Appendix No. A.

Existing Building Code, is the basis for regulations on all rebuilds, repairs, and remodels of same.

City also adopted the American National Standards Institute (ANSI) and International Code Council (ICC) A117.1-1986. ANSI/ICC A117.1-2009 Buildings and Facilities corresponds to the 2010 Americans with Disabilities Act Accessibilities Guidelines (ADAAG), and City will follow ANSI/ICC A117.1-2009, unless it differs from ADAAG, then ADAAG will supersede.

ANSI/ICC A117.1-2009 requires that sites, facilities, and elements are accessible to and usable by individuals with such physical disabilities as inability to walk, difficulty walking, reliance on walking aids, blindness and visual impairment, deafness and hearing impairment, reaching and manipulation disabilities, lack of stamina, difficulty interpreting and reacting to sensory information, and extremes of physical size. The intent is to allow an individual with physical disabilities to independently get to, enter, and use a site, facility, building, or element.[14]

DEFINITIONS

Terms or words used in this Self-Evaluation and Transition Plan Update will have the same meaning as such terms or words found in 28 CFR Part 35 Subpart A,[15] as amended from time-to-time. Any term or word not defined in this Self-Evaluation and Transition Plan Update or in 28 CFR Part 35 Subpart A will have its plain and ordinary meaning.

ENTIRE PLAN

This plan and its appendices comprise the complete 2019 ADA Self-Evaluation and Transition Plan Update for City.

[14] ICC A117.1-2017 Standard for Accessible and Usable Buildings and Facilities
[15] 28 CFR Subpart A - General

SECTION 2.0

SELF-EVALUATION AND TRANSITION PLAN REQUIREMENTS AND PROCESS

A self-evaluation is a public entity's assessment of everything, including its programs, services, and activities; facilities;[16] and current policies, practice, and procedures. The self-evaluation identifies and corrects barriers to access that are inconsistent with its Title II requirements. A public entity that employs fifty (50) or more employees must retain its self-evaluation for three years.

As part of the self-evaluation, City:

- identified the city's programs, services, and activities; and
- reviewed policies, practices, and procedures that govern administration of the city's programs, services, and activities.

To accomplish this, City published an ADA Public Access Survey on its website in October, 2018. This survey was published in the *Kingsport Times-News* on October 29, 2018.[17] City also posted notices throughout City on bulletin boards to notify the public of the survey. City's and KCS websites also had a "ticker" across the homepage alerting the public of the survey. The survey was available on City's and KCS websites from October 29, 2018, through November 30, 2018. The responses[18] to the ADA Public Access Survey were beneficial to City Staff in preparing the self-evaluation and priority lists.

The ADA sets forth specific requirements[19] for preparation of an acceptable transition plan. This plan includes those requirements. They are:

- Identify physical obstacles in public entity's facilities that limit accessibility of its programs or activities to individuals with disabilities.

---

[16] As defined by 28 CFR § 35.104 *facility* means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

[17] A copy of the Publication Certificate from the *Kingsport Times-News* is attached as Appendix B.

[18] A copy of the [redacted] responses to the ADA Public Access Survey are attached as Appendix C.

[19] 28 CFR § 35.150(d)(3)(i-iv)

- Describe in detail methods that will be used to make facilities accessible.
- Specify schedule for taking steps necessary to achieve compliance with this section and, if the time-period of transition is longer than one year, identify steps that will be taken during each year of the transition period.
- Indicate the official responsible for implementation of plan

PROGRAM DISCRIMINATION AND ACCESSIBILITY

There are two types of accessibility:

- Program accessibility
- Physical (Facility) accessibility

City must provide both types of accessibility.

Physical accessibility requires that a facility be barrier-free. Barriers include any obstacles that prevent or restrict entrance to or use of a facility.

Program accessibility includes physical accessibility, but also entails all of the policies, practices, and procedures that permit individuals with disabilities to participate in programs and to access important information.

Program accessibility requires that individuals with disabilities be provided an equally effective opportunity to participate in or benefit from a public entity's programs or services. Program accessibility may be achieved by either structural or non-structural methods. Non-structural methods include acquisition or redesign of equipment, assignment of aides to beneficiaries, and providing services at alternate sites.

Programs offered by City to the public must be accessible. Accessibility includes advertisement, orientation, eligibility, participation, testing or evaluation, physical access, providing auxiliary aids, transportation, policies, and communication.

City may achieve program accessibility by a number of methods:

- structural methods such as altering an existing facility;
- acquisition or redesign of equipment;
- assignment of aides; and

- providing services at alternate accessible sites.

When choosing a method of providing program access City will give priority to the method that results in the most integrated setting appropriate, to encourage interaction among all users, including individuals with disabilities. In compliance with requirements of the ADA City must provide equality of opportunity.

UNDUE FINANCIAL AND ADMINISTRATIVE BURDENS

City is not required to take any action that it would result in a fundamental alteration in the nature of its program or activity, would create a hazardous condition resulting in a direct threat to participant or others, or would represent an undue financial and administrative burden.

The determination that an undue burden would result must be based on an evaluation of all resources available for use. For example, if a barrier removal action is judged unduly burdensome, City must consider other options for providing access to benefits and services of the program or activities by individuals with disabilities.

FACILITY SURVEY

City completed a physical audit of its facilities to identify facility barriers and identify recommendations and alterations in order to meet state and federal accessibility standards. The list of facilities surveyed included:

- City-owned parks and playgrounds
- City-owned or leased buildings and facilities
- City-maintained pedestrian facilities
- KCS playgrounds
- KCS buildings and facilities

This evaluation allowed City to generate the ADA Priority list and the proposed funding budgets for the next twenty-five (25) years.

SELF-EVALUATION

City evaluated its policies, programs, and procedures to determine current levels of service and the extent there were barriers to accessibility for individuals with disabilities. City staff created a questionnaire[20] distributed to

[20] Questionnaire is attached as Appendix D.

each department and division to address accessibility issues. This questionnaire was designed to search for inefficiencies and inequalities within each program and service.

The online questionnaire provided information on the nature of programs, forms, and methods used to advertise each program's services and activities, a profile of current participants, types of equipment and materials used, entrance requirements, level of staff training, and any special modifications provided.

Questionnaires were distributed and received from the following individuals, departments, and divisions:

- Assistant City Manager for Operations
- Bays Mountain Park
- Budget Office
- Building Official Office
- City Clerk
- City Facilities Management
- City Manager's Office/City Hall
- Traffic Engineering
- Finance Administration Office
- Fire Department
- Fleet Management
- Human Resources
- Information Technology
- Kingsport City Schools
- Legal
- Metropolitan Transportation Planning Organization Division
- Office of Cultural Arts
- Office of Zoning
- Parks and Recreations
- Police Department
- Risk
- Stormwater Division
- Streets and Sanitation Division
- Waste Water Management

Once the responses[21] to the questionnaire were completed, the ADA Liaison Committee found these departments or divisions maintained their programs in such a way that they are active in assisting citizens with any barriers. The one deficiency consistently noted was lack of documentation. It is the intent of City to address any program accessibility barriers in the following areas:

- customer service
- outreach and information
- training and staffing
- programs and activities

[21] Each program provider's responses to the questionnaire are attached as Appendix E.

- accessible/adaptive equipment

PUBLIC OUTREACH AND INPUT

The city posted a public notice[22] in the *Kingsport Times-News* on August 4, 2019, regarding the availability of the draft of the Self-Evaluation and Transition Plan Update. City also posted notices throughout City on bulletin boards to notify the public of the survey. The survey was available online and a copy was available at City Hall, at the main check-out counter at the Kingsport Public Library, the Senior Center at the Renaissance Center, and at the Lynn View Community Center from August 5, 2019 through August 20, 2019 for public questions[23] and comment.[24]

The ADA Liaison Committee will review these public comments and questions and pertinent comments and questions will be added to the document as an appendix. These public comments and questions will be used to help guide City's strategy for accessibility improvements moving forward. Once the draft of the transition plan is finalized, it will be presented to the Board of Mayor and Alderman (BMA) for approval.

[22] A copy of the Publication Certificate published in the *Kingsport Times-News* is attached as Appendix F.

[23] Citizen Review Survey is attached as Appendix G.

[24] Comments received from the Citizen Review Survey are attached as Appendix H.

SECTION 3.0

POLICIES AND PROGRAM ACCESSIBILITY FINDINGS AND ACTIONS

Programs, services, and activities offered by City to the public must be accessible. Accessibility applies to all aspects of a program or service, including advertisement, orientation, eligibility, participation, testing or evaluation, physical access, providing of auxiliary aids, transportation, policies, and communication.

This section details review of current citywide policies, programs, services, and activities based on meetings with city management team and responses to the program accessibility questionnaires from departments or divisions listed in Section 2.0.

The findings and recommendations contained in this section will serve as a basis for implementation of specific improvements for providing access to city programs as required by law. There were twenty-six (26) program questionnaires responses received by city employees.

PROGRAM MODIFICATIONS

The ADA Coordinator for City and ADA Coordinator for KCS, or designees, will follow-up with each department[25] to review recommendations contained in the Self-Evaluation Report. When a policy, program, or procedure creates a barrier to accessibility that is unique to a certain department, division, or program the ADA Coordinator or the designee, will coordinate with the department head, division head, or program manager to address removal of the barrier in the most reasonable and accommodating manner in accordance with applicable law.

FINDINGS AND RECOMMENDED ACTIONS – CITYWIDE PROGRAMS, SERVICES, AND ACTIVITIES

This section is organized into categories based upon the requirements of Title II of the ADA.

- Accessible/Adaptive Equipment
- Customer Service
- Notice Requirements

[25] The reference "department" includes each department, division and City Manager's Office employees of the City of Kingsport.

- Printed Information
- Televised and Audiovisual Public Information
- Website(s)
- Public Telephones and Communication Devices
- Training and Staffing
- Program Eligibility and Admission
- Public Meetings
- Transportation Services
- Tours and Trips
- Use of Consultants for Delivering Program Services
- Emergency Evacuation Procedures
- Facilities
- Special Events on Public Properties

ACCESSIBLE/ADAPTIVE EQUIPMENT

Adaptive aids are devices, controls, appliances, or items that make it possible for individuals with disabilities to improve their ability to function independently and participate in programs, services, and activities. Examples are a pen and clipboard for deaf or speech impaired individuals to write notes, accessible electronic equipment, or accessible computer stations.

Self-Evaluation Findings:

- City currently has no adaptive aids for the hearing impaired.

Recommended Actions:

- Provide standard equipment and training at each site where programs are administered to facilitate basic communications access using alternative formats. Equipment may include, but not be limited to:
    - paper and pencil
    - an enlarging copy machine
    - access to TTY or 711 Tennessee Relay Service

- Establish and maintain adaptive aids that should be available for use by individuals participating in city programs. Include information about availability of specific equipment and/or individuals who are available to provide special services (*e.g.* American Sign Language (ASL) translation) in public information materials such as brochures and on city's website.

CUSTOMER SERVICE

The customer service counter in City Hall serves citizens, business, and other customers with information related to city government, utility connections and payments, property tax payments and general city government information. The customer service counter at the Kingsport Area Transit Authority serves customers who utilize the transit system with bus or van schedules, purchase of tickets, have questions, need information, and other related services.

It is the responsibility of all city departments or divisions to provide customer service to all citizens, businesses, and other customers as a normal course of business.

The main desk at the administrative support center for KCS serves KCS employees, students, and the general public with general school information and support for the school system. The main school offices provide support for parents, students, and teachers of that particular school (*i.e.* John Adams Elementary School Office). This is the normal course of business for the administrative support center and the main school offices.

Self-Evaluation Findings:

- One or more department reported tracking accessibility requests.
- Few departments or divisions indicated they consult or have relationships with outside organizations that provide services to individuals with disabilities.
- Some departments or divisions had policies or procedures for making informal changes to standard operating procedures to accommodate individuals with disabilities.

Recommended Actions:

- Make appropriate modifications to regular practices to accommodate needs of individuals with disabilities when providing customer service. This can include providing auxiliary aids, such as:
    - Clipboards
    - Moveable light sources
    - Adjustable work surfaces

- Allow use of service animals to assist individuals in accessing programs, services, and activities in city facilities. Service animals are only dogs and miniature horses. City has developed a Service Animal Policy, and it is available on city's website.[26]
- Develop criteria for determining reasonable modifications to provide program accessibility, which may include:
    - Acquisition or redesign of equipment
    - Assignment of aides to individuals with disabilities
    - Provision of services at alternative accessible sites
- Assess needs of disabled population by improving communication and outreach to increase effective participation of disabled customers in all city programs and activities.
- Collaborate with organizations that provide services to disabled populations. Increased community involvement with organizations that offer services to individuals with disabilities.
- Publicize efforts to increase participation by individuals with disabilities, such as distributing program brochures to individuals.

NOTICE REQUIREMENTS

Title II regulations require City to inform the public of rights and protections provided by the ADA for access to public programs, services, and activities.

Self-Evaluation Findings:

- City has a non-discrimination policy that includes disability, no departments or divisions reported having a non-discrimination statement that is regularly used for publication.
- No departments or divisions reported posting a non-discrimination statement with information about how to reach an ADA Coordinator or program coordinator in a location that maximizes public exposure.
- No departments or divisions reported notifying all individuals that meetings, hearings, and conferences will be held in accessible locations and that adaptive aids such as assistive listening devices will be provided upon request.
- No departments or divisions reported notifying all individuals about how and with whom to file a disability complaint.

[26] A copy of City's Service Animal Policy is attached as Appendix I.

Recommended Actions:

- Increase outreach to individuals with disabilities and the organizations that serve them. City should inform the public of possible modifications that can be provided to make programs, services, and activities accessible.
- Include the following notice for all public meetings.

  (City Notice)

  All City of Kingsport public meetings are conducted in accessible locations. If you require accommodations to participate in this meeting, these may be requested by calling (423) 229-9401, ext. 5 or by emailing ADAContact@KingsportTN.gov at least 72 hours in advance. Copies of any documents used are available in accessible formats upon request.

  (KCS Notice)

  All Kingsport City Schools public meetings are conducted in accessible locations. If you require accommodations to participate in this meeting, these may be requested by calling (423) 378-2130 or by emailing atrue@k12k.com at least 72 hours in advance. Copies of any documents used are available in accessible formats upon request.

- Non-discrimination language should appear on any City publications such as pamphlets, postcards, advertisements, and one-page announcements (flyers and posters). This statement is required for all printed publications.

(City Notice)

The City of Kingsport complies with all applicable federal and state laws regarding non-discrimination, equal opportunity, affirmative action, and providing reasonable accommodations for individuals with disabilities. For more information see the city's website www.KingsportTN.gov or contact the ADA Coordinator by phone: (423) 229-9401, ext. 5, or by email: ADAContact@KingsportTN.gov

(KCS Notice)

Kingsport City Schools complies with all applicable federal and state laws regarding non-discrimination, equal opportunity, affirmative action, and providing reasonable accommodations for individuals with disabilities. For more information see the schools' website www.K12K.com or contact the ADA Coordinator by phone: (423) 378-2130, or by email: atrue@k12k.com

PRINTED INFORMATION

In order to meet the ADA's communication standards, city departments or divisions must be able to provide information, when requested, in alternative formats such as using easy-to-understand language, braille, large-print format, CD, flash drive, or other formats as requested.

Self-Evaluation Findings:

- Most departments or divisions provide printed information to public.
- Few departments or divisions reported that they provided printed materials in alternative formats.
- No departments or divisions reported including pictures of individuals with disabilities in their printed materials.
- Some departments or divisions reported that they provide materials in easy to understand language for individuals with learning disabilities.

Recommended Actions:

- Provide information and training to each department on how to produce printed information in alternative formats for individuals with various disabilities so that requests are handled in a uniform and consistent manner.
- Publicize City's commitment to provide program information in alternative formats on an individual basis, as requested.
- Include the following notice on all materials, except notices of public meetings, printed by City that are made available to the public:

  (City Notice)

  All City of Kingsport programs, services, and activities are conducted in accessible locations. If you require an accommodation to participate in this program, service, or activity these accommodations may be requested by calling: (423) 229-9401, ext. 5 or by emailing ADAContact@KingsportTN.gov at least 72 hours in advance. Copies of any documents used are available in accessible formats upon request.

  (KCS Notice)

  All Kingsport City Schools' programs, services, and activities are conducted in accessible locations. If you require an accommodation to participate in this program, service, or activity these accommodations may be requested by calling: (423) 378-2130 or by emailing atrue@k12k.com at least 72 hours in advance. Copies of any documents used are available in accessible formats upon request.

- Handle all requests for other alternative formats or lengthy documents on an individual basis.
- Provide program, facility, permit, and reservation information in a variety of formats upon request (for example, enlarge print format for individuals with visual disabilities or in simple language for individuals with cognitive disabilities). Provide program changes (*e.g.*, staff

assistance), upon request to assist in filling out forms or when alternative formats are unavailable.
- Produce meeting agendas and or public information distributed at meetings in alternative formats, when requested.
- As appropriate, when images of people are included in printed material, include photos of individuals with disabilities.

TELEVISED AND AUDIOVISUAL PUBLIC INFORMATION

Televised and audiovisual information is a means for disseminating public information through presentations produced by city departments or divisions. All televised and audiovisual information must be accessible to individuals with disabilities.

Self-Evaluation Findings:

- No department reported producing audiovisual or televised presentations.

Recommended Actions:

- If an audiovisual presentation is produced, ensure use of closed captioning or other alternatives to audio, if available, to ensure individuals with hearing impairments can benefit from these presentations.
- When presenting PowerPoint presentations and it is known that a visually impaired or blind individuals are in the audience, read all slides and describe all graphics. This will allow visually impaired or blind individuals to fully understand information being presented.
- When appropriate, include individuals with disabilities when including images in audiovisual presentations.

WEBSITE(S)

Individuals utilize the internet to obtain information about City programs, services, activities, and facilities. The websites www.KingsportTN.gov, www.K12K.com, and other city departmental sites take on increased importance as a communications tool. Providing public access to city publications online is an effective means of reaching individuals with disabilities.

Self-Evaluation Findings:

- Most departments or divisions provide information about their programs on the web.
- No departments or divisions noted they had verified their websites are accessible to individuals with visual impairments and who use speaking browsers.
- The content is managed by a combination of departments or divisions and the communications staff with an outside vendor.

Recommended Actions:

- Increase outreach to individuals with disabilities by having the websites include more information about city's commitment to providing accessible services.
- Include city's Policy on Non-Discrimination on Basis of Disability in the footer of the website.
- Provide information regarding programs, facilities, permits, and reservations on city's website in an accessible format.
- Include city's statement regarding accessible locations and availability of auxiliary aids upon request.
- Assign one department responsibility to provide standards and oversight for outside vendors contracted with City to maintain website accessibility and create pages for city websites. Monitor web pages for continued compliance with accessible web page standards.
- Provide training to city departments who maintain their own websites on how to post to their site and still make it accessible.

PUBLIC TELEPHONES AND COMMUNICATION DEVICES

Self-Evaluation Findings:

- Some departments or divisions reported communicating by telephone with individuals with hearing or speech difficulties.
- One department reported having used TTY though many departments or divisions reported using Tennessee Relay Service, or 711, to communicate with individuals with hearing and speech impairments.
- No departments or divisions reported publishing TTY device numbers.

- No department reported having staff training on how to communicate with individuals with hearing and speech impairments.

Recommended Actions:

- In 2012, new guidelines from Federal Communications Commission (FCC) and Department of Justice (DOJ) have the availability of analog telephone systems and the telephone companies no longer required to maintain them or the analog TTY/TDD devices as such services are available on smart phones, computers, and tablets. City will look to implement the Voice over Internet Protocol (VoIP) procedures for an IP communications for TTY. Until this implementation takes place, it is recommended that City utilizes the state's available 711.
- Widely disseminate information regarding availability and location of city Telephone Communication Devices for Deaf, and train staff members in use of TTY (711) equipment or other means of communicating over telephone with a person with a hearing or speech disability, such as Tennessee Relay Service (711).
- All publications listing phone numbers should also include information on how deaf and speech impaired can communicate with departments or divisions by phone.
- Tennessee Relay Service is a free service and is accessible to all Tennessee citizens. Sprint will train city employees on how to utilize that service and how to assist hearing impaired individuals who call by relay.

TRAINING AND STAFFING

Self-Evaluation Findings:

- While all departments or divisions reported having contact with the public, few stated their staff have had training on interacting with individuals with disabilities.
- Most departments or divisions have informed employees verbally or within meetings of the obligations of good customer service, including enabling individuals with disabilities to participate in city programs and activities.

- Without training, many employees may not be knowledgeable about different types of reasonable modifications that can make their departments or divisions services accessible.

Recommended Actions:

- Provide all city employees with ongoing disability awareness training.
- Provide training to city employees who have contact with the public about how to provide modifications and use assistive devices to make programs, services, and activities accessible.
- Develop a disability access-training program. Educate all city employees about their responsibilities under the ADA. City and KCS ADA Coordinators should be responsible for ensuring that city and school employees receive appropriate training. Reference materials that address special modifications should be included in this training.
- Develop standard guidelines for training materials and standard language that appropriately describes city's policies on non-discrimination.

PROGRAM ELIGIBILITY AND ADMISSION

Provided it does not change or fundamentally alter the nature of the program, service, or activity, the public should be able to access all programs, services, and activities regardless of disability. Admission criteria, ability to complete forms, and participation in interviews should be available to all members of the public by providing reasonable accommodations.

Self-Evaluation Findings:

- No departments or divisions reported having limitations or ratio requirements that would exclude individuals with disabilities.
- Some departments or divisions noted that they have eligibility requirements. These requirements were physical or mental performance standards for staff or employees based on performance and safety standards.
- Most forms used by programs do not contain a non-discrimination statement.
- A few departments or divisions require an interview prior to participation.

Recommended Actions:

- Subject to the exceptions in ADA regulations, ensure that individuals with disabilities are not excluded from regular programs or are required to accept special services or benefits. Involve individuals with disabilities in regular programs to the maximum extent possible.
- Modify policies, practices, or procedures to avoid discrimination unless modification would fundamentally alter the nature of the program or create a hazardous situation.
- Ensure that when specific requirements that exclude or limit participation of individuals with disabilities are necessary for safe operation of programs, those requirements are based on real risks, not on speculation, stereotypes, or generalizations.
- Include a non-discrimination statement on all forms.
- When interviews are required for program participation, ensure that meetings are held in an accessible location and that auxiliary aids are provided upon request.

PUBLIC MEETINGS

Self-Evaluation Findings:

- Some departments or divisions hold public meetings.
- No departments or divisions reported that they provide auxiliary aids upon request to allow individuals with disabilities to participate in meetings.
- No departments or divisions provide ASL interpreters.

Recommended Actions:

- Continue to schedule public meetings at accessible locations. An accessible location includes, but is not limited to the following:
    - wheelchair accessible path-of-travel to meeting room
    - accessible restrooms
    - accessible parking
    - an accessible route from transit and parking to meeting facility
    - signage

- Maintain a list of on-call ASL interpreters to assist individuals with hearing impairments.
- When a fully accessible site is not available, make reasonable modifications so that an individual with a disability can participate. These modifications may include relocation of the meeting site, phone-in participation, video recording, and meeting transcripts.
- Make information available to city employees of types of modification requests that may be made by individuals with different types of disabilities, including information about auxiliary aids such as different types of assistive listening systems, sign language interpreters, readers, descriptive services, or assistive technologies like "real-time captioning." Provide guidance in layout of room, sign-in table, and refreshments table to ensure that these features are accessible.
- Display a notice on meeting agendas indicating availability of accessibility modifications.
- Provide agendas or meeting materials in alternative formats, when requested.
- Provide flexibility in time limit on speaking for individuals with communication difficulties.
- Provide assistive listening devices at public meetings, when requested.
- Include the following notice in all meeting publicity:

> (City Notice)
>
> All City of Kingsport public meetings are conducted in accessible locations. If you require an accommodation to participate in this meeting these accommodations may be requested by calling (423) 229-9401, ext. 5 or by emailing ADAContact@KingsportTN.gov at least 72 hours in advance. Copies of any documents used are available in accessible formats upon request.
>
> (KCS Notice)
>
> All Kingsport City Schools' public meetings are conducted in accessible locations. If you require an accommodation to participate in this meeting these accommodations may be requested by calling: (423) 378-2130, or by emailing atrue@k12k.com at least 72 hours in advance. Copies of

any documents used are available in accessible formats upon request.

- Develop a checklist for creating accessible meetings and selecting accessible meeting spaces, and make list available to all city departments or divisions and programs.
- Prepare a list of already accessible meeting spaces to facilitate scheduling of meetings and/or relocation of meetings upon request.

TRANSPORTATION SERVICES

Self-Evaluation Findings:

- Few departments or divisions reported providing transportation services to public.

Recommended Actions:

- Ensure that when transportation is provided by City, for city programs, accessible vehicles are available.
- Ensure transportation schedules and promotional materials are available in alternative formats.
- Train staff on providing accessible transportation.

TOURS AND TRIPS

Self-Evaluation Findings:

- One department reported providing tours and trips regularly its participants. The trips and tours provided use accessible transportation.
- Another department reported providing trips to program participants. The trips provided use accessible transportation.

Recommended Actions:

- Ensure that tours are provided in a way that allows individuals with mobility, visual, speech, hearing, and cognitive disabilities to fully participate. Some tours that are taken are contracted with a local travel agency and the department is offering the tour to its participants who wish to go. The travel company contracted with City is ultimately responsible for confirming accessibility, however City will do its due diligence to confirm prior to making the booking.
- Evaluate destination of tour or trip in order to determine level of accessibility and any accommodations or modifications that may be required.
- Provide information to participants in advance of a tour or trip regarding destination, transportation, or characteristics of event so that informed requests for accommodations can be made.
- Provide information about accessibility of tour on program's website.

USE OF CONSULTANTS FOR DELIVERING PROGRAM SERVICES

Self-Evaluation Findings:

- Some departments or divisions reported using consultants to deliver program services.

Recommended Actions:

- For departments or divisions that use outside consultants to provide services to the public, a procedure should be established to ensure that their work is consistent with city accessibility policies and standards, including the contract language and a monitoring procedure.

EMERGENCY EVACUATION PROCEDURES

Self-Evaluation Findings:

- Most departments or divisions reported that they did not have or were unaware of a plan to safely evacuate individuals with disabilities in an emergency.
- Few city departments or divisions require established emergency evacuation procedures to safely evacuate individuals with disabilities who may need special assistance in an emergency.
- No departments or divisions, with the exception of KCS, reported having a plan to safely evacuate their building in an emergency.

Recommended Actions:

- Develop guidelines for evacuation of individuals with disabilities in various types of emergency situations.
- Develop guidelines for evacuation of buildings in various types of emergency situations.
- Each department, division, or program should use these guidelines to create their own emergency evacuation plans. These plans should:
    - Address what to do when an alarm is triggered
    - Establish meeting places for assistance and evacuation chairs
    - Provide direction on what to do if assistance is not available
    - Establish floor captains

- Train city employees regarding emergency evacuation procedures.
- Review existing procedures dealing with emergencies to ensure that individuals with disabilities can be alerted.
- Work with disability organizations to explore use of other technologies, such as audible exit signs for orientation and direction and vibrating paging systems.
- Departments that routinely provide emergency services should have priority for receiving equipment that accommodates alternative format communication.
- Provide training for public safety personnel to enable them to communicate in basic ASL in the event that there is an emergency condition and the area is being evacuated. For example, this training

would be provided to police, firefighters, lifeguards, and building inspectors involved in post-disaster emergencies.
- Take necessary steps to ensure that emergency teams are aware of individuals with disabilities in their communities who may require special assistance in event of an emergency.
- Provide ASL interpreters at emergency facilities, on an as-needed basis.

FACILITIES

Self-Evaluation Findings:

- No department reported tracking accessibility complaints related to city facilities.

Recommended Actions:

- Provide accessible facilities such as parking, including van accessible parking, path-of-travel, entry doors, signage, and transaction counters at customer service locations. If alternative locations for providing accessible services are required, provide those services in most integrated setting, without stigmatizing the user.
- Provide information about facility accessibility on departmental or divisional publications including their website.
- All requests relating to facility access should be tracked. ADA requests should be analyzed periodically to look for global issues that can be addressed and problems that can be solved proactively.
- If individuals with disabilities are not satisfied with the results of this complaint process, they should be directed to city's ADA Grievance procedure.

SPECIAL EVENTS ON PUBLIC PROPERTIES

Self-Evaluation Findings:

- Some departments or divisions reported that they allow special events by private organizations on city property.

- Many departments or divisions that allow special events on city property were unaware of the policies in place to ensure that events are accessible to individuals with disabilities.

Recommended Actions:

- In situations where private organizations sponsor events utilizing city parks and facilities, it will be required for the private organization to comply with applicable ADA requirements. The special events office will provide a checklist and information to inform the organizer of their responsibility for accessibility under ADA. The special events office will confirm with the organizer that all ADA items are completed prior to start of event.
- The checklist and information for special events may be found on city's website.

SECTION 4.0

TRANSITION PLAN

Following the self-evaluation plan, Title II of the ADA requires the City to develop and update a transition plan to make its facilities meet standards for program accessibility. Program accessibility means that a program, activity and/or service are accessible when viewed in its entirety. A transition plan is a plan to transition inaccessible facilities into accessible facilities for individuals with disabilities.

This transition plan combines findings of a facility report, a public rights-of-way survey, policy assessments, and program evaluations. Specific policy and program recommendations can be found in Section 3.0. The specific architectural modifications required to make programs accessible are listed in City of Kingsport—Facility Reports, [27] and Kingsport City Schools Review of Facilities.[28] Each facility report contains a complete list of architectural barriers and suggested barrier removal actions. Not all of these barriers must be removed in order to provide program access.

In compliance with requirements of the ADA, once installed City will maintain in working order the equipment and features that are required to provide access to individuals with disabilities.

This transition plan is divided into two parts: facilities, including buildings, parks, and their related grounds; and public pedestrian rights-of-way.

City and KCS ADA Coordinators, or their designees, will follow-up with each department to coordinate implementation of the transition plan. When a policy, program, or procedure creates a barrier to accessibility that is unique to a department or a certain program, the ADA Coordinator, or designee, will coordinate with the department head to address removal of the barrier in a reasonable and accommodating manner.

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[27] City of Kingsport—Facility Reports, Appendix J (Due to the volume of this appendix, it is available for review, by appointment, by calling the Kingsport ADA Coordinator.)

[28] Kingsport City Schools Review of Facilities, Appendix K (Due to the volume of this appendix, it is available for review, by appointment, by calling the KCS ADA Coordinator.)

DESIGNATION OF RESPONSIBLE OFFICIALS

ADA Coordinator

City and KCS are each required to designate at least one responsible employee to coordinate its efforts to comply with the ADA and handle any grievances or concerns.

City's ADA/Section 504 Coordinator is George DeCroes, and he may be contacted as follows:

George DeCroes
ADA/Section 504 Coordinator
City of Kingsport
301 Louis Street, Suite 303
Kingsport, TN 37660
Telephone No.: (423) 229-9401, ext. 5
Email: ADAContact@KingsportTN.gov

KCS's ADA Coordinator is Andy True, and he may be contacted as follows:

Andy True
ADA Coordinator
Kingsport City Schools
400 Clinchfield Street, Suite 200
Kingsport, TN 37660
Phone No.: (423) 378-2130
Email: atrue@k12k.com

KCS's 504 Coordinator is Lamar Smith, and he may be contacted as follows:

Lamar Smith, Ed.D.
504 Coordinator
Kingsport City Schools
400 Clinchfield Street, Suite 200
Kingsport, TN 37660
Phone No.: (423) 378-8598
Email: hlsmith@k12k.com

City ADA Liaison Committee

City has become proactive in ensuring ADA/504 public accessibility compliance is incorporated into the way City does business. City is

undertaking several initiatives by policy and implementation to ensure City is compliant with ADA/504. As required by law, an ADA Liaison Committee was formed and meets as needed to address any issues. This committee ensures City has a system for periodically reviewing and updating compliance/accessibility measures.

Committee members include:

- City ADA/504 Coordinator – George DeCroes, Chair
- KCS ADA Coordinator – Andy True, Asst. Superintendent
- David Austin, City Facilities Management
- Mike Billingsley, City Attorney and Risk Management
- Mike Burnette, Police Department
- Keith Bruner, Building Official
- Amy Deakins, Legal Department
- Kristie Leonard, Community Service Administration
- Angie Marshall, City Clerk
- Candace Sherer, Transit Authority
- Robert Sluss, Fire Department
- Judy Smith, Budget
- Michael Thompson, Asst. Public Works Director
- Rochelle Trent, ADA Representative
- Michelle Tolbert, Senior Center

ADA Transition Plan Implementation Official

In accordance with 28 CFR § 35.150(d)(3)(iv), City must identify an official responsible for implementation of the ADA Transition Plan.

The responsible party for City is:

City of Kingsport, City Manager
225 West Center Street
Kingsport, TN 37660
Phone No.: (423) 229-9400
Email: ADAContact@KingsportTN.gov

The responsible party for KCS is:

Kingsport City Schools, Superintendent
400 Clinchfield Street, Suite 200
Kingsport, TN 37660
Phone No.: (423) 378-2100
Email: info@K12K.com

MONITORING AND REPORTING PROGRESS

City intends to use the transition plan for yearly planning of projects and funding decisions. The ADA Coordinator, through city employees, will continue to be responsible for ensuring that the design and construction of city's projects are in compliance with ADA standards. In the coming months, City will develop procedures to track and report progress, which may include updating the implementation status of identified deficiencies, updating existing conditions to account for changes in facilities, and documenting any new areas of non-compliance.

The city's ADA transition plan is a "living document" that will be reviewed annually for compliance and validity.

FUNDING PLAN

City of Kingsport has appropriated $1,085,000.00 for ADA-related work for Fiscal Year (FY) 2019-2020 in various Capital Improvement Plans (CIP). This plan for funding all necessary work and improvements needs to be approved by the BMA on a yearly basis and the dollar amount is subject to change. The transition plan length is set at twenty-five (25) years for completion of all projects.

The Board of Education (BOE) has budgeted $114,983.00 for ADA-related work for FY 2019-2020. This plan for funding all necessary work and improvements needs to be approved through the yearly budget by the BOE. The transition plan length is set at twenty-five (25) years for completion of all projects.

FACILITIES FOR PUBLIC USE

Barrier Removal Priorities

Facilities use by the public were reviewed and ranked based on the following criteria. Each of these criteria is deemed by City to have equal importance with no single criteria having priority over another:

- Level of use by public: The level of public use.
- Program uniqueness: Some programs are unique to a building, facility, or park and cannot occur at another location.
- Geographic distribution: By selecting a range of facilities that are distributed throughout City, City can ensure maximum access for all residents.
- Citizen rights: Facilities where services are provided to exercise citizen rights– voting, right to a trial, access to elected officials, *etc*.
- Citizen responsibilities: Facilities where taxes are paid, permits and licenses are obtained, and where services are obtained.
- Social need: Facilities that meet social needs such as senior citizen centers, community centers, *etc.*
- Identified complaints: Identified accessibility complaints.

Transition Plan for Facilities

The transition plan for removal of architectural barriers for program access must contain following information:

- Identification of barriers to program access
- Identification of specific barrier removal action(s)
- Identification of a schedule for barrier removal
- Identification of responsibility for ensuring barrier removal

The facility reports appended to this document provide identification of barriers and specific barrier removal actions. City and KCS will accomplish barrier removals based on two strategies: policy and procedure modifications to remove program barriers and construction projects to remove architectural barriers.

The responsibility for ensuring barrier removal for City will reside with the city manager and for KCS the school superintendent.

Phasing Schedule for Facilities
Barriers in city facilities will be removed systematically, citywide, based upon barrier removal priorities and on immediate necessity of program access, and degree of complexity.

City reserves the right to modify barrier removal priorities in order to allow flexibility in accommodating community requests, petitions for reasonable modifications from individuals with disabilities, changes in city programs, and funding constraints. Interim measures will be explored and can be implemented in order to provide program access to the public pending implementation of physical barrier removal projects.

New Construction, Renovations, or Alterations on City-Owned Facilities
City will use the following process for all new construction, renovation of existing facilities, and alteration projects (city owned):

- The building official and project manager(s) are to ensure that all buildings conform to the technical requirements of Chapter 11 and A117.1 of 2018 International Building Code and Tennessee Public Buildings Accessibility Act for city-funded public projects. New construction, renovations, and alterations must comply with these standards.
- For the design and planning phase of any new construction project that requires a building permit, the building official or the project manager will receive drawing documents from the architect and then send them the project review team. The design architect will be required to sign an Accessibility Design Compliance Affidavit.[29]
- The contractor must schedule a pre-construction meeting with the building official to review all plans and specifications for construction, renovation, or alteration of any city facility that requires a building permit. No project will proceed to construction (*i.e.* be issued a building permit) without a completed and approved document review.
- The building official will inform the ADA Coordinator or designee that the pre-construction meeting has occurred and that construction is ready to commence.
- The project manager(s) will follow up with the contractor, as construction ensues, to review that all technical requirements are being followed, that construction is being completed according to approved

[29] A copy of the Accessibility Design Compliance Affidavit is attached as Appendix L.

plans, and to provide required accessibility. If the project manager(s) notice any accessibility issues with construction, the project manager(s) will follow-up with the design architect to correct deficiencies.

- The project manager(s) will inform the ADA Coordinator or designee, of any accessibility issues or any accessibility technical requirements missed, and of conversation with design architect regarding deficiencies.
- City reserves the right to revoke the building permit of the contractor if construction significantly varies from approved contract documents and approved plans.

PEDESTRIAN RIGHTS-OF-WAY – BARRIER REMOVAL PLAN

A transition plan, as it relates to the rights-of-way, must include, at a minimum, an assessment of existing sidewalks and a schedule for curb ramp installations where an existing pedestrian walkway crosses a curb or other barrier. Under Title II of ADA, City is not required to construct curb ramps at every point where a sidewalk intersects a curb. Traffic safety considerations may make construction of ramps at location necessitate the prohibition of pedestrian crossings.

New commercial and residential development projects must install sidewalks; curb ramps, and/or accessible pedestrian improvements, as required by law.

Period for Pedestrian Rights-of-Way Improvements

City has established a twenty-five (25) year period to remove pedestrian rights-of-way barriers that limit program accessibility. ADA Title II regulations state that if a transition plan will take more than one year to implement, it must contain interim steps that will be done to provide program accessibility.

The existing sidewalk grinding and wedging program is underway and is expected to be completed citywide by end of FY 2021. The work is prioritized based upon existing pedestrian usage.

The ramp replacement project is a longer-term project. The first priority, which is underway, is to get a year ahead of the paving program to ensure that curb cuts are complete prior to paving efforts. The second priority will then be to start in highest pedestrian usage areas.

Pedestrian Rights-of-Way Survey
To comply with Title II, City conducted a survey and inventory of sidewalks, streets, and curb ramps in areas of city with highest levels of pedestrian traffic to determine what recommendations and alterations might be necessary in order to meet current Proposed Accessibility Guidelines for Pedestrian Facilities in Public Rights-of-Way (PROWAG).[30] Most of the problems in the right-of-way concern physical barriers and can only be made accessible by a realistic and fundable strategy for curb ramp installation and sidewalk modifications.

Criteria for Prioritizing Pedestrian Rights-of-Way
Alternative routes to buildings that make use of existing curb ramps may be acceptable under the concept of program accessibility in limited circumstances where individuals with disabilities need only travel a marginally longer route.

In an effort to remove barriers to streets with public sidewalks and curb cuts, City has inventoried all public sidewalks and curb cuts through the Geographic Information System (GIS). As part of the 2016 citywide pavement evaluation process existing public sidewalks and curb ramps were inventoried. This process noted the locations of public sidewalks and curb ramps and rated them with a good, fair, or poor rating. Additionally, City ascertained use of truncated domes on public curb ramps. With this data, city employees reviewed locations of public sidewalks and curb ramps through Google® Street View images to verify locations of missing public curb ramps. The priorities for repairs, replacement, and installations are as follows:

- **Priority Level 1 (High Priority)**
    - Existing Sidewalks – grinding and wedging to reach compliance
    - Curb Cuts – installation of all missing curb cuts

- **Priority Level 2 (Medium Priority)**
    - Repair of existing curb cuts

- **Priority Level 3 (Low Priority)**
    - Sidewalk Panel Replacements

[30] Proposed Accessibility Guidelines for Pedestrian Facilities in Public Rights-of-Way

After evaluation of data provided in the pavement evaluation process, city employees concluded that additional information is needed to fully determine compliance issues. For example, the process did not measure cross-slope of existing sidewalks. City staff has initiated conversations with several vendors that provide sidewalk evaluations to supplement the existing data. This evaluation is expected to be completed within FY 2020.

Sidewalks and curb ramps constructed as part of a planned development and public sidewalks replaced by or for City shall be constructed in accordance with PROWAG published by United States Access Board (Access Board).

To continue reaching the goals of this Plan, City will utilize the following to prioritize its sidewalk and curb ramp program:

Public Sidewalks:

- Currently there is approximately 175 linear miles of public sidewalks within City.
- Approximately 65 miles of sidewalks have been reviewed since March 2016, and trip hazards have been ground down (small displacements) to reach compliance or a wedge of asphalt or polymer/cementous product has been installed (large displacements).
- Between March 2018, and March 2019, a total of 57 miles of public sidewalks have been reviewed and trip hazards have been mitigated.
- Based upon last year's production rate, it is estimated that the remainder of City will be reviewed and trip hazards mitigated over next two (2) years.
- This work is assigned by the geographic area of City with priority given to the areas with the highest pedestrian usage, such as downtown and near schools.

Prioritization of Public Sidewalks:

- Citizen requested repairs
- Grinding and wedging to mitigate trip hazards
- Reviewing all or sidewalk segments for any items of non-compliance through outside vendor
- Sidewalk panel replacements where temporary wedging was performed

Public Curb Ramps:

- Currently there are approximately 1,804 public curb ramps in City.

- The number of existing ramps with detectable truncated domes is 1,191 leaving 613 in need of retrofit.
- In addition to retrofit locations, 417 locations have been identified as needing a curb ramp installation.

Prioritization of Public Curb Ramps:

- Citizen requested installation of retrofits
- Installing 417 missing curb ramps
- Retrofitting remaining ramps
- Reviewing all or ramps for any items of non-compliance by an outside vendor

The public works department receives and evaluates requests from a variety of sources for public sidewalk repairs on an ongoing basis. If warranted, public works undertakes repairs. A computerized database is kept of locations that may warrant more extensive long-term repairs based on available funding. The public works department coordinates accessibility improvements on its CIP projects and constructs ramps from a prioritized list.

SECTION 5.0

ADA COMPLAINT PROCEDURE AND OTHER ADA PROCEDURES

City has designated Human Resources Director, George DeCroes, as its primary ADA Coordinator. Kingsport City Schools has designated Assistant Superintendent, Andy True, as its primary ADA Coordinator.

The ADA Coordinator is responsible for coordinating the efforts of City and KCS respectively to comply with Title II and for investigating any complaints. The ADA Coordinator is also responsible for coordinating the efforts of City or KCS to comply with all other applicable state and federal physical and program accessibility requirements.

Below is outlined the current grievance procedure for City. The remaining ADA procedures are attached as an appendix.[31]

All complaints or grievances submitted to City must be in writing on the designated form and contain specific information about the alleged violation or discrimination including:

- name;
- address;
- telephone number of complainant; and
- location, date, and a complete description of problem.

Alternative means of filing complaints or grievances[32] may be accepted at the discretion of the ADA Coordinator. These may be submitted by telephone, e-mail, letter, personal interview, or tape recording, upon request.

Complaints/grievances must be submitted by complainant or his/her designee to the ADA Coordinator at the information below. Complaints/grievances should be submitted as soon as possible, but no later than ninety (90) calendar days, after the date of the alleged violation or discriminatory act.

The complaint/grievance must be submitted in writing to:[33]

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[31] *See* Appendix M for remaining ADA Procedures.

[32] *See* Appendix N for City's current grievance procedure.

[33] KCS is utilizing City forms for their grievance procedure, but the forms will be submitted by mail or email to Mr. True. If the form is submitted by the website, the webmaster will forward to the appropriate ADA Coordinator.

(City)

George DeCroes, ADA Coordinator
City of Kingsport
301 Louis Street, Suite 300
Kingsport, TN 37660
Phone No.: (423) 229-9401, ext. 5
Web Address:
https://www.kingsporttn.gov/government/ada-compliance/
Email: ADAContact@KingsportTN.gov

(KCS)

Andy True, ADA Coordinator
Kingsport City Schools
400 Clinchfield Street, Suite 200
Kingsport, TN 37660
Phone No.: (423) 378-2130
Web Address:
https://www.kingsporttn.gov/government/ada-compliance/
Email: atrue@k12k.com

- For all other complaints or grievances, the ADA Coordinator, or designee, will contact the complainant if contact information is available, to discuss same within fifteen (15) business days after receipt.

- Within thirty (30) calendar days of this contact, the ADA Coordinator will respond in writing and, where appropriate, in an alternative format accessible to complainant.

- The response will explain the position of City or KCS and offer options for substantive and reasonable resolution of the complaint or grievance.

- If the response by the ADA Coordinator does not satisfactorily resolve the issue, the decision may be appealed to City Manager or KCS

Superintendent[34] within thirty (30) calendar days following receipt of response.

- Within ten (10) business days after receipt of an appeal, City Manager, or designee, or KCS Superintendent, or designee, will contact complainant to discuss complaint or grievance and possible resolutions.

- Within fifteen (15) business days of this contact, City Manager, or designee, or KCS Superintendent, or designee, will respond in writing and, where appropriate, in a reasonable format accessible to complainant, with a final resolution of complaint or grievance.

- Every reasonable attempt will be made by City to resolve disability complaints or grievances in a timely manner, subject to staff and budget constraints.

[34] A City complaint appeal would go to the City Manager and a KCS complaint would go to the Superintendent.

SECTION 6.0

Program Accessibility Guidelines, Standards, and Resources

In order to facilitate access to all city programs and departments or divisions, City will maintain these program accessibility guidelines, standards and resources. This information is available to all employees and volunteers. City will add to these guidelines when necessary to address its needs and include information and technological devices that help staff and volunteers communicate with individuals with a variety of disabilities. City will periodically review components of this section.

American Sign Language Interpreters

City is in the process of acquiring an interpreting service. This service will include ASL and other languages. This service will have qualified interpreters who can speak over the phone or utilize VRI. It is the goal of City to have this service in place by end of 2019.

Assistive Listening Systems and Devices

City is looking at various assistive listening systems and devices for use for public meetings and programs. The ADA Coordinator will discuss options with various department heads for input and then work with purchasing department to procure item. It is the intent of City to have these devices by end of 2019.

Closed Caption Machine

City currently does not store any videos on its website. City is considering utilizing YouTube's closed captioning service. City expects this research will take a while to complete as it involves various federal agencies and captioning services. It is the goal of City to attempt to have captioning available by the end of 2020.

Optical Readers

City is looking at various optical readers for use for public meetings and programs. ADA Coordinator will discuss options with various department heads for input then work with purchasing department to procure item. It is the goal of City to have these devices by end of 2019.

Text Telephone (TDD/TTY)

According to guidelines from the FCC and the DOJ, organizations are no longer required to maintain an analog TTY/TDD device, as such services are available on smart phones, computers, and tablets.

Also under these rules, real-time text allows characters to be sent as they are created without hitting "send." This allows text to be sent at the same time as voice communications, permitting a more conversation-friendly service. In addition, by not requiring users to hit "send," 911 call center personnel will be able to receive even incomplete messages from individuals in need. Real-time text enables full integration of individuals with disabilities into IP communications networks as they become widely available. It allows consumers using text communications to interact directly with consumers on voice phones, and vice versa.

This technology will also be able to function in off-the-shelf devices like common smartphones. This will eliminate need for consumers with disabilities to purchase expensive and often hard-to-find specialized text devices.

It is the intent of City to utilize the Tennessee Relay System (711) as the TTY phone number. City is researching the option of installing an IP relay system in the future as it becomes more cost effective.

Transportation

Programs that provide transportation should provide accessible transportation as needed/requested by program participants. City will continue to maintain its accessible transportation fleet. City will purchase or contract lift-equipped vans or buses to transport individuals who use wheelchairs and use city-provided transportation.

Enlarging Printed Materials

A copy machine capable of enlarging printed materials is available for city employees. The ADA Coordinator will work with each department head to confirm that all employees have access to these copiers.

Guide to Disabilities and Disability Etiquette

A guide to disabilities and disability etiquette is available on the city's website.[35] The ADA Coordinator will work with City's and KCS Administration to disseminate this information to all employees.

Lending Library of Assistive Technology Equipment

City will establish a "Resources Toolkit" of adaptive and assistive aids and resources that will be available for use by staff and volunteers. Once the adaptive and assistive aids have been purchased, they will be kept in the

[35] https://www.kingsporttn.gov/wp-content/uploads/2017-02-21-Staff-Tookit.pdf

Legal Department with the ADA Coordinator Designee and a check out method will be designated.

SECTION 7.0
RESOURCES USED IN WRITING OF PLAN

FEDERAL ACCESSIBILITY STANDARDS AND REGULATIONS

United States Department of Justice
The U.S. Department of Justice provides many free ADA materials including Americans with Disability Act (ADA) text. Printed materials may be ordered by calling the ADA Information Line [(800) 514-0301 (Voice) or (800) 514-0383 (TTY)]. Publications are available in standard print as well as large print, audiotape, Braille, and computer disk for individuals with disabilities. Documents, including the following publications, can also be downloaded from Department of Justice website (http://www.ada.gov/).

- *ADA Regulation for Title II*. This publication describes Title II of Americans with Disabilities Act, Pub. L. 101-336, which prohibits discrimination on basis of disability by public entities. Title II of the ADA protects qualified individuals with disabilities from discrimination on basis of disability in services, programs, or activities of all state and local governments. Title II and its regulations adopts general prohibitions of discrimination established under Section 504, as well as requirements for making programs accessible to individuals with disabilities and for providing equally effective communications. It also sets forth standards for what constitutes discrimination on basis of mental or physical disability, provides a definition of disability and qualified individual with a disability, and establishes a complaint mechanism for resolving allegations of discrimination.
- *Title II Technical Assistance Manual (1993) and Yearly Supplements*. This fifty-six (56) page manual explains in lay terms what state and local governments must do to ensure that their services, programs, and activities are provided to public in a nondiscriminatory manner. Many examples are provided for practical guidance.
- *Accessibility of State and Local Government Websites to People with Disabilities*. This is a 5-page publication providing guidance on making state and local government websites accessible.
- *ADA Information for Law Enforcement*. This page contains compliance assistance materials to help state and local law enforcement officers understand how to interact with victims, witnesses, suspects, and others who have disabilities.

United States Access Board Publications
The full texts of federal laws and regulations that provide guidelines for design of accessible facilities and programs are available from U.S. Access Board. Single copies of publications are available free and can be downloaded or ordered by completing a form available on Access Board's website (http://www.access-board.gov/). In addition to regular print, publications are available in large print, disk, audiocassette, and braille.

Federal Emergency Management Agency (FEMA) and the United States Fire Administration (USFA)
Emergency Procedures for Employees with Disabilities in Office Occupancies. This twenty-six (26) page guide provides guidelines for developing evacuation procedures for individuals with disabilities in an office setting.

Communications and IT
Access to information and communication technology (ICT) is addressed by Board standards and guidelines issued under Section 508 of Rehabilitation Act and Section 255 of Telecommunications Act.

- *Section 508 Standards*: http://www.access-board.gov/guidelines-andstandards/communications-and-it/about--section-508-standards
- *Refresh of Section 508 Standards and Telecommunications Act Guidelines*: http://www.access-board.gov/guidelines-andstandards/communications-and-it/about--ict-refresh
- *Telecommunications Act Accessibility Guidelines* : http://www.accessboard.gov/guidelines-and-standards/communications-and-it/about-telecommunications-act-guidelines

Buildings and Sites
Standards issued under the ADA address access to buildings and sites nationwide in new construction and alterations.

- *2010 ADA Standards for Accessible Design*: This document contains scoping and technical requirements for accessibility to buildings and facilities by individuals with disabilities under the ADA. These scoping and technical requirements are to be applied during design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA to the extent required by regulations issued by

federal agencies, including the Department of Justice and Department of Transportation.

- *2010 ADA Standards*: http://www.access-board.gov/guidelines-andstandards/buildings-and-sites/about--ada-standards

Recreation Facilities

Access to recreation facilities, including play areas, swimming pools, sports facilities, fishing piers, boating facilities, golf courses, and amusement rides, is addressed in the ADA standards. Provisions cover access to trails, picnic and camping sites, and beach access routes for federal agencies may soon be adopted for state and local agencies and places of public accommodation.

- Recreation Facilities: http://www.access-board.gov/guidelines-andstandards/recreation-facilities/about-recreation-facilities
- Outdoor Developed Areas: http://www.access-board.gov/guidelinesand-standards/recreation-facilities/outdoor-developed-areas

Streets and Sidewalks

Guidelines developed by the U.S. Access Board cover access to public rights-of-way, including sidewalks, intersections, street crossings, and on-street parking. Board is also addressing access to shared use paths providing off-road means of transportation and recreation.

- PROWAG: http://www.access-board.gov/guidelines-andstandards/streets-sidewalks/public-rights-of-way

Transportation

Guidelines issued under ADA address access to public transportation facilities and vehicles.

- Transportation Facilities: http://www.access-board.gov/guidelinesand-standards/transportation/facilities/about--ada-standards-fortransportation-facilities
- Transportation Vehicles: http://www.access-board.gov/guidelines-andstandards/transportation/vehicles/about-adaag-for-transportationvehicles

The Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) defines the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways,

and private roads open to public travel. The MUTCD is published by the Federal Highway Administration (FHWA) under 23 CFR § 655.601 *et seq*. [36] States must adopt the 2009 National MUTCD as their legal State standard for traffic control devices within two years from the effective date.

- The FHWA regulates and enforces requirements of the MUTCD covering traffic devices on all public streets. FHWA maintains a technical assistance using the Peer-to-Peer Program with an online discussion group or by contacting the MUTCD Team. Email for Peer-to-Peer: MUTCDP2P@dot.gov or Toll Free: (866) P2P-FHWA or for the MUTCD Team, the website: https://mutcd.fhwa.dot.gov/team.htm that lists all contacts and mailing addresses.

[36] 23 CFR § 655.601 *et seq.*

CITY OF KINGSPORT

ADA SELF-EVALUATION AND TRANSITION PLAN UPDATE

APPENDICES

APPENDIX A

ORDINANCE NO. 6741

ADOPTING THE INTERNATIONAL BUILDING CODE

APPENDIX B

PUBLICATION CERTIFICATE
FOR
PUBLIC ACCESS SURVEY

APPENDIX C

RESPONSES TO ADA PUBLIC ACCESS SURVEY

APPENDIX D

PROGRAM ACCESSIBILITY QUESTIONNAIRE

APPENDIX E

RESPONSES TO PROGRAM ACCESSIBILITY QUESTIONNAIRE

APPENDIX F

PUBLICATION CERTIFICATE
FOR
CITIZEN REVIEW SURVEY

APPENDIX G

CITIZEN REVIEW SURVEY

APPENDIX H

COMMENTS ON CITIZEN REVIEW SURVEY

APPENDIX I

SERVICE ANIMAL POLICY

APPENDIX J

FACILITY REPORTS – CITY OF KINGSPORT

APPENDIX K

REVIEW OF FACILITIES – KINGSPORT CITY SCHOOLS

APPENDIX L

ACCESSIBILITY DESIGN COMPLIANCE AFFIDAVIT

APPENDIX M

REMAINING ADA PROCEDURES – CITY OF KINGSPORT

APPENDIX N

GRIEVANCE PROCEDURE – CITY OF KINGSPORT

EXHIBIT

B

TN TDOT Department of Transportation

ADA Self Certification

This is to certify that I am an official authorized to act behalf of the Agency shown below. It is to further certify that our agency met all requirements of ADA Self-Evaluation and Transition Plan attributes to ensure compliance with Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973.

Certified by

Patrick W. Shull — Mayor

Name — Title — Signature — Date

City of Kingsport, Tennessee

Agency Name

225 West Center Street

Street

Kingsport — Sullivan — 37660

City — County — Zip Code

Official in charge of implementing Transition Plan

Chris McCartt — City Manager

Name — Title

(423) 229-9372 — ChrisMcCartt@KingsportTN.gov

Phone Number — E-mail Address

ADA Coordinator

George DeCroes — ADA Coordinator

Name — Title

(423) 229-9401 ext. 5 — ADAContact@KingsportTN.gov

Phone Number — E-mail Address

ADA Grievance Procedure

The ADA Grievance Procedure is published at (web address, public notices, etc.)

https://www.kingsporttn.gov/government/ada-compliance/

Please provide a digital file, web link or hard copy of your agencies completed ADA Transition plan to
TDOT, Long Range Planning Division, Office of Community Transportation
James K. Polk Building, Suite 900, 505 Deaderick Street, Nashville TN 37243

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Amend Agreement with Barge Design Solutions for Main Street Redevelopment Project

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-233-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: Michael Thompson
Presentation By: Ryan McReynolds

Recommendation:
Approve the Resolution.

Executive Summary:
On January 17, 2017 the BMA approved an Agreement with Barge, Waggoner, Sumner & Cannon (BWSC) for professional design services associated with the Main Street Redevelopment project (AF-10-2017). This project consists of resurfacing, curb and sidewalk imrprovements, utility upgrades, additions of bulbouts, ADA enhancements, removal of rail sidings, and specific areas of subgrade repair and rebuild.

During the process of the conceptual plan for Main Street, necessary improvements to the Sullivan Street intersection were identified. Additional boundary and topographic survey information is necessary for this intersection, and is essential for tie-in of the overall redevelopment area. It is recommended to amend the Agreement with Barge Design Solutions (formerly BWSC) for additional survey and design services for improvements to the Sullivan Street intersection. The additional services are reflected in the proposed Scope of Work in an amount not to exceed $32,800.00.

Funding is available and identified in GP1516.

Attachments:
1. Resolution
2. Barge Design Solutions Proposal

Funding source appropriate and funds are available: JP

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT THE AGREEMENT WITH BARGE DESIGN SOLUTIONS (FORMERLY BARGE, WAGGONER, SUMNER & CANNON) FOR PROFESSIONAL SERVICES FOR THE MAIN STREET REDEVELOPMENT PROJECT; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, in January, 2017, the board approved a resolution authorizing the mayor to sign an agreement with Barge, Waggoner, Sumner & Cannon for professional design services associated with the Main Street Redevelopment Project; and

WHEREAS, during the process of the conceptual plan for Main Street, necessary improvements to the Sullivan Street intersection were identified, requiring additional boundary and topographic survey information necessary for this intersection, and essential for the tie-in of the overall redevelopment area; and

WHEREAS, with Barge, Waggoner, Sumner & Cannon has changed its name to Barge Design Solutions; and

WHEREAS, staff recommends to amend the Agreement with Barge Design Solutions (formerly BWSC) for additional survey and design services for improvements to the Sullivan Street intersection; and

WHEREAS, the additional services are in an amount not to exceed $32,800.00, and funding is available and identified in GP1516.

Now therefore,

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

SECTION I. That an amendment to the agreement with Barge Design Solutions (formerly Barge, Waggoner, Sumner & Cannon) 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 to the agreement Barge Design Solutions (formerly Barge, Waggoner, Sumner & Cannon) and all other documents necessary and proper to effectuate the purpose of the agreement 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 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 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 5th day of November, 2019.

_____
PATRICK W. SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

BARGE

September 26, 2019

Mr. Michael Thompson
Assistant Public Works Director
City of Kingsport
225 W. Center Street
Kingsport, TN 37660

RE: Additional Survey and Design Services
Main Street Redevelopment Project

Dear Mr. Thompson:

During the development of the conceptual plan for Main Street, the City has indicated a need for a major improvement to the overall intersection at Sullivan Street. The design of this feature was not included in the original fee proposal, and additional boundary and topographic survey information is necessary to provide proper design and tie-in along Sullivan Street. Below is our proposal for the additional survey, analysis and design services.

SCOPE OF WORK
BWSC proposes the following Scope of Services

Task 1 – Survey
BWSC will provide topographic survey for design purposes of the subject intersection including right-of-way, utilities, and identification of adjacent property owners and easements.

Task 2 – Analysis
BWSC will perform analyses at the intersection to fully evaluate and identify deficiencies and potential improvements. This review will include analysis of existing operations including capacity analysis of each entering and exiting approach as well as field observations. Traffic counts and crash data will be provided by City staff will be utilized and evaluated in this analysis. Safety will be assessed in conjunction with potential geometric design modifications as well as pavement marking and signing alterations. Potential modifications will be identified with cost estimates prepared for each improvement. A traffic engineering report will be prepared documenting the findings of this analysis.

Task 3 – Design
BWSC will coordinate with City staff throughout the analysis and design phase. Based on the analysis performed in Task 2, modifications and adjustments to the intersection will be identified for design. BWSC will provide design documents suitable for bidding for the proposed improvements agreed upon for implementation by City staff. These designs will be based on current City and State standards as well as current best practices. This will include design of proposed roadway and traffic control improvements, including necessary storm drainage and utility relocations (overhead utility relocations designed by others, but included in the project set).

ROW and Final Design Phase documents will be prepared. Digital prints will be provided to the City for each phase for review. This scope and fee assumes one review cycle and plan revision for each phase and that reviews will be by City staff.

COMPENSATION

FOUR SHERIDAN SQUARE | SUITE 100 | KINGSPORT | TENNESSEE | 37660 | 423-247-5525 BARGEDESIGN.COM

Compensation for the services described is as follows:

Task	Description	Fee Type	Fee
1	Survey		$2,800.0
2	Analysis & Design		$30,000.00
TOTAL		**Not To Exceed**	**$32,800.00**

Please let me know if you have any questions regarding the proposal for additional services.

Sincerely,

Barge Design Solutions, Inc.

Jennifer A. Salyer
Project Manager

c: Nelson Elam, Barge Design Solutions

Barge project # 36455-00

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Agreement with the Treasury Department of the State of Tennessee Establishing a LGIP Account for the Island Road Improvements Project

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-238-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: M. Thompson/T. Elsea
Presentation By: Ryan McReynolds

Recommendation:
Approve the Resolution

Executive Summary:
On May 21, 2019 the BMA approved an Agreement with TDOT for the Island Road Improvements Project (AF-97-2019). 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).

It is requested to enter into an agreement with the Treasury Department establishing the LGIP account for depositing the city's portion of costs associated with consultant services for this project. Funding is identified and available in GP1926.

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

Attachments:
1. Resolution
2. Agreement
3. Location Map

Funding source appropriate and funds are available: JC

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH THE TREASURY DEPARTMENT OF THE STATE OF TENNESSEE AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, in early 2019, the city entered into an agreement with the Tennessee Department of Transportation (TDOT) for the Island Road Improvement Project; and

WHEREAS, the project costs are in the amount of $3,500,000.00, which is funded with 80% federal funds and a 20% local match of $700,000.00; and

WHEREAS, the city would like to enter into an agreement with the Treasury Department of Treasury through the Tennessee Department of Transportation to establish a Local Government Investment Pool Fund (LGIP) to hold the local match and pay the city's costs associated with consultant services for this project; and

WHEREAS, funds are available in account GP1926.

Now therefore,

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

SECTION I. That an agreement with the Treasury Department of the State of Tennessee establishing a Local Government Investment Pool Fund (LGIP) 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 the Treasury Department of the State of Tennessee establishing a Local Government Investment Pool Fund (LGIP) 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:

CONTRACT

THIS AGREEMENT, made and entered into this ___ day of _____, 20__, by and between **THE TREASURY DEPARTMENT OF THE STATE OF TENNESSEE,** hereinafter referred to as the "Treasury", and- _____. Tennessee, hereinafter referred to as the "Local Agency".

W I T N E S S E T H:

WHEREAS, the State of Tennessee, acting through the Department of Transportation, entered into a contract with the_____. hereinafter called "Local Agency", on the _____ day of ,20__, relative to providing for implementation of_____.

WHEREAS, said agreement provides that the Local Agency may deposit its pro rata share of the estimated cost of the project with the Treasury for temporary investment as an alternative to furnishing the Department with said share, and the Local Agency has elected to use said alternate; and

WHEREAS, the Local Agency has made application to participate in the Local Government Investment Pool which has been accepted by the Treasury and has deposited its pro rata share of the estimated cost of the project by immediate credit transfer and advised The Treasury thereof and identified the account to which said deposit should he credited.

NOW THEREFORE, in consideration of the premises, the Treasury and the Local Agency agree as follows:

The Local Agency hereby authorizes Treasury to transfer from its Local Government Investment Pool Account (LGIP Account) relative to the above- identified project, to the account of the Department of Transportation, such amounts as said Department may request from time to time by written instructions from its finance Director without liability.

The Local Agency understands that no funds in its LGIP account shall be subject to withdrawal until the project is completed and the actual pro rata share of cost is determined. On completion, any surplus will be returned to the Local Agency pursuant to written instructions of said Department with an accounting of transfers made.

The Treasury will credit interest to the account which will be added to the principal and will become part of the surplus, if any, for disposition by said Department at the completion of the project. LGIP account statements will be sent to the Local Agency and said Department monthly. There will be an administrative fee charged to the Local Agency for the LGIP account at the same rate as other LGIP accounts are charged.

It is understood by the parties that the Treasury shall be responsible for the investment of aforesaid sum in accordance with the terms and conditions of the administration of the pool.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized officials as of the date 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 5th day of November, 2019.

_____

PATRICK W. SHULL, MAYOR

ATTEST:

_____

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

CONTRACT

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between **THE TREASURY DEPARTMENT OF THE STATE OF TENNESSEE**, hereinafter referred to as the "Treasury", and _____, Tennessee, hereinafter referred to as the "Local Agency".

WITNESSETH:

WHEREAS, the State of Tennessee, acting through the Department of Transportation, entered into a contract with the _____, hereinafter called "Local Agency", on the _____ day of _____,20____, relative to providing for implementation of _____

_____;

WHEREAS, said agreement provides that the Local Agency may deposit its pro rata share of the estimated cost of the project with the Treasury for temporary investment as an alternative to furnishing the Department with said share, and the Local Agency has elected to use said alternate; and

WHEREAS, the Local Agency has made application to participate in the Local Government Investment Pool which has been accepted by the Treasury and has deposited its pro rata share of the estimated cost of the project by immediate credit transfer and advised the Treasury thereof and identified the account to which said deposit should be credited.

NOW THEREFORE, in consideration of the premises, the Treasury and the Local Agency agree as follows:

The Local Agency hereby authorizes Treasury to transfer from its Local Government Investment Pool Account (LGIP Account) relative to the above- identified project, to the account of the Department of Transportation, such amounts as said Department may request from time to time by written instructions from its Finance Director, without liability.

The Local Agency understands that no funds in its LGIP account shall be subject to withdrawal until the project is completed and the actual pro rata share of cost is determined. On completion, any surplus will be returned to the Local Agency pursuant to written instructions of said Department with an accounting of transfers made.

The Treasury will credit interest to the account which will be added to the principal and will become part of the surplus, if any, for disposition by said Department at the completion of the project. LGIP account statements will be sent to the Local Agency and said Department monthly. There will be an administrative fee charged to the Local Agency for the LGIP account at the same rate as other LGIP accounts are charged.

It is understood by the parties that the Treasury shall be responsible for the investment of aforesaid sum in accordance with the terms and conditions of the administration of the pool.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized officials as of the date above written.

STATE OF TENNESSEE
TREASURY DEPARTMENT

By: _____

NAME OF OFFICIAL WHOSE
SIGNATURE APPEARS BELOW

_____
(Type or Print)

TITLE: _____

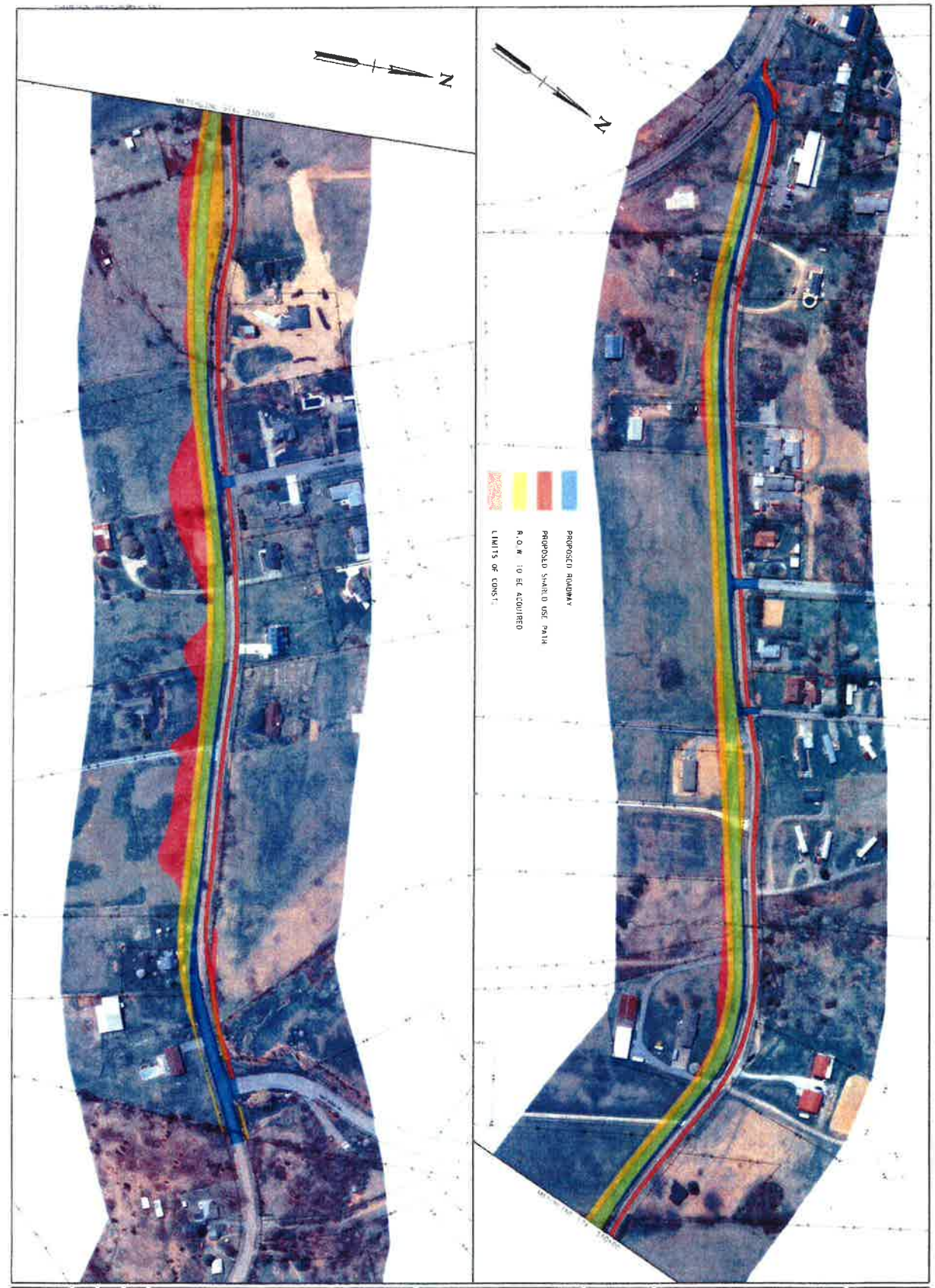
ADDRESS: _____

_____

TELEPHONE NO: _____

COUNTY OF: _____

SIGNATURE
OF OFFICIAL: _____



CITY OF KINGSPORT - ISLAND ROAD

PROPOSED LAYOUT

ALTERNATE 3

KINGSPORT, TN

Mattern & Craig
CONSULTING ENGINEERS • SURVEYORS
829 CLAY STREET
KINGSPORT, TENNESSEE 37660
(423) 246-9510
FAX (423) 246-5833

Sheet No. 3

Contract Number 3238

Revision No. 02

Revised Date

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Approving the Donation of City-Owned Property Located on Gibson Mill Road to Sullivan County Government to Construct a New EMS Station

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-246-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: M. Billingsley, S. Cox, C. McCartt
Presentation By: Chris McCartt

Recommendation:
Approve the Resolution.

Executive Summary:
Sullivan County Government has made a formal request to the City to donate certain City-owned property located on Gibson Mill Road near the round-about and strategically located near the intersection of West Stone Drive. Sullivan County will build a new EMS Station to serve City residents and the greater Kingsport area.

The 1.336 acre lot identified as map/group/parcel 046B G 012.00, Deed Book 147A, Page 80, was appraised in 2014 with an estimated market value of $165,000 per acre, or approximately $220,440.

As stipulated in the Resolution, the property is to be used for the construction and operation of an EMS station, owned and operated by Sullivan County, with the understanding that if property ceases to be used accordingly, the property and improvements would revert back to the City.

A location map, copy of the site plat, appraisal report, rendering and floor plan of the new EMS Station, is attached.

Attachments:
1. Resolution
2. Sullivan County Letter of Request
3. Location Map
4. Site Plan
5. Appraisal Report
6. Rendering & Floor Plan – EMS Station
7. Planning Commission Minutes

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. ____

A RESOLUTION AUTHORIZING DONATION OF APPROXIMATELY 1.336 ACRES OF REAL PROPERTY LOCATED ON GIBSON MILL ROAD TO SULLIVAN COUNTY TO CONSTRUCT A NEW EMS STATION AND AUTHORIZING THE MAYOR TO EXECUTE AN APPROPRIATE DEED AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO CONVEY THE PROPERTY TO SULLIVAN COUNTY

WHEREAS, Sullivan County has requested that the city donate approximately 1.336 acres of property located on Gibson Mill Road to Sullivan County to be used to construct a new EMS station to serve city residents and the greater Kingsport area which will be operated by Sullivan County; and

WHEREAS, on October 28, 2019, the Kingsport Regional Planning Commission declared as surplus the 1.336 acres of property described herein located on Gibson Mill Road; and

WHEREAS, if the property ceases to be used as a county owned and operated EMS station, the property will revert back to the city; and

WHEREAS, the appraised value of the property is approximately $220,440.00; and

WHEREAS, the board finds that the donation is for a public purpose and will promote the health, comfort, and prosperity of the inhabitants of the city.

Now therefore,

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

SECTION I. That the board of mayor and aldermen, pursuant to the findings set forth above, and subject to the restrictions contained in the deed, hereby donates to Sullivan County 1.336 acres of real property located on Gibson Mill Road Kingsport, Tennessee.

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, a Quitclaim Deed and all other documents necessary and proper to convey the real property set out below to Sullivan County:

QUITCLAIM DEED

THIS QUITCLAIM DEED, made and entered into this the ___ day of _____ , 2019, by and between the CITY OF KINGSPORT, TENNESSEE, a municipal corporation, Grantor, and SULLIVAN COUNTY, Grantee.

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and subject to the automatic reverter hereinafter set out, and the easements shown on the "Final Plat, Remaining Portion of City of Kingsport Property Deed Book 147A, Page 80, David L. Barr, Surveyor, Tennessee No. 1614, and recorded in Plat Book P56, Page 531, in the Register's Office for Sullivan County, Tennessee, at Blountville,

Grantor, does hereby convey, remise, release and quitclaim unto Grantee, its successors and assigns, Grantor's right, title and interest in and to a certain tract of land in Sullivan County, Tennessee, described as follows, to wit:

Situate, lying and being in the City of Kingsport, Eleventh (11th) Civil District of Sullivan County, Tennessee:

> Being property shown as 1.336 acres, more or less, as shown on a Plat titled "Remaining Portion of City of Kingsport Property Deed Book 147A, Page 80" and recorded in Plat Book P56, Page 531 in the Register of Deeds for Sullivan County, Tennessee, at Blountville.
>
> Being the same property conveyed to Bobbie Phillips by quitclaim deed of 2TNCANES, a Tennessee general partnership, and recorded in Book 3350, Page 1161 in the Register of Deeds for Sullivan County, Tennessee, at Blountville.

Part of Tax Map 046B, Group G, Parcel 012.00

This conveyance is made subject to an automatic reverter, and it is expressly understood by Grantee that should the property cease to be owned by the Grantee or used directly by the Grantee for its emergency medical services, then title and possession of said property shall automatically revert to the Grantor, demand for possession of the same being expressly waived.

This conveyance is also made subject to the easements shown on the "Final Plat, Remaining Portion of City of Kingsport Property Deed Book 147A, Page 80", David L. Barr, Surveyor, Tennessee No. 1614, and recorded in Plat Book P56, Page 531, in the Register's Office for Sullivan County, Tennessee, at Blountville, and is also made subject to all covenants, conditions, restrictions, reservations contained in former deeds and other instruments of record applicable to the said property.

THE PROPERTY IS CONVEYED BY THE GRANTOR TO THE GRANTEE WHERE IS AND AS IS.

The preparer of this instrument makes no representations to the status of the title or any matters that may be discovered upon the completion of the title examination.

IN WITNESS WHEREOF, Grantor hereunto signs its name and affixes its seal on the day and year first above written.

SECTION III. 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, an appropriate Quitclaim Deed and all other documents necessary and proper to convey the real property described in Section I hereinabove to Sullivan County, subject to the conditions and terms herein set out.

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

ADOPTED this the 5th day of November, 2019.

_____

PATRICK W. SHULL, MAYOR

ATTEST:

_____

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Sullivan County

Office of the County Mayor

Richard S. Venable
County Mayor

October 18, 2019

Mr. Chris McCartt, City Manager
City of Kingsport
225 W Center Street
Kingsport, TN 37660

Dear Mr. McCartt,

This letter is to formally request the City of Kingsport to donate the city owned property located on Gibson Mill Road to Sullivan County so that Sullivan County may proceed in establishing an E.M.S. Station to better serve the citizens of that area.

Sincerely,

Richard S. Venable

Richard S. Venable
Sullivan County Mayor

Sullivan County Courthouse · 3411 Highway 126, Suite 206 · Blountville, Tennessee 37617
423-323-6417 · Fax 423-279-2897

The Sullivan County Emergency Medical Services is responsible for the provision of EMS throughout Sullivan County (excluding Bristol, TN.) This responsibility is met with paramedic staffed ambulances; advanced skilled paramedics, i.e. critical care paramedics, ventilator paramedics, and paramedicine medics. Management consists of Medical Director, Ken Turner, M.D., EMS leadership, professional development staff, and administrative support staff.

Sullivan County EMS system responded to about **29,000** requests for service in 2018.

Sullivan County EMS will mark **50 years** of service in 2020.

Sullivan County EMS is a data-driven service and regularly participates in quality comparisons; our medical community is actively involved to determine a multitude of strategic approaches to emergency medical care.

Among the system's major achievements has been a nationally recognized cardiac arrest save rate **Gold Plus Award**, four-time recipient **Mission Lifeline Award** for care of heart attack victims, and three-time recipient **Star of Life Award**. Sullivan County EMS will have the first community paramedic program in the State.

EMS Station current/future locations:

- Hickory Tree
- River Road (Volunteer Parkway) (**New**)
- Blountville
- Colonial Heights (Fire Station Six)
- Wilcox & Sullivan **(New)**
- John B. Dennis (Indian Path Campus)
- Gibson Mill (West Stone Drive) **(New)**
- Wilcox Court **(New)**

Mission: To provide medical care for the public through a motivated and compassionate workforce.

Special event coverage:

- Fun Fest
- City school athletics
- City School Safety Committee
- Kingsport Area Safety Council
- Other special events

Class "A" Licensure by Tennessee Dept. Of Health

Fleet – 21 Units

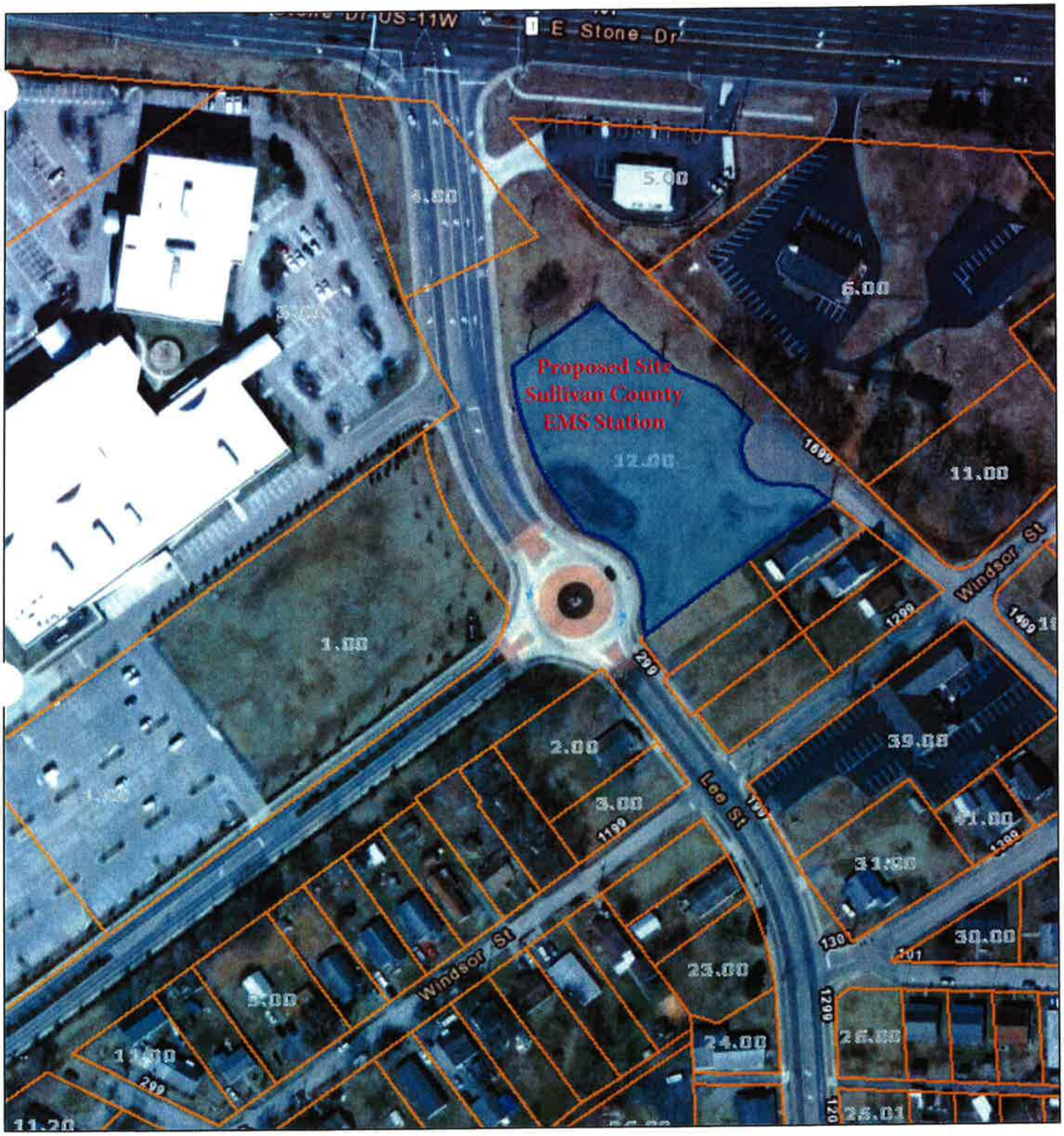
Responds to ~29,000 calls per

3% of EMS responses require immediate lifesaving paramedic interventions

132 Employees

47% EMS responses required paramedic assessment.

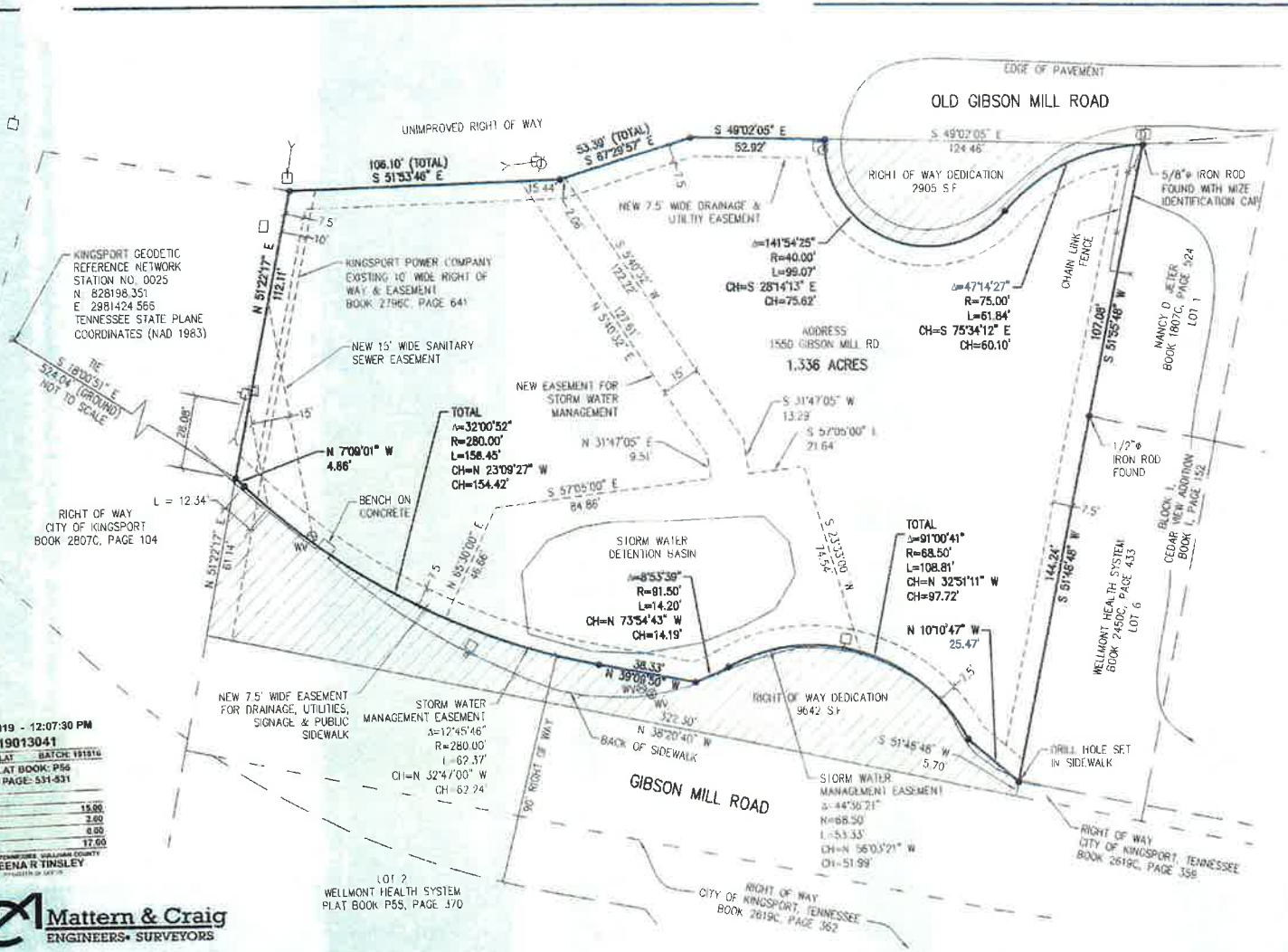
Sullivan County - Parcel: 046B G 012.00

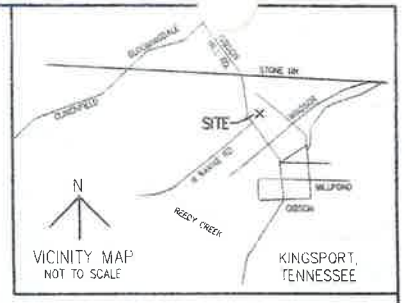


Date: October 18, 2019
County: Sullivan
Owner: KINGSPORT CITY OF
Address: GIBSON MILL RD
Parcel Number: 046B G 012.00
Deeded Acreage: 0
Calculated Acreage: 1.7
Date of Imagery: 2015

Esri, HERE, Garmin, (c) OpenStreetMap contributors
TN Comptroller - OLG
TDOT
State of Tennessee, Comptroller of the Treasury, Office of Local Government (OLG)

The property lines are compiled from information maintained by your local county Assessor's office but are not conclusive evidence of property ownership in any court of law.





STATE PLANE GRID NORTH (NAD83)

FLOOD CERTIFICATION
THIS IS TO CERTIFY THAT I HAVE CONSULTED THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP AND FOUND THE SUBJECT PROPERTY TO BE CLEARED IN UNSHADED ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN)

FIRM MAP # 47163C0045D
SULLIVAN COUNTY, TENNESSEE AND INCORPORATED AREAS
EFFECTIVE DATE SEPTEMBER 29, 2006

ZONING:
SETBACKS TO CONFORM WITH ALL CURRENT APPLICABLE ZONING RESTRICTIONS

PROPERTY IS CURRENTLY ZONED CITY OF KINGSPORT R1B
SETBACKS 30' FRONT, 8' SIDE, 30' REAR

MONUMENTATION
ALL CORNERS ARE MARKED AS SHOWN

RECORDING DATA
PROPERTY RECORDED AT BOOK 147A, PAGE 80
AND IS SHOWN ON TAX MAP 46B, GROUP G, PARCEL 12.00

DAVID L. BARR REGISTERED LAND SURVEYOR AGRICULTURE TENNESSEE 10-16-19

I HEREBY CERTIFY THAT THIS IS A CATEGORY 1 SURVEY, WAS DONE IN COMPLIANCE WITH CURRENT TENNESSEE MINIMUM STANDARDS OF PRACTICE AND THE RATIO OF PRECISION OF THE UNADJUSTED SURVEY IS 1:10,000 OR BETTER

07/19/2019 - 12:07:30 PM
19013041
1 PGS:AL-PLAT BATCH: 191916
PLAT BOOK: P56
PAGE: 531-531

REC FEE	15.00
DP FEE	2.60
ARC FEE	0.00
TOTAL	17.60

STATE OF TENNESSEE, SULLIVAN COUNTY
SHEENA R TINSLEY
REGISTER OF DEEDS

Mattern & Craig
ENGINEERS• SURVEYORS
403 EAST MARKET STREET
JOHNSON CITY, TENNESSEE 37601
(423) 979-2220
FAX (423) 979-2222

FINAL PLAT

REMAINING PORTION OF CITY OF KINGSPORT PROPERTY DEED BOOK 147A, PAGE 80
11th CIVIL DISTRICT
SULLIVAN COUNTY, TENNESSEE

LEGEND

- 1/2" DIAMETER IRON ROD SET (WITH IDENTIFICATION CAP) UNLESS OTHERWISE NOTED
- WV WATER VALVE
- UNDERGROUND COMMUNICATIONS PEDESTAL
- UTILITY POLE
- LIGHT POLE
- TELEPHONE POLE
- GUY WIRE

CERTIFICATION OF APPROVAL OF STREET LIGHTING SYSTEM

I HEREBY CERTIFY THAT THE STREET LIGHT SYSTEM DESIGNED FOR THIS SUBDIVISION COMPLIES WITH THE CITY OF KINGSPORT'S POLICIES ON ROADWAY LIGHTING WITHIN THE CITY OF KINGSPORT, AND ANY REQUIRED CHARGES FOR THE PURCHASE AND INSTALLATION HAVE BEEN MET.

DATE _____ 20__

TRAFFIC ENGINEERING MANAGER

CERTIFICATION OF APPROVAL OF PUBLIC WATER SYSTEM

I HEREBY CERTIFY THAT THE PUBLIC WATER UTILITY SYSTEM INSTALLED OR PROPOSED FOR INSTALLATION FULLY MEETS THE REQUIREMENTS OF THE KINGSPORT WATER UTILITY SYSTEM AND IS HEREBY APPROVED AS SHOWN

7-19 DATE 2019

AUTHORIZING AGENT

CERTIFICATION OF APPROVAL FOR 911-ADDRESSING ASSIGNMENT

I HEREBY CERTIFY THAT THE ADDRESSES AS NOTED ON THE FINAL PLAT, ARE APPROVED AS ASSIGNED

July 18 DATE 2019

CITY G.I.S. DIVISION OR SULLIVAN COUNTY DIRECTOR OF 911 ADDRESSING OR HIS/HER AUTHORIZED REPRESENTATIVE

CERTIFICATE OF OWNERSHIP AND DEDICATION

I(WE) HEREBY CERTIFY THAT I (WE)(IS ARE) THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I(WE) HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY(OUR) FREE CONSENT, ESTABLISH THE BUILDING LINES, AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS, AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

City of Kingsport, Tennessee, City Recorder 7/19 DATE 2019
OWNER

DATE 20__

CERTIFICATE OF ACCURACY

I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY TO THE ACCURACY REQUIRED BY THE KINGSPORT, TENNESSEE REGIONAL PLANNING COMMISSION AND THE MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON

6-5 DATE 2019

REGISTERED LAND SURVEYOR

CERTIFICATION OF THE APPROVAL OF STREETS AND STORM WATER SYSTEMS

I HEREBY CERTIFY:
1. THAT CONSTRUCTION PLANS HAVE BEEN APPROVED
2. THAT STREETS AND STORM WATER SYSTEMS HAVE BEEN INSTALLED IN AN ACCEPTABLE MANNER AND ACCORDING TO THE SPECIFICATIONS.
3. ADEQUATE RIGHTS OF WAY DEDICATION UPON AN EXISTING ROAD SHALL SERVE THESE LOTS AS APPROVED

DATE 2019

CITY ENGINEER OR COUNTY ROAD COMMISSIONER

CERTIFICATION OF APPROVAL OF SEWERAGE SYSTEM

I HEREBY CERTIFY THAT THE SEWERAGE DISPOSAL SYSTEM INSTALLED OR PROPOSED FOR INSTALLATION FULLY MEETS THE REQUIREMENTS OF THE TENNESSEE DEPARTMENT OF ENVIRONMENT & CONSERVATION AND IS HEREBY APPROVED AS SHOWN.

7-19 DATE 2019

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
OR
KINGSPORT AUTHORIZING AGENT

CERTIFICATE OF APPROVAL FOR RECORDING

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS FOR KINGSPORT, TENNESSEE, WITH THE EXCEPTION OF SUCH VARIANCES, IF ANY, AS ARE NOTED IN THE MINUTES OF THE PLANNING COMMISSION AND THAT IT HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE SULLIVAN COUNTY REGISTER OF DEEDS. A SURETY BOND IN THE AMOUNT OF $_____ HAS BEEN POSTED WITH THE KINGSPORT REGIONAL PLANNING COMMISSION TO ASSURE COMPLETION OF ALL REQUIRED IMPROVEMENTS IN CASE OF DEFAULT.

7-19 DATE 2019

KINGSPORT MUNICIPAL REGIONAL PLANNING COMMISSION

KINGSPORT REGIONAL PLANNING COMMISSION

TOTAL ACRES	1.336	TOTAL LOTS	1
ACRES NEW ROAD	0	MILES NEW ROAD	0
OWNER	CITY OF KINGSPORT	CIVIL DISTRICT	11TH
SURVEYOR	DAVID L. BARR	CLOSURE ERROR	1:10000

SCALE 1" = 30'
30 15 0 30

LAND APPRAISAL REPORT

File No. 111-14

IDENTIFICATION

Borrower N/A | Census Tract 0406.00 | Map Reference 28700

Property Address 214 Lee St

City Kingsport | County Sullivan | State TN | Zip Code 37660

Legal Description Deed Ref: 147A/ page 80

Sale Price $ per ac | Date of Sale N/A | Loan Term ___ yrs | Property Rights Appraised [X] Fee [ ] Leasehold [ ] De Minimis PUD

Actual Real Estate Taxes $ Exempt (yr) | Loan charges to be paid by seller $ N/A | Other sales concessions N/A

Lender/Client City of Kingsport | Address

Occupant Vacant land | Appraiser F.J.Brownell III | Instructions to Appraiser Estimate Market Value of subject site as if vacant.

THIS IS AN APPRAISAL REPORT.

NEIGHBORHOOD

Location	[X] Urban	[ ] Suburban	[ ] Rural
Built Up	[X] Over 75%	[ ] 25% to 75%	[ ] Under 25%
Growth Rate	[ ] Fully Dev.	[ ] Rapid	[ ] Steady	[X] Slow
Property Values	[ ] Increasing	[X] Stable	[ ] Declining
Demand/Supply	[ ] Shortage	[X] In Balance	[ ] Oversupply
Marketing Time	[ ] Under 3 Mos.	[ ] 4-6 Mos.	[X] Over 6 Mos

Present Land Use 5% 1 Family ___ % 2-4 Family 1% Apts ___ % Condo 85% Commercial ___ % Industrial 9% Vacant ___ %

Change in Present Land Use [ ] Not Likely [X] Likely (*) [ ] Taking Place (*)

(*) From Vacant To Improved

Predominant Occupancy [X] Owner [ ] Tenant 5 % Vacant

Single Family Price Range $ 20,000 to $ 200,000 | Predominant Value $ 80,000

Single Family Age 15 yrs to 95 yrs | Predominant Age 45 yrs

	Good	Avg	Fair	Poor
Employment Stability		X		
Convenience to Employment	X			
Convenience to Shopping	X			
Convenience to Schools	X			
Adequacy of Public Transportation	X			
Recreational Facilities		X		
Adequacy of Utilities	X			
Property Compatibility		X		
Protection from Detrimental Conditions	X			
Police and Fire Protection	X			
General Appearance of Properties	X			
Appeal to Market		X		

Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): Neighborhood boundaries are Ravine Road South, one block north of Highway 11W, Lynn Garden Drive West, and Highway 93 East. Area includes a wide range of dwelling styles and values, multi family dwellings, health care, and various business use. Subject is one block south of Highway 11W which has the highest traffic count in the area and provides good visibility for commercial use.

SITE

Dimensions Not provided = 1.7 Sq Ft or Acres | Corner Lot

Zoning classification B4-P, Planned Business District | Present Improvements [X] do [ ] do not conform to zoning regulations

Highest and best use [ ] Present use [X] Other (specify) Improved with business or professional office conforming to zoning

	Public	Other (Describe)	OFF SITE IMPROVEMENTS		
Elec.	X		Street Access	X Public	Private
Gas	X		Surface Asphalt		
Water	X		Maintenance	X Public	Private
San. Sewer	X		Storm Sewer	Curb/Gutter	
		Underground Elect. & Tel.	Sidewalk	X Street Lights	

Topo Sloping | Size Typical for area | Shape Irregular | View Typical for area | Drainage Appears Adequate

Is the property located in a HUD Identified Special Flood Hazard Area? [X] No [ ] Yes

Comments (favorable or unfavorable including any apparent adverse easements, encroachments, or other adverse conditions) Subject site is above access street grade and slopes up to rear boundary. Site information is taken from tax records and assumed correct. Site does not appear to be in a flood hazard area per map 47163C 0045D, zone X, dated 9/29/2006. Appraisal assumes all above noted utilities are available. No apparent adverse site conditions exist.

MARKET DATA ANALYSIS

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to or more favorable than the subject property, a minus (-) adjustment is made thus reducing the indicated value of subject; if a significant item in the comparable is inferior to or less favorable than the subject property, a plus (+) adjustment is made thus increasing the indicated value of the subject.

ITEM	SUBJECT PROPERTY	COMPARABLE NO. 1		COMPARABLE NO. 2		COMPARABLE NO. 3	
Address	214 Lee St Kingsport	315 Clinchfield St Kingsport, TN 37660		1200 Pulitzer Pl Kingsport, TN 37660		925 E Stone Dr Kingsport, TN 37660	
Proximity to Subject		0.96 miles SW		2.14 miles E		0.78 miles E	
Sales Price	$ per ac		$ 201,754		$ 165,517		$ 379,227
Price	$		$ 230,000		$ 240,000		$7,850
Data Source	Tax Records	Tax Records:Bk 3020/p.253		Tax Records:Bk 3043/p.1644		Tax Records:Bk 3009/p.763	
Date of Sale and Time Adjustment	DESCRIPTION N/A	DESCRIPTION 1/11/12	+(-)$ Adjust	DESCRIPTION 7/20/12	+(-)$ Adjust	DESCRIPTION 9/29/11	+(-)$ Adjust
Location	Urban/A	Urban/AA	-40,400	Urban/A		Urban/G	-190,000
Site/View	1.7 acres	1.14 acres		1.45 acres		2.07 acres	
Utility	Average	Average		Average		Average	
Map #	046B G 012.00	046I A 023.00		047I A 014.1		046F A 004.20	
Zoning	B4-P	B-2		B-3		B-3	
Sales or Financing Concessions	N/A			N/A		N/A	
Net Adj. (Total)		[ ] + [X] -	$ -40,400	[ ] + [ ] -	$	[ ] + [X] -	$ -190,000
Indicated Value of Subject		Net 20.0 %	$ 161,354	Net 0.0 %	$ 165,517	Net 50.1 %	$ 189,227

RECONCILIATION

Comments on Market Data: See attached addenda.

Comments and Conditions of Appraisal: No geological investigation was undertaken or provided and that stable soil conditions are assumed. Above indicated values are per acre and will be applied to subject area below.

Final Reconciliation: After considering the above information, it is the appraiser's opinion the estimated value of the subject property, as if vacant, is $165,000 per acre, or ($165,000 per acre x 1.7 acres),say $280,000, rounded.

I ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF 6/2/2014 to be $ 280,000

F.J.Brownell III

Appraiser(s) | Review Appraiser (if applicable) | [ ] Did [ ] Did Not Physically Inspect Property

[Y2K]

Borrower	N/A			File No.	111-14
Property Address	214 Lee St				
City	Kingsport	County	Sullivan	State TN	Zip Code 37660
Lender/Client	City of Kingsport				

APPRAISAL AND REPORT IDENTIFICATION

This Report is one of the following types:

☒ Appraisal Report (A written report prepared under Standards Rule 2-2(a), pursuant to the Scope of Work, as disclosed elsewhere in this report.)

☐ Restricted Appraisal Report (A written report prepared under Standards Rule 2-2(b), pursuant to the Scope of Work, as disclosed elsewhere in this report, restricted to the stated intended use by the specified client or intended user.)

Comments on Standards Rule 2-3

I certify that, to the best of my knowledge and belief:
- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- Unless otherwise indicated, I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- Unless otherwise indicated, I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.
- Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification (if there are exceptions, the name of each individual providing significant real property appraisal assistance is stated elsewhere in this report).

Reasonable Exposure Time

(USPAP defines Exposure Time as the estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.)

My Opinion of Reasonable Exposure Time for the subject property at the market value stated in this report is: Over 6 Months

Comments on Appraisal and Report Identification

Note any USPAP-related issues requiring disclosure and any state mandated requirements:

APPRAISER:

Signature: F.J. Brownell III

Name: F.J. Brownell III

State Certification #:

or State License #: CG 0000094

State: TN Expiration Date of Certification or License: 12-20-15

Date of Signature and Report: 06/24/2014

Effective Date of Appraisal: 6/2/2014

Inspection of Subject: ☐ None ☐ Interior and Exterior ☐ Exterior-Only

Date of Inspection (if applicable): 6/2/2014

SUPERVISORY or CO-APPRAISER (if applicable):

Signature:

Name:

State Certification #:

or State License #:

State: Expiration Date of Certification or License:

Date of Signature:

Inspection of Subject: ☐ None ☐ Interior and Exterior ☐ Exterior-Only

Date of Inspection (if applicable):

SCOPE OF APPRAISAL:

As of the date of the report, F J Brownell, III has completed the requirements of the continuing education program of the Appraisal Institute.

The Market Value definition is Fannie Mae's definition shown below:
The most probable price a property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming the property is not affected by undue stimulus. Implicit in this definition is the consummation of the sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for these costs which are normally paid by seller as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these cost in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms affected by a third party institutional lender that is not already involved in the property or transaction. Any adjustments should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

Data on the subject property is obtained from various sources including, but not limited to, inspection, the buyer, the public records of Sullivan County, surveys and plans. When appropriate, more than one source may be used to confirm data and the source may be stated in the report.

If applicable, comparable sales are inspected. When possible, market data is confirmed with buyer, seller, real estate broker, appraisers or attorneys and the tax records are reviewed to confirm their information.

All three approaches to value have not been utilized. The Cost Approach and Income Approach are not applicable and the client has requested only the Sales Comparison Approach. When appropriate, the scope of the appraisal is treated in more details elsewhere in the report Further, the reader's attention is directed to the assumptions and limiting conditions of this appraisal.

The intended use of the report is to aid the client in making a decision regarding financing.

The intended user of this appraisal is the lender/client.

The report analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Appraisal Institute's Code of Professional Ethics and Standards of Professional Appraisal Practice, which include the Uniform Standards of Professional Appraisal Practice.
The use of this report is subject to requirements of the Appraisal Institute relating to review by its duly authorized representatives.
The source of the Market Value definition is the report form This is Fannie Mae's definition of market value
I have performed no services, as an appraiser or any other capacity, regarding the property that is the subject of this report within the three year period immediately preceding acceptance of the assignment

Highest and Best Use:The present improvements are consistent with the Highest and Best use of the site as vacant, i.e. improved with a use conforming to zoning Subject is near and medical and professional use properties and would be suited for a professional office The highest and best use of the property as improved would be a professional office conforming to present zoning.

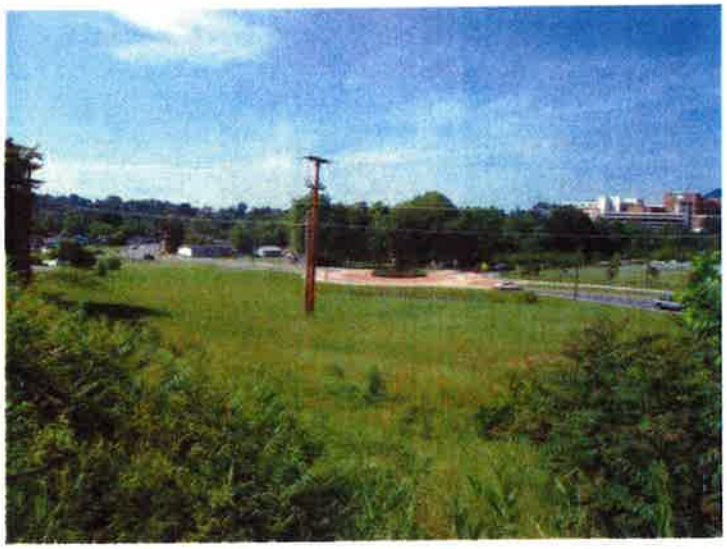
• **Land Appraisal Report: Market Data**
All three sales are in subject neighborhood. All have been improved since above sale date. Sale 1 is in the downtown area with most recent development with location superior to the subject and is improved with a fast food franchise restaurant, Sale 2 is improved with a professional office, one block north of Stone Drive Sale 3 has frontage on Stone Drive, improved with a retail business, and has superior location requiring a downward adjustment. Sale 2 is most similar to the subject in size, location and is weighed the most.

Subject Photo Page

Borrower	N/A						
Property Address	214 Lee St						
City	Kingsport	County	Sullivan	State	TN	Zip Code	37660
Lender/Client	City of Kingsport						

Subject Looking North

214 Lee St	
Sales Price	per ac
Gross Living Area	
Total Rooms	
Total Bedrooms	
Total Bathrooms	
Location	Urban/A
View	1.7 acres
Site	
Quality	
Age	



Subject Looking South

Subject from Circle

Subject Photo Page

Borrower	N/A						
Property Address	214 Lee St						
City	Kingsport	County	Sullivan	State	TN	Zip Code	37660
Lender/Client	City of Kingsport						

Subject Street

214 Lee St

Sales Price	per ac
Gross Living Area	
Total Rooms	
Total Bedrooms	
Total Bathrooms	
Location	Urban/A
View	1.7 acres
Site	
Quality	
Age	

Subject Street-Circle

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

* Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgement.

STATEMENT OF LIMITING CONDITIONS AND APPRAISER'S CERTIFICATION

CONTINGENT AND LIMITING CONDITIONS: The appraiser's certification that appears in the appraisal report is subject to the following conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.

2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.

3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

5. The appraiser has estimated the value of the land in the cost approach at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used.

6. The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

7. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

8. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.

9. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that completion of the improvements will be performed in a workmanlike manner.

10. The appraiser must provide his or her prior written consent before the lender/client specified in the appraisal report can distribute the appraisal report (including conclusions about the property value, the appraiser's identity and professional designations, and references to any professional appraisal organizations or the firm with which the appraiser is associated) to anyone other than the borrower; the mortgagee or its successors and assigns; the mortgage insurer; consultants; professional appraisal organizations; any state or federally approved financial institution; or any department, agency, or instrumentality of the United States or any state or the District of Columbia; except that the lender/client may distribute the property description section of the report only to data collection or reporting service(s) without having to obtain the appraiser's prior written consent. The appraiser's written consent and approval must also be obtained before the appraisal can be conveyed by anyone to the public through advertising, public relations, news, sales, or other media.

F.J. BROWNELL & SON / DBA ALLIED APPRAISAL
Form ACR - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration in the sales comparison analysis and have made a dollar adjustment when appropriate to reflect the market reaction to those items of significant variation. If a significant item in a comparable property is superior to, or more favorable than, the subject property, I have made a negative adjustment to reduce the adjusted sales price of the comparable and, if a significant item in a comparable property is inferior to, or less favorable than the subject property, I have made a positive adjustment to increase the adjusted sales price of the comparable.

2. I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraisal report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct.

3. I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and limiting conditions specified in this form.

4. I have no present or prospective interest in the property that is the subject to this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or the estimate of market value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property.

5. I have no present or contemplated future interest in the subject property, and neither my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property.

6. I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan.

7. I performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal, with the exception of the departure provision of those Standards, which does not apply. I acknowledge that an estimate of a reasonable time for exposure in the open market is a condition in the definition of market value and the estimate I developed is consistent with the marketing time noted in the neighborhood section of this report, unless I have otherwise stated in the reconciliation section.

8. I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparables in the appraisal report. I further certify that I have noted any apparent or known adverse conditions in the subject improvements, on the subject site, or on any site within the immediate vicinity of the subject property of which I am aware and have made adjustments for these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them. I have also commented about the effect of the adverse conditions on the marketability of the subject property.

9. I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant professional assistance from any individual or individuals in the performance of the appraisal or the preparation of the appraisal report, I have named such individual(s) and disclosed the specific tasks performed by them in the reconciliation section of this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the report; therefore, if an unauthorized change is made to the appraisal report, I will take no responsibility for it.

SUPERVISORY APPRAISER'S CERTIFICATION: If a supervisory appraiser signed the appraisal report, he or she certifies and agrees that: I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

ADDRESS OF PROPERTY APPRAISED: 214 Lee St, Kingsport, TN 37660

APPRAISER:

Signature: F.J.Brownell II
Name: F.J.Brownell II
Date Signed: 06/24/2014
State Certification #:
or State License #: CG 0000094
State: TN
Expiration Date of Certification or License: 12-20-15

SUPERVISORY APPRAISER (only if required):

Signature:
Name:
Date Signed:
State Certification #:
or State License #:
State:
Expiration Date of Certification or License:

☐ Did ☐ Did Not Inspect Property

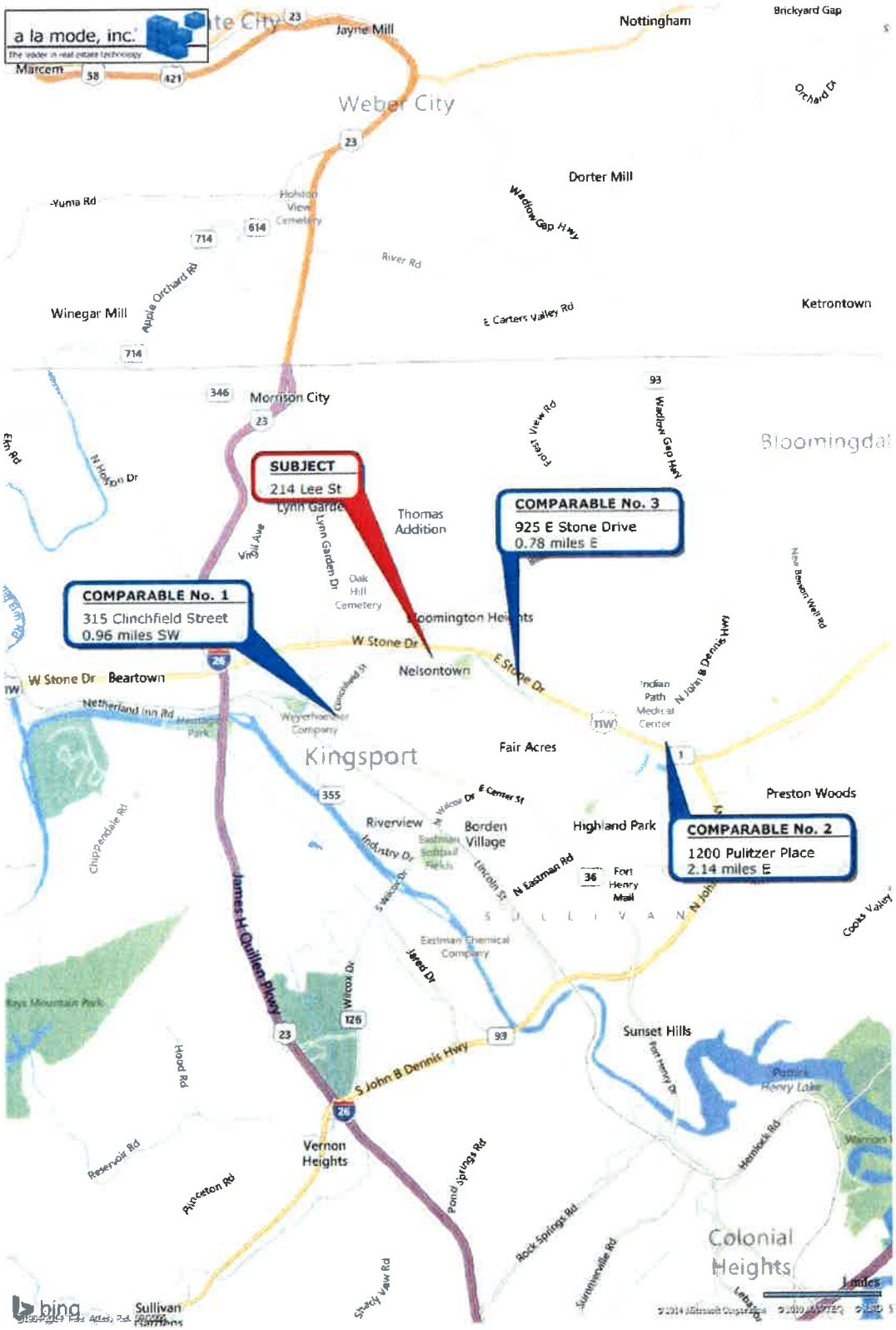
Form ACR - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

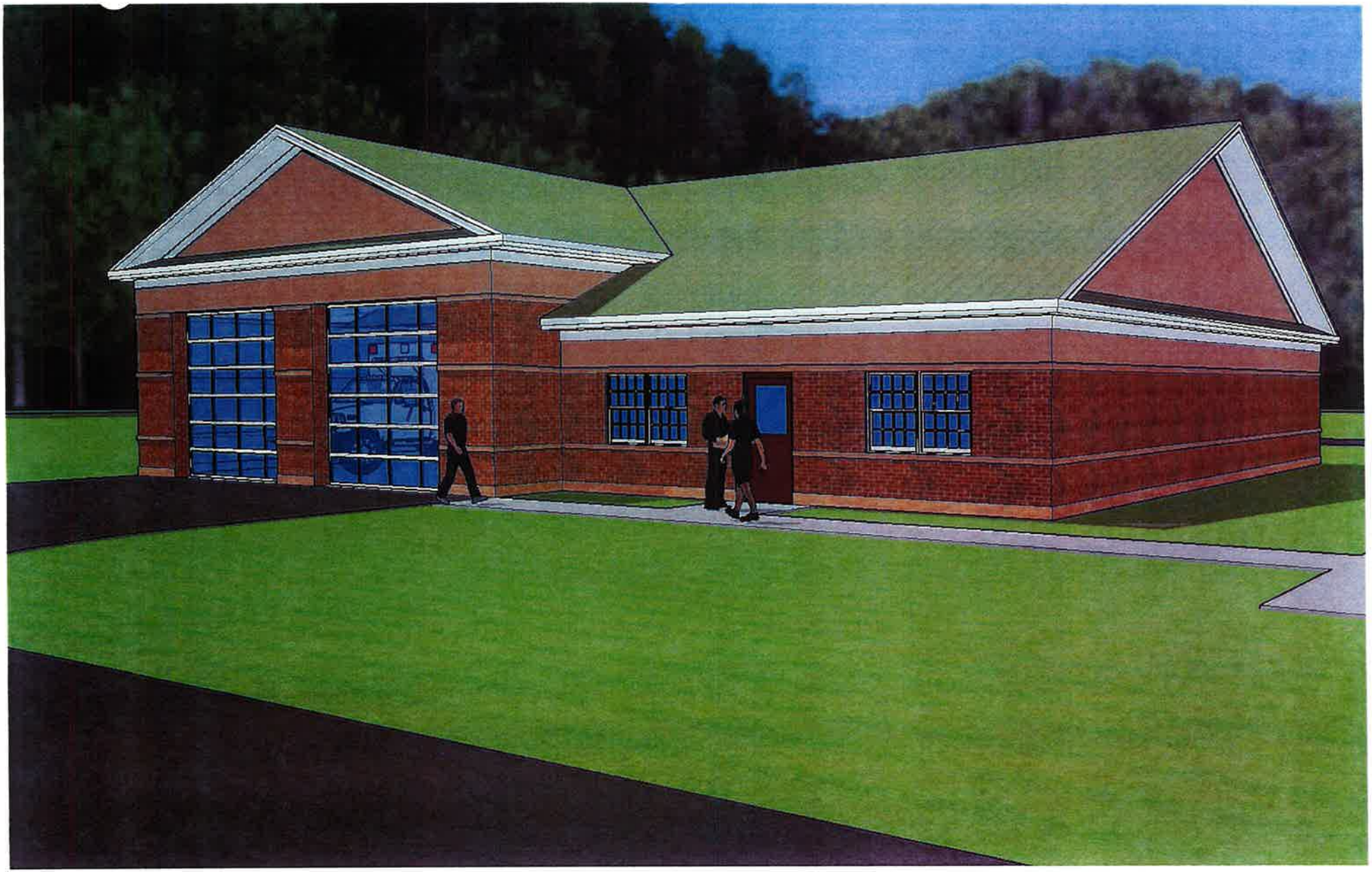
Site Map

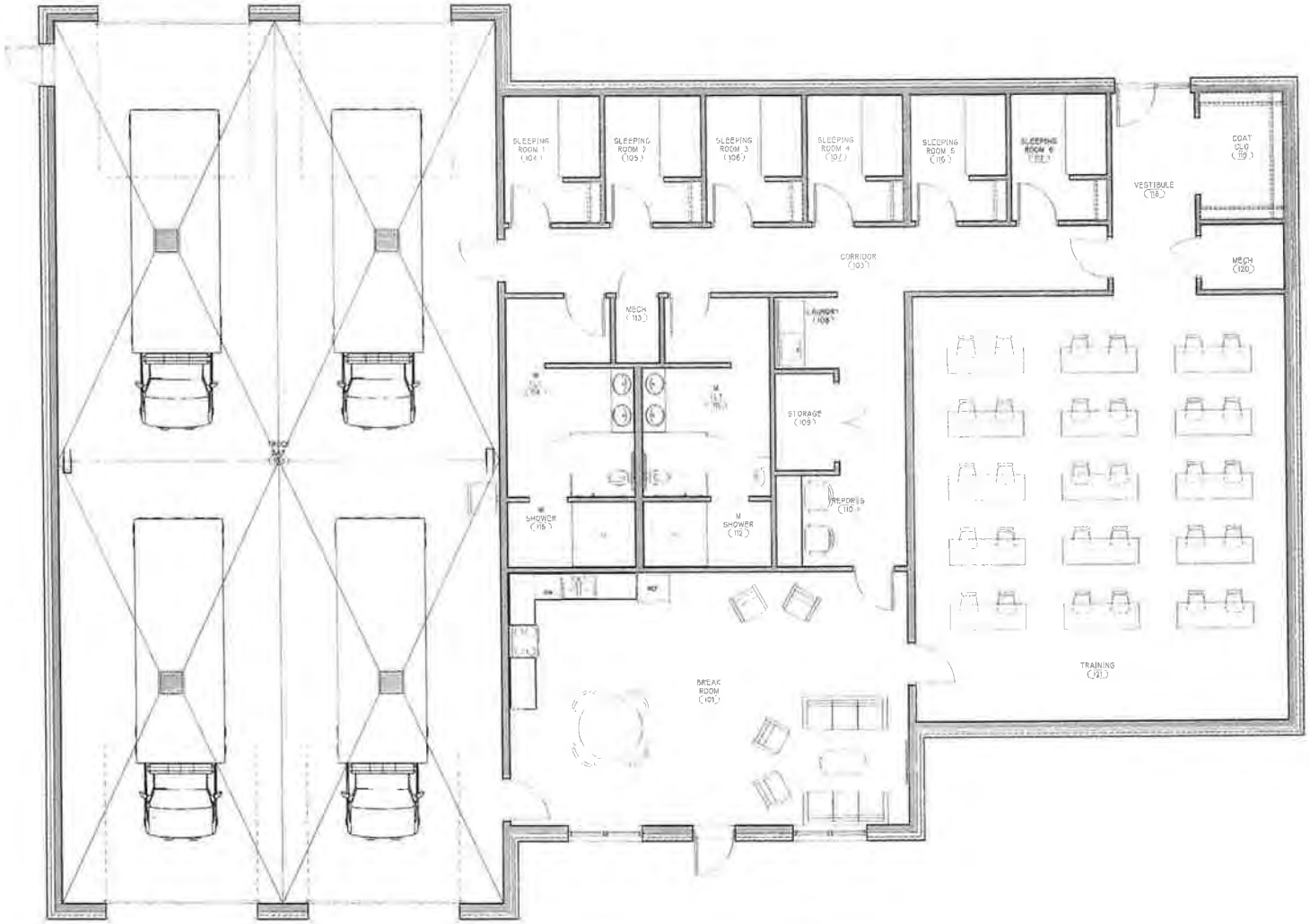
Map for Parcel Address: 214 Lee St Kingsport TN 37660. **Parcel ID:** 046B G 012.00

Location Map

Borrower	N/A						
Property Address	214 Lee St						
City	Kingsport	County	Sullivan	State	TN	Zip Code	37660
Lender/Client	City of Kingsport						







FLOOR PLAN

SCALE: 1/4" = 1'-0"

Steven K. HUTTON & Associates, pc

FLOOR PLAN

PROPOSED EMS BUILDING FOR
SULLIVAN COUNTY
GIBSON MILL ROAD
KINGSPORT, TENNESSEE 37660

Revisions

Date
06/05/2019

Project Number
21919

Sheet Number
A101

MINUTES OF THE CALLED MEETING OF THE

KINGSPORT REGIONAL PLANNING COMMISSION

Improvement Building, Jimmy Walker Conference Room
201 West Market St., Kingsport, TN 37660

October 28, 2019 Noon

Members Present
Sam Booher, Chairman
Sharon Duncan
Beverley Perdue
James Phillips
Phil Rickman
Mark Selby
Paula Stauffer

Members Absent
Pat Breeding
John Moody

Staff Present
Ken Weems
Jessica Harmon
Pamela Gilmer

Visitors
none

At Noon, Chairman Sam Booher called the meeting to order.

IV. CONSENT AGENDA
None

V. UNFINISHED BUSINESS
None

VI. NEW BUSINESS

10-01 Surplus Request Gibson Mill Road– (19-401-00004)
The Kingsport Regional Planning Commission is requested to declare Tax Map 46B Croup G Parcel 12 as surplus property. The requested area is located off Gibson Mill Road, adjacent to the roundabout, and is approximately 1.336 acres. The property is located inside the corporate limits of the City of Kingsport, 11th Civil District of Sullivan County. Staff identified the location of the request along Gibson Mill Road on the provided vicinity map. Staff stated that city staff had reviewed the request and saw no need to retain this property for city use. Staff stated that the property surplus request would allow the BMA to dispose of the property, which is scheduled to ultimately contain a new Sullivan County EMS station. On a motion by Mark Selby, seconded by Phil Rickman, the Commission voted to declare the property surplus. The motion passed unanimously, 6-0.

VII. PUBLIC COMMENT (Speakers are limited to 5 minutes per item.)

VIII. OTHER BUSINESS

None

IX. ADJOURNMENT

There being no further business the meeting adjourned at approximately 12:12 p.m.

Respectfully Submitted,

_____

Ken Weems, AICP, Planning Commission Secretary

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Approving a Public Transportation Agency Safety Plan for the Kingsport Area Transit Service

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-249-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: KATS staff
Presentation By: Chris Campbell

Recommendation:
Approve the Resolution.

Executive Summary:
As a recipient of Federal Transit Agency (FTA) grant funds under 49 U.S.C. 5307, the Kingsport Area Transit Service (KATS) is required to comply with the Public Transportation Agency Safety Plan (PTASP) Final Rule (49 CFR Part 673). The goal of this plan is to enhance all aspects of safety within the Transit Division by guiding management of safety risks and prioritizing capital investments using performance-based planning. The Tennessee Department of Transportation (TDOT) sponsored and developed a statewide joint PTASP for recipient agencies to opt in for coverage. The attached PTASP meets all the requirements under 49 CFR part 673. It formalizes principles and strategies for demonstrating Safety Management Policy, Safety Risk Management, Safety Assurance and Safety Promotion through all operation and maintenance activities. The PTASP defines the process for identifying, evaluating, and resolving hazards associated with operations of a bus system. This process helps achieve the highest practical level of operational safety for the riding public, employees, and anyone encountering the system.

Attachments:
1. Resolution
2. TDOT Sponsored Public Transportation Agency Safety Plan (PTASP)

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. _____

A RESOLUTION APPROVING AND ADOPTING THE PUBLIC TRANSPORTATION SAFETY PLAN FOR THE KINGSPORT AREA TRANSIT SERVICE; IMPLEMENTING THE PLAN IMMEDIATELY AND AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, as a recipient of Federal Transit Agency (FTA) grant funds under 49 U.S.C. 5307, the Kingsport Area Transit Service (KATS) is required to comply with the Public Transportation Agency Safety Plan (PTASP) Final Rule (49 CFR Part 673); and

WHEREAS, the goal of this plan is to enhance all aspects of safety within the Transit Division by guiding management of safety risks and prioritizing capital investments using performance-based planning; and

WHEREAS, the Tennessee Department of Transportation (TDOT) sponsored and developed a statewide joint PTASP for recipient agencies to opt in for coverage, which meets all the requirements under 49 CFR part 673.

Now therefore,

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

SECTION I. That the Public Transportation Agency Safety Plan for the Kingsport Area Transit Service is approved, adopted, and is effective immediately.

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, any and all documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the 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 5th day of November, 2019.

_____
PATRICK W. SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Public Transportation Agency Safety Plan (PTASP)

Version 1.0

October 2019

Revision History

Date	Revision	Description of Revision
TBD	0	Initial draft issuance

Public Transportation Agency Safety Plan Approvals[1]

Prepared by: _____ _____
NAME Date
TDOT Multimodal Safety Manager

Approved by: _____ _____
NAME Date
TDOT Multimodal Director

Approved by: _____ _____
NAME Date
(Board of Directors/City Council/City Commissioner)

[1] This signature page provides State (TDOT) approval of the PTASP and all addenda. Refer the Participating Agency Addenda for each agency's approval of the PTASP and their agency-specific addenda.

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Addendum 4 – East Tennessee Human Resource Agency ... **Error! Bookmark not defined.**
Addendum 5 – First Tennessee Human Resource Agency ... **Error! Bookmark not defined.**
Addendum 6 – Jackson Transit Agency ..... **Error! Bookmark not defined.**
Addendum 7 – Johnson City Transit ..... **Error! Bookmark not defined.**
Addendum 8 – Kingsport Area Transit Service 21
Addendum 9 – Knox County Community Action Committee Transit ..... **Error! Bookmark not defined.**
Addendum 10 – Knoxville Area Transit ..... **Error! Bookmark not defined.**
Addendum 11 – City of Murfreesboro Transportation Department ..... **Error! Bookmark not defined.**

Foreword

The mission of the Tennessee Department of Transportation (TDOT) is to provide a safe and reliable transportation system for people, goods and services that supports economic prosperity in Tennessee. TDOT's Office of Public Transportation carries out this mission by providing both financial and technical assistance to transit agencies and projects in the state. This joint Public Transportation Agency Safety Plan (PTASP) is the result of a collaborative effort between TDOT and the participating Tennessee public transportation agencies that opted in for coverage under the joint plan instead of writing their own PTASP.

TDOT will certify that this PTASP meets the requirements of 49 CFR Part 673 no later than the July 20, 2020, PTASP deadline. TDOT will continue to support the participating agencies as they work beyond the PTASP deadline to continue maturing SMS throughout their organizations.

[[TDOT SIGNEE NAME]]

[[TDOT TITLE]]

[[DATE]]

1. Safety Management System Overview

1.1. SMS Introduction

Safety Management Systems (SMS) is a formal, top-down, organization-wide approach to managing safety risk and assuring the effectiveness of safety risk mitigation. SMS includes systematic and proactive procedures, practices, and policies for managing risks and hazards. SMS includes systematic procedures, practices, and policies for managing risks and hazards. By bringing employees together from all levels of the agency to manage risk, SMS helps agencies detect and address safety problems earlier, share and analyze data more effectively, and measure safety performance more precisely.

Four main components make up SMS:

- **Safety Management Policy** (Section 2) is a transit agency's documented commitment to safety. The policy defines the transit agency's safety objectives and the safety accountabilities and responsibilities of its employees.
- **Safety Risk Management** (Section 3) is the process for identifying hazards and analyzing, assessing, and mitigating safety risk.
- **Safety Assurance** (Section 4) is the processes that ensures the implementation and effectiveness of safety risk mitigation, and ensures that the agency meets or exceeds its safety objectives through the collection, analysis, and assessment of safety data.
- **Safety Promotion** (Section 5) is a combination of safety training and communication applied to the agency's transportation system to support SMS.

Refer to Appendix A for Definitions of terms used in this plan and refer to Appendix B for Acronyms and Abbreviations used in this plan. Refer to the Participating Agency Addenda for agency-specific information to supplement the joint Public Transportation Agency Safety Plan (PTASP).

1.2. Goal, Objectives, and Purpose

1.2.1. Goal

The overarching goal of this PTASP is to enhance all aspects of safety within the participating public transportation agencies by guiding effective and proactive management of safety risks in their systems and prioritizing capital investments using performance-based planning.

1.2.2. Objective

The objective of this PTASP is to establish processes and procedures to support the implementation of SMS that meets Federal Transit Administration (FTA)-mandated requirements under the PTASP Final Rule (49 CFR Part 673).

1.2.3. Purpose

The Tennessee Department of Transportation (TDOT) PTASP formalizes the SMS principles and strategies for demonstrating Safety Management Policy, Safety Risk Management, Safety Assurance and Safety Promotion through all operation and maintenance activities. The PTASP defines the process for identifying, evaluating, and resolving hazards associated with operations of a bus system involved in revenue service. This process helps achieve the highest practical level of operational safety for the riding public, employees, and anyone encountering the System.

1.3. Applicability and Scope

Recipients and sub-recipients of FTA Urbanized Area Formula Grant Program funds under 49 U.S.C. § 5307 are required to comply with the PTASP Final Rule[2]. TDOT sponsored this PTASP for sub-recipient agencies to opt in for coverage under it or to opt out and develop their own PTASP. The following Tennessee public transportation agencies (hereinafter collectively referred to "Participating Agencies") opted to meet their PTASP requirements under 49 CFR Part 673 through participation in the TDOT PTASP:

- Bristol Tennessee Transit
- Clarksville Transit System
- Cleveland Urban Area Transit System
- East Tennessee Human Resource Agency
- First Tennessee Human Resource Agency
- Jackson Transit Agency
- Johnson City Transit
- Kingsport Area Transit Service
- Knox County Community Action Committee Transit
- Knoxville Area Transit
- City of Murfreesboro Transportation Department

This PTASP meets all the requirements under 49 CFR part 673 and encompasses the equipment, facilities, plans, procedures, operation and maintenance as they relate to a bus system. The PTASP is scaled to the size, scope, and complexity of the Participating Agencies.

1.4. PTASP Review and Updates

The TDOT PTASP will be reviewed at least annually and updated as necessary to ensure that it remains current and consistent with FTA guidance and industry best practice. Additionally, when a significant change occurs within TDOT or the participating agencies, TDOT will coordinate with the Participating Agencies to consider if any updates to the PTASP are needed. The PTASP will also be updated as necessary following any PTASP audit to ensure the SMS remains current and applicable. If revised, the PTASP will be re-issued to all PTASP recipients. TDOT is responsible for updating the PTASP in partnership with the applicable transportation agencies.

[2] FTA deferred the applicability of the PTASP requirements for small operators who receive funds through FTA's Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program under 49 U.S.C. § 5310 and for Formula Grants for Rural Areas Program under 49 U.S.C. § 5311.

2. Safety Management Policy

2.1. TDOT PTASP Safety Management Policy Statement

The participating Tennessee public transportation agencies covered by this Public Transportation Agency Safety Plan (PTASP) recognize management of safety as a core agency function and are dedicated to planning, designing, constructing, operating and maintaining transportation systems that optimize the safety of passengers, employees, consultants, contractors, emergency responders, and the public.

Accountability for safety begins with the Accountable Executive and permeates all levels of employees. The following safety objectives reflect the agencies' overarching safety goals and demonstrate commitment to establishing, implementing, and continually improving Safety Management Systems (SMS):

- Integrate safety management into the primary responsibilities of all employees;
- Support safety management through the allocation of resources and promotion of a safety culture that facilitates safe practices and effective employee safety reporting and communication;
- Define roles and responsibilities for all employees that contribute to safety performance and SMS;
- Implement risk-based hazard management consistent with risk acceptance levels;
- Operate an employee safety reporting program that ensures no action will be taken against any employee who discloses a safety concern unless disclosure indicates beyond reasonable doubt an illegal act, gross negligence, or a deliberate disregard of regulations or procedures;
- Comply with or exceed legislative and regulatory requirements and industry standards;
- Ensure systems and services that support operations meet or exceed agency safety standards;
- Provide safety information and training to ensure all employees are competent in safety management for tasks allocated to them;
- Establish and measure safety performance against data-driven safety performance targets; and
- Continually improve safety performance and implementation of SMS.

By applying SMS as outlined above and detailed in this PTASP, the participating Tennessee public transportation agencies are committed to making safety the top priority of all agency operations.

2.2. Safety Accountabilities and Responsibilities

Under SMS, identified positions have specific responsibilities under SMS. Refer to the Participating Agency Addenda for a matrix under each Participating Agency that names the specific agency position(s) and committee(s) responsible for each role described below.

2.2.1. Accountable Executive

The Accountable Executive is a single, identifiable person who has ultimate responsibility and accountability for implementing and maintaining the agency's SMS and PTASP. This is the same person responsible for carrying out the agency's Transit Asset Management (TAM) Plan. The Accountable Executive has control or direction over the human and capital resources needed to develop and maintain both the agency's PTASP and TAM Plan. The Accountable Executive is also responsible for ensuring action is taken, as necessary, to address substandard

performance in the agency's SMS. This individual is the primary decision-maker who is ultimately responsible for both safety and TAM.

2.2.2. Chief Safety Officer (or SMS Executive)

The Chief Safety Officer, or SMS Executive, can also be Accountable Executive. This person will have adequate training to take responsibility for safety and act as the SMS Executive. The Chief Safety Officer has the authority and responsibility for day-to-day implementation and operation of the agency's SMS and must have a direct line of reporting to their Accountable Executive. Participating Agencies may designate a Chief Safety Officer who serves in other operational or maintenance capacities[3].

2.2.3. All Employees

In addition to the Accountable Executive and/or Chief Safety Officer, each transit agency has identified those with authority and responsibility for day-to-day implementation and operation of the agency's SMS.

All agency employees are responsible for safety. Each employee is required to work safely, correct unsafe behavior, identify and report safety hazards, and abstain from performing any task that the person feels could injure themselves or others.

2.2.4. Safety Committee(s)

Some agencies have safety committees and others incorporate safety into other activities to ensure that the system is operated, and maintained in a safe manner. The Safety Committee can support SMS by informing and assuring agency management of safety issues affecting the agency and addressing safety issues assigned to it by the agency's executive management.

2.3. Integration with Public Safety and Emergency Management

There are several internal and external programs that may affect safety management. Refer to Participating Agency Addenda for agency-specific integration of programs and a list of the plans and procedures that support the transit agency's public safety and emergency management activities.

2.4. Safety Performance Targets

The transit agencies have established targets that represent a quantifiable, measurable safety performance or condition. The transit agencies will regularly monitor the performance of their system to ensure they are meeting their targets and improving safety outcomes. At least annually, when reviewing and updating their PTASP, the transit agencies will evaluate their safety performance to determine whether they should change their safety performance targets. Agency safety performance targets are categorized below by safety performance measures:

- **Performance Measure: Fatalities** – Total number of reportable[4] fatalities and rate per total unlinked passenger trips, by mode.
  - *Performance Target*: Kingsport - 0
- **Performance Measure: Injuries** – Total number of reportable injuries and rate per total unlinked passenger trips, by mode.
  - *Performance Target*: Kingsport - 2

[3] A Chief Safety Officer may only serve in other operational or maintenance capacities if they are employed by a transit agency that is a small public transportation provider as defined CFR Part 673, or a public transportation provider that does not operate a rail fixed guideway public transportation system.

[4] The thresholds for "reportable" fatalities, injuries, and events are defined in the National Transit Database Safety and Security Reporting Manual, available at https://www.transit.dot.gov/ntd/2019-ntd-safety-and-security-policy-manual.

- **Performance Measure: Safety Events –** Total number of reportable events and rate per total vehicle miles, by mode.
  - *Performance Target*: Kingsport - 2
- **Performance Measure: System Reliability –** Mean distance between failures, by mode.
  - *Performance Target*: Kingsport – 22,000 Miles

Refer to Participating Agency Addenda for safety performance targets specific to each Participating Agency, as applicable.

TDOT will coordinate with the Participating Agencies to make the safety performance targets available to the state's Metropolitan Planning Organizations (MPOs), as applicable, to aid in the planning process. To the extent possible, TDOT will facilitate coordination with the MPOs for setting safety performance targets.

2.5. SMS Documentation and Records

At all times, the transit agency will maintain documents that set forth in this PTASP, including those related to the implementation of its SMS and result from SMS processes and activities. The transit agency will maintain documents that are included in whole, or by reference, that describe the programs, policies, and procedures that the agency uses to carry out its PTASP. These documents will be made available upon request by the FTA or other federal entity. The transit agency will maintain these documents for a minimum of three years after they are created.

3. Safety Risk Management

3.1. Introduction

This chapter provides detail on Safety Risk Management (SRM). SRM includes the activities that a public transportation agency undertakes to control the probability or severity of the potential consequence of hazards. Major SRM sub-components include Hazard Identification and Analysis and Safety Risk Evaluation and Mitigation. Figure 1 below summarizes the six basic steps of SRM.

Figure 1. Safety Risk Management Process

1. DEFINE THE SYSTEM or ASSET

- Define the physical and functional characteristics and understand and evaluate the people, procedures, facilities, equipment, and environment.

2. IDENTIFY HAZARDS

- Identify hazards and incidents or undesired events
- Determine the causes of hazards

3. ASSESS HAZARDS

- Determine probability
- Determine the severity without controls
- Decide to accept risk or eliminate/control

4. RESOLVE or MITIGATE THE HAZARDS

- Assume risk or
- Implement corrective action
  - Eliminate
  - Control

5. RE-ASSESS HAZARD

- Assess mitigation or control for effectiveness
- Apply additional mitigations or controls if risk is not within acceptable levels

6. FOLLOW-UP

- Monitor for effectiveness
- Monitor for unexpected hazards

3.2. Hazard Identification and Analysis

The first step in a hazard analysis is defining the systems and sub-systems subject to hazards, followed by identifying specific physical and procedural hazards related to the identified systems and subsystems.

3.2.1. System Description

The TDOT PTASP covers the public transportation systems listed in Table 1 and described further below. These Participating Agencies are a mix of fixed route and demand systems.

Table 1. Agency Descriptions

Agency	Number of Bus Vehicles	Number of routes	Annual Vehicle Revenue Miles	Annual Unlinked Trips
Bristol Tennessee Transit	6 / 4 para*	6	183,071 (2017)	62,542 (2017)
Clarksville Transit System	16 / 10 para	10	1,504,927 (2017)	715,043 (2017)
SETHRA - Cleveland	7 / 11 para	5	361,330 (2017)	149,446 (2017)

Agency	Number of Bus Vehicles	Number of routes	Annual Vehicle Revenue Miles	Annual Unlinked Trips
Urban Area Transit System				
East Tennessee Human Resource Agency	100 vans (para)	N/A	4,475,998 (2017)	269,540 (2017)
First Tennessee Human Resource Agency	100+ vans (para)	N/A	2,557,165 (2016)	163,433 (2016)
Jackson Transit Authority	13 / 7 para	11	774,480 (2017)	504,281 (2017)
Johnson City Transit	15 / 12 para	11	684,857 (2017)	668,161 (2017)
Kingsport Area Transit Service	7 / 6 para	6	323,618 (2017)	173,992 (2017)
Knox County Community Action Committee Transit	37 para	N/A	1,420,705 (2017)	163,593 (2017)
Knoxville Area Transit	55 / 20 para	26	2,902,482 (2017)	2,711,652 (2017)
City of Murfreesboro Transportation Department	7	7	249,111 (2017)	250,808 (2017)

* Para = Paratransit

Bristol Tennessee Transit

The Bristol Tennessee Transit operates six buses over six fixed routes of service from 6:15 a.m. until 6 p.m. Monday through Friday (except city observed holidays). The Bristol Tennessee Transit also operates four vans that provide Americans with Disabilities Act (ADA) service and Job Access service.

Clarksville Transit System

The Clarksville Transit System operates sixteen buses over ten fixed route of service from Monday - Friday 4:40am-9pm and Saturday 6:40am to 9pm (except city observed holidays). The Clarksville Transit System also operates ten vans that provide ADA service and Job Access service. The mission of the Clarksville Transit System is to plan, implement, maintain and manage a public transportation system that allows for maximum mobility for the community with an emphasis on safety, quality and efficiency.

Cleveland Urban Area Transit System

Cleveland Urban Area Transit System (CUATS) is operated by the Southeast Tennessee Human Resource Agency (SETHRA). CUATS operates seven buses over five fixed route of service from 6 a.m. - 7 p.m. Monday through Friday (except city observed holidays). The CUATS also operates eleven vans that provide ADA service and Job Access service.

East Tennessee Human Resource Agency

East Tennessee Human Resource Agency (ETHRA) operates over 100 vans that provide ADA and Job Access services from 7 a.m. – 5:30 p.m. Monday through Friday (except city observed holidays).

ETHRA Public Transit provides door to door transportation services with flexible schedules to meet the needs of its passengers. ETHRA's Public Transit's goal is to provide affordable, safe, dependable public transportation.

First Tennessee Human Resource Agency

First Tennessee Human Resource Agency (FTHRA) operates over six fixed route of service from 6:15 a.m. until 6 p.m. Monday through Friday (except city observed holidays). The Bristol Tennessee Transit also operates four vans at provide ADA service and Job Access service.

Jackson Transit Authority

The Jackson Transit Authority (JTA) operates 13 buses over 11 fixed route of service from 6 a.m. until 10:30 p.m. Monday through Saturday (except city observed holidays). Jackson Transit Authority also operates seven vans that provide ADA service and Job Access service.

Johnson City Transit

Johnson City Transit (JCT) operates 15 buses over 11 fixed route of service from 6:16 a.m. until 6:15 p.m. Monday through Friday and 8:15am through 5:15pm Saturday (except city observed holidays). Jackson Transit Authority also operates seven vans that provide ADA service and Job Access service.

Kingsport Area Transit Services

The Kingsport Area Transit Services (KATS) operates seven buses over six fixed route of service from 7:30 a.m. until 5:30 p.m. Monday through Friday (except city observed holidays). Kingsport Area Transit Services also operates six vans that provide ADA service and Job Access service. The KATS bus and van service is a valuable asset to the community and the city is encouraged by its progress and growth. These services are provided to residents of the city of Kingsport with a population of over 53,000.

Knox County Community Action Committee Transit

Knox County CAC operates over 37 vans that provide ADA and Job Access services from 8 a.m. – 5 p.m. Monday through Friday (except city observed holidays). Knox County CAC Transit provides accessible, demand response public transportation services to the residents of Knox County who live within Knox County outside of the City of Knoxville, to those individuals who live within the City of Knoxville outside the KAT service area, and to those city residents who are not served by the KAT fixed route system, including those who live too far from a bus stop or who's destination is not within the KAT service area.

Knoxville Area Transit

The Knoxville Area Transit (KAT) operates 55 buses over 26 fixed route of service from 5:30 a.m. until 12:15 a.m. seven days a week (except city observed holidays). Knoxville Area Transit (KAT) also operates 23 vans that provide ADA service and Job Access service.

City of Murfreesboro Transportation Department

The City of Murfreesboro Transportation Department operates seven buses over seven fixed route of service from 6 a.m. through 6 p.m. Monday through Friday and 8 a.m. (except city observed holidays). The City of Murfreesboro Transportation Department is responsible for the administration and operation of public transportation service (Rover) within the City of Murfreesboro. It also works with and / or assists other regional providers with mobility issues. Monday – Friday 8 a.m. - 4:30 p.m.

3.2.2. Identifying Hazards

A safety hazard is:

- Any real or potential condition that can cause personal injury or death or damage to or loss of equipment or property,
- A condition that may be a prerequisite to an accident, or
- Is a situation that has the potential to do harm.

Hazards are identified through a variety of sources, including those listed below. In addition, SMS enables every employee to identify hazards through Safety Promotion efforts and non-punitive hazard reporting, described further in Section 5.

- FTA's *Hazard Analysis Guideline for Transit Projects* (January 2000)
- Accident/incident data and experience
- Accident/incident data from other bus systems with similar characteristics
- Hazard scenarios
- Applicable industry standards
- Field assessments and surveys
- Project-specific design data and drawings, reviews, testing, and start-up activities

The following tools and techniques may be used for hazard identification and analysis:

- Preliminary Hazard Analysis (PHA)
- Operational Hazard Assessment (OHA)
- Accident/Incident Analysis
- Job Hazard Analysis (JHA)

3.3. Safety Risk Evaluation

After identifying system-specific hazards, SRM assesses safety risk by first identifying the potential to do harm in the system and then analyzing options to mitigate the hazard to an acceptable level. The process seeks to identify and define as many hazardous conditions as possible and initiate the safety risk mitigation process before those conditions or associated activities cause an accident.

3.3.1. Analyzing Risk

The methodology for analyzing safety risk has two elements: evaluating hazard severity and evaluating hazard probability. The US Department of Defense's *Standard Practice for System Safety, MIL-STD-882E*, establishes system safety criteria guidelines for determining hazard severity and probability. This PTASP adapts the MIL-STD-882E Risk Assessment and Hazard Risk Index matrixes to the transit environment for use in the Participating Agencies' safety risk assessment process.

3.3.1.1. Determining Severity

Hazards are rated in terms of their effect on transit customers, employees, the public, and the operating system. Hazard severity is a subjective measure of the worst credible case consequence that results from design inadequacies, component failure or malfunction, human error, environmental conditions, or operating or maintenance practice, and procedure deficiencies. The ratings are illustrated in Figure 2. The categorization of hazards is consistent with risk-based criteria for severity and reflects the principle that not all hazards pose an equal amount of risk.

Figure 2. Hazard Severity Definition

SEVERITY	CHARACTERISTICS			
	People	Equipment/Services	Financial	Reputational
Catastrophic 1	Several deaths and/or numerous severe injuries *(per event)*	Total loss of equipment or system interruption, requiring months to repair	Estimated loss from the incident in excess of $500,000	Ongoing media coverage, irreparable reputational damage, government intervention (weeks – months)
Critical 2	Low number of deaths and/or serious injury* *(per event)*	Significant loss of equipment or system interruption, requiring weeks to repair	Estimated loss from the incident in excess of $100,000-$499,999	Prolonged media campaign, serious reputational damage, sustained government involvement (days - weeks)
Moderate 3	Minor injury and possible serious injury *(per event)*	Some loss of equipment or system interruption, requiring seven or less days to repair	Estimated loss from the incident in excess of $10,000-$99,999	Adverse media coverage, reputational damage, government involvement
Minor 4	Possible minor injury *(per event)*	Some loss of equipment, no system interruption, less than 24 hours to repair	Estimated loss from the incident in excess of $1,000-$9,999	Local media coverage and some reputational damage
Insignificant 5	No injury	Minor damage to equipment no system interruption, no immediate repair necessary	Estimated loss from the incident is likely less than $1,000	No adverse media coverage or reputational damage

*Per 49 CFR 673, serious injury: 1) Requires hospitalization for more than 48 hours, commencing within 7 days from the date of the injury was received; 2) Results in a fracture of any bone (except simple fractures of fingers, toes, or noses); 3) Causes severe hemorrhages, nerve, muscle, or tendon damage; 4) Involves any internal organ; or 5) Involves second or third-degree burns, or any burns affecting more than 5 percent of the body surface.

3.3.1.2. Determining Probability

The probability that a hazard will occur during the planned life expectancy of the system element, sub-system or component is described qualitatively, in potential occurrences per unit of time, events, population, items, or activity. A qualitative hazard probability is derived from research, analysis, evaluation of safety data from the operating experience of the agency or historical safety data from similar bus systems, and from expert opinion. Figure 3 summarized the hazard probability categories.

Figure 3. Hazard Probability Categories

PROBABILITY LEVEL	SPECIFIC INDIVIDUAL ITEM	FLEET OR INVENTORY	FREQUENCY
Frequent A	Likely to occur frequently in the life of a system	Continuously experienced	> 1 event / month
Probable B	Will occur often in the life of a system	Will occur frequently in the system	> 1 event / year;
Occasional C	Likely to occur sometime in the life of an item	Will occur several times	>1 event / 10 year;
Remote D	Unlikely, but possible to occur in the life of an item	Unlikely, but can be expected to occur	> 1 event / 20 years;
Improbable E	So unlikely, it can be assumed occurrence may not be expected	Unlikely to occur, but possible	< 1 event during 30 years

3.3.2. Assessing Risk

Together, hazard severity and probability measure a hazard's magnitude and priority for applying the control measures. Hazards are then examined, qualified, addressed, and resolved based on the severity of a potential outcome and the likelihood that such an outcome will occur. The value derived by considering a hazard's severity and probability is the Hazard Risk Index. The resulting risk index is a measure of the acceptability or undesirability of the hazard and is applied to the Risk Assessment Index.

Assignment of a Hazard Risk Index enables agency management to properly understand the amount of risk involved by accepting the hazard relative to what it would cost (schedule, dollars, operations, etc.) to reduce the hazard to an acceptable level.

Figure 4 identifies the Hazard Risk Index based upon hazard severity and probability, and outlines the criteria for further action and decision authority based upon each index category. The Hazard Risk Index is used to assist the decision-making process in determining whether a safety risk should be eliminated, controlled, or accepted. This helps prioritize hazardous conditions and focus available resources on the most serious hazards requiring resolution while effectively managing available resources.

For example, if the potential for an accident/incident reveals a Category 1 (catastrophic) occurrence with a Level A (frequent) probability, the assessed level of risk is Unacceptable and the system safety effort is directed toward eliminating the hazard or at the very least to implementing redundant hazard control measures. A Category 1 (catastrophic) or Category 2 (critical) safety risk may be tolerable if it can be demonstrated that its occurrence is highly improbable. This approach provides a basis for logical management decision-making that considers the hazard's severity and probability.

Figure 4. Hazard Risk Index

HAZARD RISK INDICES					
Frequency Or Probability	Severity Category				
	1 Catastrophic	2 Critical	3 Moderate	4 Minor	5 Insignificant
(A) Frequent	1A	2A	3A	4A	5A
(B) Probable	1B	2B	3B	4B	5B
(C) Occasional	1C	2C	3C	4C	5C
(D) Remote	1D	2D	3D	4D	5D
(E) Improbable	1E	2E	3E	4E	5E

LEGEND

Unacceptable - Cannot be accepted as is, **must** be mitigated

Undesirable - Acceptable with Executive-level signoff

Acceptable w/ Review - Acceptable Operational-level signoff

Acceptable - Can be accepted as is.

3.4. Safety Risk Mitigation

3.4.1. Treating Risk

As safety risks are identified, whether through a formal risk assessment or informally such as through employee reporting mechanisms, hazards can be resolved by deciding to either assume the risk associated with the hazard or to eliminate or control the risk. Mitigation to bring a hazard to an acceptable level of risk is applied in the following order of precedence, listed from most effective at the top of the list to least effective mitigations at the bottom:

- Avoidance
- Elimination
- Substitution
- Engineering Controls
- Warnings
- Administrative Controls such as Operations and Maintenance Procedures
- Personal Protective Equipment and Guards

3.4.2. Hazard Tracking

Once mitigations are agreed upon for identified hazards, mitigations are tracked through the agency's safety certification process to ensure all concerns raised have been addressed and mitigated property. This hazard tracking and certification process may be done through reports, logs, worksheets and/or similar methods that allow for updating if changes occur that impact the findings of the safety analysis. Refer to Participating Agency Addenda for additional detail on each Participating Agency's hazard tracking system.

4. Safety Assurance

4.1. Overview

Safety assurance includes safety reviews, evaluations, audits, and inspections, as well as data tracking and analysis and investigations. Safety Assurance encompasses the processes within the transit agency's SMS that ensures the implementation and effectiveness of SRM, and ensures that the agency meets or exceeds its safety objectives through the collection, analysis, and assessment of information. Each transit agency will conduct an annual review of the effectiveness of its safety risk mitigations through its safety assurance efforts.

4.2. Safety Performance Monitoring and Measurement

SMS generates data and information that senior management need to evaluate whether implemented safety risk mitigations are appropriate and effective, and how well an agency's safety performance fits with their established safety objectives and safety performance targets. Safety performance monitoring will occur through routine monitoring of operations and maintenance activities. It also includes risk monitoring to track implementation and success of mitigations and controls put in place to manage risk.

Each Participating Agency will establish audit and evaluate safety in compliance with this PTASP and SMS. The programs will:

- Monitor compliance and sufficiency of procedures for operations and maintenance
- Monitor operations to identify ineffective, inappropriate, or unimplemented safety risk mitigations
- Conduct investigations of safety events to identify causal factors
- Monitor information from safety reporting systems
- Document audit outcomes
- Collect and track safety data

4.3. Management of Change

Each Agency under this PTASP will re-evaluate safety when significant change occurs within the agency. These changes may include:

- New contractor providing service
- New buses brought into fleet
- New or changed routes
- Other changes that might have a safety impact.

If the change has a safety impact, risk associated with the change will be evaluated, treated and documented. If the change does not have a safety impact, no further steps will be taken.

4.4. Continuous Improvement

Each agency will evaluate their SMS program annually to identify areas of improvement and any changes that require input for the Agency to grow in safety management.

5. Safety Promotion

5.1. Introduction

Agencies under this plan will utilize Safety Promotion to communicate and disseminate safety information to strengthen the safety culture. Safety Promotion includes safety lessons learned, reporting systems, recommendations based on safety metrics, and safety training. The goal is to foster a positive safety culture where employees receive ongoing training and updates of safety progress; feel comfortable reporting safety issues or concerns; and understand why safety is important and how they impact safety.

5.2. Safety Communication and Culture

5.2.1. Safety Communication

Transit agencies will communicate safety and safety performance information throughout the agency's organization that, at a minimum, conveys information on hazards and safety risks relevant to employees' roles and responsibilities. The communication will be used to inform employees of safety actions taken in response to reports submitted through an employee safety reporting program.

5.2.2. Dissemination of Lessons Learned

Transit agencies will review lessons learned from incidents, accidents and reported hazards and provide feedback regarding findings. This communication is an important step in letting employees know that they are important to the agency.

5.3. Competencies and Training

Each transit agency will establish and implement a safety training program for all employees and contractors directly responsible for safety in the agency's public transportation system. The training program must include refresher training, as necessary. Safety training will also be part of new-hire training and specific job safety training. Training and competencies of all staff will be documented and tracked.

Refer to the Participating Agency Addenda for agency-specific safety training programs.

5.1. Contractor Safety (as applicable)

When contracting for services that have a safety component and/or may impact safety or assessed risk, procurement language and specification requirements will be included, as applicable. Contractors will demonstrate job-appropriate competencies and training that meet or exceed the requirements of the agency.

Appendix A – Definitions

Accident	An Event that involves any of the following: A loss of life; a report of a serious injury to a person; a collision of public transportation vehicles; a runaway train; an evacuation for life safety reasons; or any derailment of a rail transit vehicle, at any location, at any time, whatever the cause.
Accountable Executive	A single, identifiable person who has ultimate responsibility for carrying out the Public Transportation Agency Safety Plan of a public transportation agency; responsibility for carrying out the agency's Transit Asset Management Plan; and control or direction over the human and capital resources needed to develop and maintain both the agency's Public Transportation Agency Safety Plan, in accordance with 49 U.S.C. 5329(d), and the agency's Transit Asset Management Plan in accordance with 49 U.S.C. 5326.
Assessment	An estimation of the size/scope of risk or quality of system or procedure.
Cause	Events that, result in a hazard or failure. Causes can occur by themselves or in combinations.
Change	To modify, alter, or make different.
Chief Safety Officer	An adequately trained individual who has responsibility for safety and reports directly to a transit agency's chief executive officer, general manager, president, or equivalent officer. A Chief Safety Officer may not serve in other operational or maintenance capacities, unless the Chief Safety Officer is employed by a transit agency that is a small public transportation provider as defined in this part, or a public transportation provider that does not operate a rail fixed guideway public transportation system.
Configuration Management	A management process for establishing and maintaining consistency of a product's performance, functional and physical attributes with its requirements, design, and operational information throughout its life.
Control	Anything that mitigates the risk of a hazard's effects. A control is the same as a safety requirement. All controls are written in requirement language.
Effect	The effect is a description of the potential outcome or harm of the hazard if it occurs in the defined system state.
Equipment	A complete assembly, operating either independently or within a sub-system or system, that performs a specific function.
Equivalent Authority	An entity that carries out duties similar to that of a Board of Directors, for a recipient or subrecipient of FTA funds under 49 U.S.C. Chapter 53, including sufficient authority to review and approve a recipient or subrecipient's Public Transportation Agency Safety Plan.
Event	Any Accident, Incident, or Occurrence.
Hazard	Any real or potential condition that can cause injury, illness, or death to people; damage to or loss of a system, equipment, or property; or damage to the environment. A hazard is a condition that is a prerequisite to an accident or incident.
Hazard Tracking	A closed-loop means of ensuring that the requirements and mitigations associated with each hazard that has associated medium or high risk are implemented. Hazard tracking is the process of defining safety requirements, verifying implementation, and re- assessing the risk to make sure the hazard meets its risk level requirement before being accepted.

Human Factors	A multidisciplinary effort to generate and compile information about human capabilities and limitations and apply that information to equipment, systems, facilities, procedures, jobs, operations, environments, training, staffing, and personnel management for safe, comfortable, efficient and effective human performance.
Incident	A near miss episode, malfunction, or failure with minor consequences that could have resulted in greater loss. An unplanned event that could have resulted in a mishap, or did result in minor damage, and indicates the existence of, though may not define, a hazard or hazardous condition.
Investigation	The process of determining the causal and contributing factors of an accident, incident, or hazard, for the purpose of preventing recurrence and mitigating risk.
Maintenance	Any repair, adaptation, upgrade, or modification of equipment or facilities. This includes preventive maintenance.
Mitigation	Actions taken to reduce the risk of a hazard's effects.
National Public Transportation Safety Plan	The plan to improve the safety of all public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53.
Occurrence	An Event without any personal injury in which any damage to facilities, equipment, rolling stock, or infrastructure does not disrupt the operations of a transit agency.
Oversight	To validate the development of a defined system and verify compliance to a pre-defined set of standards.
Performance Measure	An expression based on a quantifiable indicator of performance or condition that is used to establish targets and to assess progress toward meeting the established targets.
Performance Target	A quantifiable level of performance or condition, expressed as a value for the measure, to be achieved within a time period required by the FTA.
Probability	An expression of often an event is expected to occur.
Process	A set of interrelated or interacting activities which transforms inputs into outputs.
Public Transportation Agency Safety Plan (PTASP)	A safety plan based on the Safety Management System approach. The FTA's PTASP Final Rule (49 CFR Part 673) requires States and certain operators of public transportation systems that receive Federal financial assistance under 49 USC Chapter 53 to develop and implement PTASPs.
Qualitative Data	Subjective data that is expressed as a measure of quality; nominal data.
Quantitative Data	Objective data expressed as a quantity, number, or amount; allows for more rational analysis and substantiation of findings.
Requirement	An essential attribute or characteristic of a system. It is a condition or capability that must be met or passed by a system to satisfy a contract, standard, specification, or other formally imposed document or need.
Reportable (fatalities, injuries, events)	Fatalities, injuries, and events that meet the thresholds for "reportable" as defined in the National Transit Database Safety and Security Reporting Manual (2019).

Risk	The composite of predicted severity and likelihood of the potential effect of a hazard in the worst credible system state. (1) **Initial.** The composite of the severity and likelihood of a hazard considering only verified controls and documented assumptions for a given system state. It describes the risk at the preliminary or beginning stage of a proposed change, program or assessment. (2) **Residual.** The risk that remains after all control techniques have been implemented or exhausted and all controls have been verified. Only verified controls can be used to assess residual risk.
Risk Acceptance	Agreement by the appropriate management official that he/she understands the safety risk associated with the change and he/she accepts that safety risk.
Safety	Freedom from unintentional harm.
Safety Assurance	Processes within a transit agency's Safety Management System that functions to ensure the implementation and effectiveness of safety risk mitigation, and to ensure that the transit agency meets or exceeds its safety objectives through the collection, analysis, and assessment of information.
Safety Culture	The product of individual and group values, attitudes, competencies, and patterns of behavior that determine commitment to, and the style and proficiency of, an organization's safety management. In addition, the four key components of a safety culture are reporting culture (encourage employees to divulge information about all hazards that they encounter), just culture (employees are held accountable for deliberate violations of the rules but are encouraged and rewarded for providing essential safety-related information), flexible culture to changing demands), and learning culture (willing to change based on safety indicators and hazards) uncovered through assessments, data, and incidents).
Safety Management Policy	A transit agency's documented commitment to safety, which defines the transit agency's safety objectives and the accountabilities and responsibilities of its employees in regard to safety.
Safety Management System (SMS)	The formal, top-down, organization-wide approach to managing safety risk and assuring the effectiveness of a transit agency's safety risk mitigation. SMS includes systematic procedures, practices, and policies for managing safety risks to the lowest acceptable level practicable.
Safety Promotion	A combination of training and communication of safety information to support SMS as applied to the transit agency's public transportation system.
Safety Requirement	A control written in requirements language.
Safety Risk Management (SRM)	A process within a transit agency's PTASP for identifying hazards and analyzing, assessing, and mitigating safety risk. SRM is a formalized, proactive approach to system safety and applied to all changes to ensure all risks are identified and mitigated prior to the change being made. It provides a framework to ensure that once a change is made, it continues to be tracked throughout its lifecycle.

Serious Injury	Any injury which: (1) Requires hospitalization for more than 48 hours, commencing within 7 days from the date of the injury was received; (2) Results in a fracture of any bone (except simple fractures of fingers, toes, or noses); (3) Causes severe hemorrhages, nerve, muscle, or tendon damage; (4) Involves any internal organ; or (5) Involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface.
Severity	The measure of how bad the results of an event are predicted to be. Severity is determined by the most probable outcome.
Source (of a hazard)	Any potential origin of system failure, including equipment, operating environment, human factors, human-machine interface, procedures, and external services.
State Safety Oversight Agency (SSOA)	An agency established by a State that meets the requirements and performs the functions specified by 49 U.S.C. 5329(e) and the regulations set forth in 49 CFR part 674.
System	An integrated set of constituent pieces that are combined in an operational or support environment to accomplish a defined objective. These pieces include people, equipment, information, procedures, facilities, services, and other support services.
Validation	The process of proving that the right system is being built, i.e., that the system requirements are unambiguous, correct, complete, and verifiable.
Verification	The process that ensures that the system requirements have been met by the design solution and the system is ready to be used in the operational environment for which it is intended.

Appendix B – Acronyms and Abbreviations

ADA	Americans with Disabilities Act
CAP	Corrective Action Plan
CFR	Code of Federal Regulations
CUATS	Cleveland Urban Area Transit System (operated by SETHRA)
ETHRA	East Tennessee Human Resource Agency
FHA	Fault Hazard Analysis
FTA	Federal Transit Administration
FTHRA	First Tennessee Human Resource Agency
JHA	Job Hazard Analysis
JTA	Jackson Transit Authority
JTA	Johnson City Transit
KAT	Knoxville Area Transit
KATS	Kingsport Area Transit Services
Knox County CAC	Knox County Community Action Committee Transit
MPO	Metropolitan Planning Organization
OHA	Operational Hazard Assessment
OSHA	Occupational Safety and Health Administration
Participating Agencies	The Tennessee public transportation agencies covered by the joint PTASP
PHA	Preliminary Hazard Analysis
PM	Preventative Maintenance
PTASP	Public Transportation Agency Safety Plan
SETHRA	Southeast Tennessee Human Resource Agency
SMS	Safety Management Systems
SRM	Safety Risk Management
TAM	Transit Asset Management
TDOT	Tennessee Department of Transportation

Participating Agency Addenda

These Participating Agency Addenda provide additional agency-specific information to supplement the joint PTASP, including agency safety roles and responsibilities, safety training programs, safety reporting programs, and safety-related agency plans and procedures, as applicable. Each addendum applies only to the agency for which it is written and approved.

Addendum 1 – Kingsport Area Transit Service

PTASP and Addendum

Prepared by: _____ _____
NAME Date
General Manager/CEO (Accountable Executive)

Approved by: _____ _____
NAME Date
General Manager/CEO (Accountable Executive)

Approved by: _____ _____
NAME Date
(Kingsport Mayor)

Concurrence: _____ _____
NAME Date
KATS Operation Supervisor

Safety Roles and Responsibilities

The matrix below names the positions at Kingsport Area Transit Service (KATS) responsible for the safety roles and responsibilities described in Section 2.2 of this PTASP.

Kingsport Area Transit Service Roles & Responsibility	**Chris Campbell Public Transportation**	**Cynthia Johnson Transportation**	**Candace Sherer Transit Planner**	**Timothy Land Transit Planner**	**Steve Hightower Fleet Manager**	**Teri Evans Risk Management Manager**	**All KATS Employees**	**Kingsport Police**	**Tennessee Highway Patrol**
Accountable Executive (AE)	P	N							
Chief Safety Officer (CSO) (SMS Implementation)	O	P	S	S					
Safety Management Policy	A/P	O	S	S		R			
Safety Risk Management (Hazard ID/Mitigation)	A	P	S	S	S	S	S		
Safety Assurance (Audits/Inspections)	A	P	R	R					
Safety Promotion (Communication/Training)	A	P	S	S		S			
Hazard Identification & Safety Risk Assessment	A	P	S	S	S				
Safety Reporting & Follow-up	A	P	R	R					
Safety Performance Targets & Measurement	A	P	S	S					
Accident Investigation	A/S	P	R	R		S		S	S

KEY

A Approval
O Oversight
P Primary
S Secondary/Support
R Review/Comment
N Not Applicable/No Significant Role

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Approving a Purchase Agreement for the Real Property Located at 526 Sequoyah in the City

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-247-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: Keith Bruner
Presentation By: Chris McCartt

Recommendation:
Approve the Resolution.

Executive Summary:
The property at 526 Sequoyah Drive, in Cherokee Village, is part of a semi-detached house. The city's building official has ordered the demolition of other part the semi-detached house located at 524 Sequoyah Drive. However, due to the construction of the structure located at the two addresses, it is not feasible to demolish a portion of the semi-detached house, without creating considerable damage to the portion remaining. So, the demolition of the portion of house located at 524 Sequoyah Drive cannot be effectively accomplished without the demolition of the remaining portion of the house at 526 Sequoyah Drive.

Since the property owner of 524 Sequoyah Drive has not demolished the structure, the city will need to demolish it. To accomplish the required demolition the city needs to acquire 526 Sequoyah Drive. The owner of 526 Sequoyah Drive has agreed to sell the property to the city for $5,641.64.

The attached resolution approves a purchase agreement for the property located at 526 Sequoyah Drive, authorizes the mayor to execute the agreement and to execute all documents necessary and proper to close on the purchase of the property, so that the entire structure can be demolished.

Attachments:
1. Resolution

Funding source appropriate and funds are available: JS

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING A PURCHASE AGREEMENT FOR THE REAL PROPERTY LOCATED AT 526 SEQUOYAH DRIVE AND AUTHORIZING THE MAYOR TO EXECUTE THE PURCHASE AGREEMENT AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS The property at 526 Sequoyah Drive, in Cherokee Village, is part of a semi-detached house; and the city's building official has ordered the demolition of other part the semi-detached house located at 524 Sequoyah Drive; and

WHEREAS, due to the construction of the structure located at the two addresses, it is not feasible to demolish a portion of the semi-detached house, without creating considerable damage to the portion remaining, so, the demolition of the portion of house located at 524 Sequoyah Drive cannot be effectively accomplished without the demolition of the remaining portion of the house at 526 Sequoyah Drive; and

WHEREAS, the property owner of 524 Sequoyah Drive has not demolished the structure, the city will need to demolish it and to accomplish that the city needs to acquire 526 Sequoyah Drive; and

WHEREAS, the owner of 526 Sequoyah Drive has agreed to sell the property to the city for $6,038.65;

WHEREAS, the tax appraisal value and the tax assessment value for the property located at 526 Sequoyah Drive are higher than the purchase price as such tax assessment value is shown on the State of Tennessee Comptroller of the Treasury Real Estate Assessment Data Page accessible at https://www.assessment.cot.tn.gov/RE_Assessment/SelectCounty.aspx?map=true&SelectCounty=018.

Now therefore,

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

SECTION I. That the purchase of real property located at 526 Sequoya Drive 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 Purchase Agreement with Bobbie Phillips with the purchase price of $6,038.35, 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:

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT is hereby made and entered into as of the latest of the dates of execution by the parties hereto as shown by the date of notarization of the signatures of the parties

by and between Bobbie Phillips (herein called "Seller) and City of Kingsport, Tennessee, a municipal corporation, (herein called "Buyer").

WITNESSETH:

For and in consideration of the sum of SIX THOUSAND THIRTY EIGHT AND 65/100 ($6,038.65) Dollars, paid by the Buyer to the Seller as set out herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, a certain tract of real property located in Sullivan County, Tennessee, together with any improvements thereon and all easement, covenants, licenses, and other rights appurtenant to said real property, said real property being generally described as follows:

Situate, lying and being in the City of Kingsport, Eleventh (11th) Civil District of Sullivan County, Tennessee:

BEGINNING at a point in the southerly line of Sequoyah Drive 153.25 feet northeasterly along said line of Sequoyah Drive from its intersection with the northeasterly line of Secondary Roadway of West Sullivan Street corner of Lots 8-Y and 9-X; thence easterly with the southern line of Sequoyah Drive by a curve to the right with a radius of 244.27 feet a distance of 77 feet to a point, corner with Lots 8-Y and 8-X; thence southerly with the divisional line of Lots 8-Y and 8-X, 109.20 feet to a point in the line of Lot 10-Y, corner for Lots 8-Y and 8-X; thence northwesterly with the divisional line of Lot 8-Y and Lots 10-Y and 10-X, 52.45 feet to a point, corner of Lots 8-Y and 9-X and 10-X; thence northwesterly by interior angle of 136° 14' with the divisional line of Lots 8-Y and 9-X, 78.75 feet to the point of BEGINNING, and being Lot 8-Y, Block 1, as shown on Map of Block No. 1, Cherokee Village, Sullivan Co., Kingsport Tenn , Scale 1" – 50', August 12, 1943, Charles King, Engr. of record in the Register's Office for Sullivan County, at Blountville Tennessee, Plat Book 2, at Page 111.

Being the same property conveyed to Bobbie Phillips by 2TNCANES, a Tennessee General Partnership, by Quitclaim Deed dated September 16, 2019, of record in Deed Book 3350, Page 1161 in the Register's Office for Sullivan County, at Blountville, Tennessee

Sullivan County Tax Map 46H, Group G, Parcel 3.00

The preparer of this instrument makes no representation as to the status of the title or any matters which may be discovered upon completion of the title examination. Description taken from prior conveyance, without the benefit of any survey.

All property and interests of Seller, to be conveyed hereunder are herein sometimes collectively called the "Property".

THIS SALE IS MADE ON THE FOLLOWING TERMS AND CONDITIONS:

SECTION 1. PURCHASE PRICE. The purchase price for the Property shall be the sum of exactly SIX THOUSAND THIRTY EIGHT AND 65/100 ($6,038.65) Dollars, which sum shall be paid as follows:

a) The sum of FIVE HUNDRED AND 00/100 ($500.00) Dollars has been deposited with Seller, as earnest money with the execution of this Agreement by the Buyer, and which earnest money is not refundable to Buyer, except as set out in Section 8 and Section 27 herein.

(b) The balance of FIVE THOUSAND FIVE HUNDRED THIRTY-EIGHT AND 65/100 ($5,538.65) Dollars less and any prorations and adjustments made pursuant to this Agreement, shall be payable by Buyer at the closing of the sale.

SECTION 2. CONVEYANCE OF PROPERTY. Upon payment of the full purchase price by Buyer as hereinbefore set out, Seller shall convey title to the Property to Buyer by quitclaim deed without warranty, **AS IS, WHERE IS and WITH ALL FAULTS** and subject to all restrictions, easements, encumbrances of record or apparent, including (1) all outstanding real estate taxes, including Sullivan County property taxes, whether delinquent or not yet due and any penalty and interest on the same; and (2) Other easements, restrictions, encumbrances, of record and any use apparent by an inspection of the property.

SECTION 3. CLOSING. Subject to the conditions set out in this Agreement, the closing shall occur on or before sixty (60) days after the date of execution of this Agreement by Buyer, as shown by the date on the acknowledgment of the Buyer's signature, (the "Closing Date"), at a time and location mutually agreed upon by the parties or, upon failure of the parties to agree, at a time and place specified by Buyer (the "Closing"). Buyer and Seller agree to deliver and execute such documents as may be reasonable and necessary in the opinion of counsel for Seller and Buyer to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions hereof.

SECTION 4. SURVEY. Upon the execution of this Agreement, Buyer may, at Buyer's cost, cause a survey to be prepared on the Property by a licensed surveyor acceptable to Buyer.

SECTION 5. TITLE INSURANCE. Buyer, at its expense, may secure an owner's title insurance commitment to issue a title insurance policy insuring Buyer's fee simple interest in the Property to the extent of the Purchase Price.

SECTION 6. POSSESSION. Delivery of possession of the Property shall occur at Closing.

SECTION 7. NOTICE. Any notice or demand on either party hereunder shall be deemed to have been given when mailed to the other party by Certified Mail, Return Receipt Requested, postage prepaid at the addresses set forth below:

SELLER: Bobbie Phillips

_____
Kingsport, Tennessee 37660

BUYER: City of Kingsport, Tennessee
225 West Center Street
Kingsport, Tennessee 37660
Attention: City Attorney

SECTION 8. CONDITIONS PRECEDENT. Buyer's obligations pursuant to this Agreement are contingent upon and subject to the satisfaction, as of Closing, of each of the following conditions (any of which may be waived in whole or in part in writing by the Buyer at, or prior to Closing):

(a) If the Buyer has had a survey conducted pursuant to Section 4, then Buyer shall have received a survey plat for the Property reasonably acceptable to Buyer and consistent with Buyer's intended use of the Property, with no easements, conditions, exceptions, or reservations other than listed in the Permitted Exceptions unless otherwise acceptable to Buyer in its sole discretion. Additionally, there shall not exist any easement, right-of-way, encroachment, waterway, pond, flood plain, conflict, or a protrusion with respect to the Property that is not shown on such survey, or recorded in the public records.

(b) The results of the title examination report and title insurance commitment described in Section 5 shall be acceptable to Buyer in its sole discretion as of Closing. There shall be no change in the matters reflected in the title insurance commitment described in Section 5 hereof, and there shall not exist any encumbrances or title defects affecting the Property not described in such title insurance commitment.

(c) All of the representations, warranties and conditions of Seller set forth in this Agreement shall be true and correct as of the date hereof, and as of the Closing Date, and Seller shall not, on or prior to Closing, have failed to meet, comply with or perform any conditions or obligations on Seller's part required by the terms of this Agreement.

(d) There shall be no change in the matters reflected in the survey described in Section 4 hereof, and there shall not exist any easement, right of way, encroachment, waterway, pond, flood plain, conflict, or a protrusion with respect to the Property not shown on the survey.

If any condition specified in this Section 8 is not fully satisfied by Closing, or any extension thereof pursuant to this Agreement, Buyer may, at its option, waive such unsatisfactory condition precedent and consummate this Agreement, or may terminate this Agreement by written notice to Seller, and upon such termination, this Agreement shall be cancelled, the Earnest Money Deposit shall be refunded to Buyer, in full, and thereafter neither Seller nor Buyer shall have any continuing obligation to each other under this Agreement.

SECTION 9. PRORATIONS. Seller warrants that all real estate taxes and assessments and personal property taxes for the tax year 2018 and all prior years have been paid by the Seller or Seller's predecessor in title, and there shall be no preparation of property taxes. .

SECTION 10. EXPENSES OF SELLER. In closing this transaction, Seller shall be charged with the following:

(a) The fees and expenses of any attorney or other advisor engaged by Seller in connection with this transaction; and

(b) The commission or fees charged by any real estate broker or agent retained or used by the Seller in connection with this transaction.

SECTION 11. EXPENSES OF BUYER. In closing this transaction, Buyer shall be charged with the following:

(a) The cost of preparation of the quitclaim deed;

(b) The cost of any title search and title insurance policy;

(c) The cost of recording the deed and any transfer tax associated with such deed;

(d) Any fees charged in connection with any attorney or other advisor engaged by Buyer in connection with this transaction;

(e) The cost of the survey provided pursuant to Section 4; and

(f) The commission or fees charged by any real estate broker or agent retained or used by Buyer in connection with this transaction.

SECTION 12. RISK OF LOSS. The risk of loss or damage to the Property described above by fire or other casualty shall remain with the Seller until Closing In the event of such loss before Closing, this Agreement will be voidable at the option of Buyer by written notice of such option to the Seller prior to the scheduled Closing. Should Buyer elect to continue with the purchase following such loss

or damage before Closing, Buyer will the right to close this Agreement at the stated Purchase Price. If Buyer elects to void the Agreement pursuant to this section 12, the earnest money will be refunded to the Buyer, without interest.

SECTION 14. DEFAULT.

(a) If Buyer is in default of this Agreement, Seller shall give written notice to Buyer, and Buyer shall have ten (10) business days from the date of the receipt of such notice within which to cure such default. If the Closing contemplated by this Agreement is not consummated on account of Buyer's default hereunder, Seller shall be entitled to retain the Deposit as full and complete liquidated damages for such default of Buyer, the Parties acknowledging that it is impossible to estimate more precisely the damages which might be suffered by Seller upon Buyer's default. This Section 14(a) is intended not as a penalty, but as full liquidated damages. The Seller many retain the Deposit as full liquidated damages or to sue Buyer for specific performance of this Agreement in the event of a default or in failing to close hereunder by Buyer.

(b) If Seller shall be in default of this Agreement, Buyer shall give written notice to Seller, and Seller shall have ten (10) business days from the date of the receipt of such notice within which to cure such default, provided, however, there shall be no cure period for Seller's failure to close. If the Closing contemplated by this Agreement is not consummated on account of Seller's default hereunder, the Seller shall return the Deposit to Buyer, as full payment for any and all damages that Buyer may incur, and Buyer waives any right to specific performance and all other rights, privileges or remedies available to Buyer at law or in equity, severally or cumulatively.

SECTION 15. SELLER'S WARRANTIES, REPRESENTATIONS AND COVENANTS. Seller hereby represents and warrants to Buyer solely as to the following matters, each of which is so warranted to be true and correct as of the date hereof and shall, as a condition to Buyer's obligations hereunder, be true and correct on the closing date:

(a) Seller has entered into no other presently effective agreement to sell the Property, or any portion thereof, nor has it granted any presently effective option for the sale of the Property, or any portion thereof, or right of first refusal or right of first offer with respect thereto;

(b) Seller has no knowledge of pending or contemplated condemnation proceedings affecting the Property, the abutting streets, or any part thereof;

(c) Seller is not now a party to any litigation with respect to the Property, and Seller knows of no litigation or threatened litigation affecting the title to the Property (and Seller shall give to Buyer prompt notice of the institution of any such litigation prior to the Closing Date);

(d) Seller is not a "foreign person" as defined in the Internal Revenue Code of 1986, as amended, and as contemplated by the Foreign Investments in Real Property Tax Act (96 Stat. 2682), as amended by the Deficit Reduction Act of 1984, and Buyer has no obligation to withhold and pay over to the U. S. Internal Revenue Service any part of the "amount realized" by Seller in the transaction contemplated hereby;

(e) Seller has the authority and power to enter into this Agreement and to consummate the transactions contemplated herein and is legally obligated to Buyer in accordance with the terms and provisions of this Agreement;

(f) The execution and entry into this Agreement, the execution and delivery of the documents and instruments to be executed and delivered by Seller on the Closing Date, and the performance by Seller of Seller's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Property as contemplated herein, are consistent with and not in violation of, and will not create any adverse condition under, any contract, agreement or other instrument to which Seller is a party, any judicial order or judgment of any nature by which Seller is bound; and

(g) All necessary and appropriate action has been taken by Seller authorizing and approving the execution of and entry into this Agreement, the execution and delivery by Seller of the documents and instruments to be executed by Seller on the Closing Date, and the performance by Seller of Seller's duties and obligations under this Agreement and of all other acts necessary and appropriate for the consummation of the purchase and sale of the Property as contemplated herein.

SECTION 16. BUYER'S WARRANTIES, REPRESENTATIONS AND COVENANTS. Buyer hereby represents and warrants to Seller solely as to the following matters, each of which is so warranted to be true and correct as of the date hereof and shall, as a condition to Seller's obligations hereunder, be true and correct on the closing date:

(a) The execution and delivery of this Agreement and the performance by Buyer of its obligations hereunder have been duly authorized by all required action of Buyer;

(b) Buyer has the right, power and authority to make and perform its obligations under this Agreement and this Agreement is a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to bankruptcy, reorganization and other similar laws affecting the enforcement of creditors' rights generally;

(c) Buyer does not require any consents or approvals from any third party with respect to the execution and delivery of this Agreement or with respect to the performance by Buyer of its obligations hereunder, including the purchase of the Property from Seller;
(d) The execution and entry into this Agreement, the execution and delivery of the documents and instruments to be executed and delivered by Buyer on the Closing Date, and the performance by Buyer of Buyer's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Property as contemplated herein, are consistent with and not in violation of, and will not create any adverse condition under, any contract, agreement or other instrument to which Buyer is a party, any judicial order or judgment of any nature by which Buyer is bound; and
(e) All necessary and appropriate action has been taken by Buyer authorizing and approving the execution of and entry into this Agreement, the execution and delivery by Buyer of the documents and instruments to be executed by Buyer on the Closing Date, and the performance by Buyer of Buyer's duties and obligations under this Agreement and of all other acts necessary and appropriate for the consummation of the purchase and sale of the Property as contemplated herein.
SECTION 17. TIME IS OF THE ESSENCE. Time is of the essence to the performance of this Agreement.
SECTION 18. MERGER CLAUSE; ENTIRE AGREEMENT; MODIFICATIONS. All understandings and agreements heretofore had between the parties are merged in this Agreement, which alone fully and completely expresses their agreement, and the same is entered into after full investigation, neither party relying upon any statement, representation, express or implied warranties, guarantees, promises, statements, "setups", representation, or information, not embodied in this Agreement, made by the other, or by any agent, employee, servant, or other person representing or purporting to represent the Seller. This Agreement contains the full agreement between the parties and there are no other contracts, express or implied, which are not stated herein, and no waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the parties hereto.
SECTION 19. POST CLOSING SURVIVAL. Wherever in this Agreement Seller or Buyer shall have agreed or promised to perform certain acts or otherwise where the context of this Agreement would require such performance or grants to occur after the Closing, then those agreements and covenants shall survive the Closing and continue to bind Seller and Buyer.
SECTION 20. CAPTIONS. The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement and are not to be considered in interpreting this Agreement.
SECTION 21. SEVERABILITY. In the event any provision or portion of this agreement is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.
SECTION 22. CONTROLLING LAW; VENUE. This Agreement has been made and entered into under the laws of the State of Tennessee, and said laws shall control the interpretation thereof. Venue for any litigation concerning this Agreement shall be filed in the state or federal courts for Sullivan County, Tennessee.
SECTION 23. BINDING EFFECT. All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
SECTION 24. NON-LIABILITY OF CITY OFFICIALS AND EMPLOYEES. No member, official, or employee of Seller shall be personally liable to Buyer in the event any provision of the Agreement is unenforceable, or there is any default or breach by Seller, or for any amount which may become due under the Agreement, or on any obligations under the terms of the Agreement.
SECTION 25. ASSIGNMENT. Buyer may not assign or transfer this Agreement without the written consent of Seller, which consent will be at Seller's sole discretion.
SECTION 26. FURTHER ACTS. Each party hereto agrees to do, execute, acknowledge and deliver all such further acts, assignments, transfers, assurances and instruments that may reasonably be required to fully effectuate the transactions contemplated in this Agreement.
SECTION 27. OFFER TO PURCHASE. By execution of this Agreement and in consideration of the Seller considering the offer to purchase contained in this Agreement, Seller agrees that Buyer shall have sixty (60) days after execution and delivery of the Agreement by Seller to Buyer, to accept the offer to purchase contained herein, such acceptance evidenced by approval of the Agreement and Seller's offer to purchase by Buyer's Board of Mayor and Aldermen at a properly called public meeting. Seller agrees that this offer to purchase will not be withdrawn for that sixty (60) days period.
IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate originals the day and year first written above.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is further authorized to make such changes to the Purchase Agreement as approved by the mayor and the city attorney, provided such changes do not substantially alter the material provisions of the Purchase Agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION X. 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 public.

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

ADOPTED this the 5th day of November, 2019.

_____
PATRICK W. SHULL, Mayor

ATTEST:

_____
SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, City Attorney

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Approve Lease with Serenity Improvement at the Renaissance Center

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-252-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: H. Powell
Presentation By: H. Powell

Recommendation:
Approve the Resolution.

Executive Summary:
Approve new lease with new rent for Serenity Improvement (AA) group at the Renaissance Center. They are long-term renters at the facility, and previous lease is now expired. New rent has been raised from $197.45 per month to $240 per month to cover cost of custodial and facility services.

Attachments:
1. Resolution

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE AGREEMENT WITH SERENITY IMPROVEMENT FOR SPACE AT THE RENAISSANCE CENTER AND AUTHORIZING THE MAYOR TO EXECUTE THE LEASE AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE LEASE

WHEREAS, Serenity Improvement has been a long time renter at the Renaissance Center; and

WHEREAS, they would like to renew the lease for a period of November 1, 2019, through June 30, 2021, with the option to renew for five successive renewal terms of one year each for an amount of $240.00 per month; and

Now therefore,

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

SECTION I. That a Lease Agreement with Serenity Improvements for space at the Renaissance Center 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 Serenity Improvements for space at the Renaissance Center 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:

RENAISSANCE CENTER
LEASE AGREEMENT

THIS LEASE, made and entered into as of this _____ day of November, 2019, by and between the City of Kingsport, a municipal corporation (herein called "Landlord"), and the Serenity Improvement Group of Alcoholics Anonymous (herein called "Tenant"").

WITNESSETH:

THAT, in consideration of the premises and the mutual covenants and agreements herein contained and other good and valuable consideration, the Parties do hereby agree as follows:

1. Premises. Landlord does hereby lease to Tenant and Tenant leases from Landlord that certain space in the building known as the Renaissance Center containing approximately (1310) square feet of floor area in room 314 (herein called "Premises"). Said Premises are located in the City of Kingsport, Sullivan County, Tennessee.

This Lease is subject to the terms, covenants and conditions herein set forth and the Tenant covenants as a material part of the consideration for this Lease to keep and perform each and all of said terms, covenants and conditions by it to be kept and performed.

2. Term. The term of this Lease shall be until June 30, 2021, and shall commence to run on the date of this Lease. The Parties shall have the option to renew this Lease for five (5) successive renewal terms of one year each. Each of such renewal terms shall be upon the same terms, covenants and conditions hereof, except (a) there shall be no further renewal right after the expiration of said fifth and last renewal term, and (b) compensation shall be as provided in Paragraph 4. Such options to renew shall be deemed to have been exercised by Tenant by written notice served upon Landlord prior to the termination of this Lease on June 30, 2021, or the termination of any successive renewal term. This Lease shall be extended without any further instrument providing the Lease is not terminated for other reasons as stated herein. For the purpose of clarification, if the Tenant exercises all the renewal options as set out in this paragraph, the final renewal will expire on June 30, 2026.

This Lease may be terminated at any time during the term of the lease or any renewal thereof by either party by giving written notice to the other party at least 30 days before the effective date of such termination.

3. Use. Tenant shall use the Premises for Alcoholics Anonymous group activities including office functions, classes, workshops, receptions, and exhibits and shall not use or permit the Premises to be used for any other purpose without the prior written consent of Landlord. Tenant shall have permanent use of two (2) closets and access to and use of space in room 314 on a regular basis as shown. Tenant shall have exclusive control of the two (2) closets as part of the Premises and shall have the right of access to these closets at all reasonable times. Tenant agrees that Landlord may remove chairs from the Premises and/or use chairs for reasonable activities while Premises are not occupied by Tenant providing chairs are replaced before Tenant's next scheduled occupancy.

4. Rent. Tenant agrees to pay to Landlord as Rent, without notice or demand, the annual amount of TWO THOUSAND EIGHT HUNDRED EIGHTY DOLLARS ($2,880), payable in monthly installments of TWO HUNDRED FORTY DOLLARS ($240), in advance, on or before the first day of each and every successive calendar month during the term hereof.

5. Uses Prohibited. Tenant shall not do or permit anything to be done in or about the Premises or bring or keep anything therein that is not within the permitted use of the Premises or that will in any way increase the existing rate of or affect any fire or other insurance upon the building in which the Premises are located, or any of its contents, or cause a cancellation of any insurance policy covering said building or any part thereof, or any of its contents. Tenant shall not do or permit anything to be done in or about the Premises that will in any way obstruct or interfere with the rights of other tenants or occupants of the Renaissance Center, or injure or annoy them or use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose. Nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit, or allow to be committed, any waste in or upon the Premises.

6. Compliance with Law. Tenant shall not use the Premises, or permit anything to be done in or about the Premises, that will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or that shall hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or that may hereafter be in force relating to or affecting the condition, use or occupancy of the Premises, excluding structural changes not related to or affected by Tenant's improvements or acts. The judgment or any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any Jaw, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between the Landlord and Tenant.

7. Alterations and Additions. Tenant shall not make or allow to be made any alterations, additions or improvements to or of the Premises or any part thereof without first obtaining the written consent of Landlord and any alterations, additions or improvements to or of said Premises, including, but not limited to, wall coverings, paneling and built-in cabinet work, but excepting movable furniture and trade fixtures, shall at once become a part of the realty and belong to the Landlord and shall be surrendered with the Premises. In the event Landlord consents to the making of any alterations, additions or improvements to the Premises by Tenant, the same shall be made by Tenant at Tenant's sole cost and expense.

Upon the expiration or sooner termination of the term hereof, Tenant shall, upon written demand by Landlord, given at least thirty (30) days prior to the end of the term, at Tenant's sole cost and expense, forthwith and with all due diligence, remove any alteration, additions, or improvements made by Tenant, designated by Landlord to be removed, and Tenant shall, forthwith and with all due diligence, at its sole cost and expense, repair any damage to the Premises caused by such removal.

8. Repairs. By entry hereunder, Tenant shall be deemed to have accepted the Premises as being in good, sanitary order, condition and repair. Tenant shall, at Tenant's sole cost and expense, keep the Premises and every part thereof in good condition and repair. Tenant shall, upon the expiration or sooner termination of this Lease, surrender the Premises to the Landlord in good condition, broom clean, ordinary wear and tear excepted. Any damage to adjacent premises caused by Tenant's use of the Premises shall be repaired at the sole cost and expense of Tenant.

Notwithstanding the provisions of this section hereinabove, Landlord shall repair and maintain the exterior walls and roof of the building of which the Premises are a part, unless the necessity for such maintenance and repairs is caused in part or in whole by the act, neglect, fault or omission of the Tenant, its agents, servants, employees or invitees, in which case Tenant shall pay to Landlord the actual cost of such maintenance and repairs. Landlord shall not be liable for any failure to make such repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to Landlord by Tenant.

9. Liens. Tenant shall keep the Premises and the property on which the Premises are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant.

10. Assignment and Subletting. Tenant shall not either voluntarily, or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the said Premises or any part thereof, or any right or privilege appurtenant thereto, or allow any other person (employees, agents, servants and invitees of Tenant excepted) to occupy or use the said Premises, or any portion thereof, without first obtaining the written consent of Landlord, which consent need not be given and shall be at Landlord's sole and absolute discretion. A consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Consent to any such assignment or subletting shall in no way relieve Tenant of any liability under this Lease. Any such assignment or subletting without such consent shall be void, and shall, at the option of the Landlord, constitute a default under the terms of this Lease.

11. Hold Harmless. Tenant shall indemnify and hold harmless Landlord against and from any and all claims arising from Tenant's use of the Premises or from the conduct of its business and from any activity, work, or other things done, permitted or suffered by Tenant in or about the Premises, and shall further indemnity and hold harmless Landlord against and from any and all claims arising from any breech or default in the performance of any obligation on Tenant's part to be performed under the tem1s of this Lease, or arising from any act or negligence of the Tenant, or any officer, agent, employee, guest, or invitee of Tenant, and from all costs, attorneys' fees and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. In case any action or proceeding be brought against Landlord by reason of such claim, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises, from any cause; and Tenant hereby waives all claims in respect thereof against Landlord. Tenant shall give prompt notice to Landlord in case of casualty or accidents on the Premises.

12. Liability Insurance. Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease a policy of comprehensive public liability insurance insuring Landlord and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) for injury or death of one person in any one accident or occurrence and in the amount of not less than FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) for injury or death of more than one person in any one accident or occurrence. The limit of any such insurance shall not, however, limit the liability of the Tenant hereunder. Insurance required hereunder shall be in companies reasonably acceptable to Landlord.

13. Rules and Regulations. Tenant shall faithfully observe and comply with any and all rules and regulations that Landlord shall from time to time promulgate and/or modify regulating use and occupancy of the Premises. The rules and regulations shall be binding upon the Tenant upon delivery of a copy of them to Tenant.

14. Holding Over. If Tenant remains in possession of the Premises or any part thereof after the expiration of the term hereof without the express written consent of Landlord, then Tenant's occupancy subsequent to such expiration shall be deemed that of a tenant at will, and in no event a tenant from month to month.

15. Entry by Landlord. Landlord reserves, and shall at any and all times have, the right to enter the Premises to inspect the same, to repair the Premises and any portion of the building of which the Premises are a part that Landlord may deem necessary or desirable. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, in order to obtain entry to the Premises without liability to Tenant.

16. Parking and Common Areas. All parking and common areas and other common facilities made available by Landlord in or about the Renaissance Center shall be subject to the exclusive control and management of Landlord, expressly reserving to Landlord, without limitation, the right to erect and install within said areas, planters, sculpture, or otherwise.

The Tenant, in the use of said common and parking areas, agrees to comply with such reasonable rules, and regulations as the Landlord may adopt from time to time for the orderly and proper operation of said common and parking areas.

IN WITNESS WHEREOF, the Parties hereto executed this Lease on the day and 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 5th day of November, 2019.

_____
PATRICK W. SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Approve the Purchase of Bentek Software

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-241-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: Lane, Baumgarder, Carver
Presentation By: George DeCroes

Recommendation:
Approve the Resolution

Executive Summary:
At the request of Human Resources (HR), Information Technology (IT) researched methods and software to help employees with annual enrollment in benefits. IT recommended Bentek as a solution.

Bentek is the sole source provider to Central Square, our current provider software for finance, HR/payroll, utilities, citizen engagement, community development, property tax, municipal services and asset management.

After demonstrations and reviews with HR, Finance and IT, Bentek was recommended to simplify and automate the open enrollment process for employees. This software will also improve efficiency and reduce benefits administration costs in both the Human Resources and Finance departments.

Attachments:
1. Resolution
2. Sole Source Memo

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH BENTEK, INC. TO PURCHASE SOFTWARE AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AS AMENDED BY ADDENDUM, AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the city would like to enter into an agreement with Bentek, Inc. for Central Square Software; and

WHEREAS, the city currently uses Central Square software in various offices and would like to use it for other processes for employees; and

WHEREAS, Bentek, Inc. is a sole source provider for the software; and

WHEREAS, the annual cost of the software is $52,002.00, with a start-up fee of $10,000.00, for a total of $62,002.00 which is available in 110-000-601-2057.

Now therefore,

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

SECTION I. That an agreement with Bentek, Inc.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 as amended by addendum, with Bentek, Inc 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:

BENTEK® MASTER SOFTWARE AS A SERVICE AGREEMENT FOR END USERS

This Master Software as a Service Agreement for End Users ("Agreement") dated_____, 2019 ("Effective Date") by and between Bentek, Inc., a Florida corporation, with a principal place of business at 11505 Fairchild Gardens Avenue, Suite 102, Palm Beach Gardens, FL 33410 ("Bentek") and **City of Kingsport, Tennessee, a Tennessee municipal corporation**, with a principal place of business located at **225 West Center Street, Kingsport, TN 37660** ("Customer").

WHEREAS:

1. Bentek is in the business of developing, licensing, supporting and hosting software applications for employee benefits enrollment and administration, the SaaS Solution (as defined below).

2. Bentek agrees to provide to the Customer and the Customer agrees to accept a license to use for its own internal business purposes only the SaaS Solution (as defined below) from Bentek as specified in the applicable Exhibit A which is attached to this Agreement and incorporated herein.

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants contained herein, the parties hereto agree as follows:

1. Definitions.

(a) "Customer Data" means all electronic data or information submitted by Customer to the SaaS Solution.

(b) "End Users" means individuals who are authorized by Customer to use the SaaS Solution, for whom subscriptions to the SaaS Solution have been purchased as specified in the applicable Order Form and who have been supplied user identifications and passwords by Customer (or by Bentek at Customer's request) and who may only access and use the SaaS Solution so long as they receive

employee benefits coverage through programs provided by the Customer.

(c) "Malicious Code" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

(d) "Order Form" means the ordering documents for purchases of subscriptions hereunder, in the form of attached Exhibit A [1], including addenda thereto, that are entered into between Customer and Bentek from time to time. Order Forms shall be deemed incorporated herein by reference.

(e) "Professional Services" means the services provided by Bentek under the terms of the Bentek Professional Services Agreement ("PSA") which are subject to a fee and which include assisting the Customer in populating the SaaS Solution with Customer Data.

(f) "SaaS Solution" means the online, Web-based applications and platform provided by Bentek via http://www.mybentek.com and/or other designated websites as described in the User Documentation, that are ordered by Customer under an Order Form, including associated offline components.

(g) "Tools" is defined as the scripts, software, and utilities which Bentek may use to monitor and administer the SaaS Solution and to help resolve support requests.

(h) "User Documentation" means the online user guide for the Services, accessible via http://www.mybentek.com and/or other designated websites as described in the User Documentation as updated from time to time.

2. License to the SaaS Solution.

(a) **Grant and Scope of License.** Bentek grants to Customer and Customer accepts a personal, non-transferable, limited, non-exclusive, worldwide, license, to access and use the SaaS Solution for its internal business purposes only during the term of this Agreement. This license automatically terminates upon Customer's breach of section 2(a) or 2(e).

(b) **License Fees.** Customer agrees to pay the license fees as specified in the applicable Order Form on the terms and conditions contained in this Agreement.

(c) **Subscriptions for End Users**. Licenses for use of the SaaS Solution are purchased as subscriptions for specific End Users. Subscriptions for End Users are for designated End Users and cannot be shared or used by more than one End User but may be reassigned to new End Users replacing former End Users who no longer access the Services, so long as Customer (i) provides prior written notice to Bentek and (ii) Customer is current in all of its payment obligations.

(d) **Provision of SaaS Solution.** Bentek shall: (i) provide to Customer basic support for the SaaS Solution at no additional charge, and/or upgraded support if purchased separately, (ii) use reasonable commercial efforts to make the Services available 24 hours a day, 7 days a week, except for: (1) planned downtime, in which event Bentek shall give at least 8 hours' notice via the Services and which Bentek shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Eastern time Friday to 6:00 a.m. Eastern time Monday, or (2) any unavailability caused by circumstances beyond Bentek's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, or Internet service provider failures or delays, and (iii) provide the Services only in accordance with applicable laws and government regulations.

(e) **Customer's Use of SaaS Solution.** Customer shall (i) be responsible for all End User's compliance with the terms of this Agreement; (ii) be solely responsible for the accuracy, quality, integrity and non-infringement of Customer Data and the means by which Customer acquired Customer Data, (iii) use reasonable commercial efforts to prevent unauthorized access to or use of the SaaS Solution, and notify Bentek promptly of any such unauthorized access or use, and (iv) use the SaaS Solution only in accordance with the terms of this Agreement, the User Documentation and applicable laws and government regulations. Customer shall not (1) make the SaaS Solution available to anyone other than End Users, (2) modify, adopt, translate, reproduce, enhance, copy, or use the SaaS Solution in a manner that is illegal or violates the terms of this Agreement, (3) use the SaaS Solution to store or transmit material which is infringing, libelous, defamatory, tortious, unlawful, or violates privacy rights or data security regulations, (4) use the SaaS Solution to store or transmit Malicious Code, (5) interfere with or disrupt the integrity or performance of the SaaS Solution or third-party data contained therein,

(6) gain or attempt to gain unauthorized access to the SaaS Solution or their related systems or networks, (7) intentionally cause excessive or unwanted traffic or resource consumption on the related systems or network, access data not intended for the Customer, log into a server or account that the Customer is not authorized to access, attempt to probe, scan or test the vulnerability of the SaaS Solution, any system or the network or to breach the security or authentication measures, or (8) decompile, reverse engineer or otherwise obtain the source code of the SaaS Solution (each of the enumerated subparagraphs of this section 2(e) a "Prohibited Act").

3. **License to Customer Data.** Customer hereby grants to, and Bentek hereby accepts a world-wide, royalty-free, and non-exclusive, license to use the Customer Data to perform its

obligations during the term of this Agreement.

4. Fees and Taxes.

(a) **Fees.** As consideration for the providing the SaaS Solution under this Agreement, the Customer agrees to pay to Bentek the various fees (collectively, the "Fees") set out in the applicable Order Form and in accordance with the terms and conditions set out therein. The Customer's access to the SaaS Solution is contingent upon the Customer's performance of its obligations under this Agreement including, without limitation, the payment of all Fees. If any amount owing by Customer under this or any other Agreement is 30 days or more days overdue, Bentek may, without limiting its other rights and remedies, suspend Customer's access to the SaaS Solution until such amounts are paid in full; provided however that Bentek shall not exercise its rights of suspension if the Customer has reasonably and in good faith disputed such charges and is cooperating diligently and in good faith to resolve the dispute.

(b) **Taxes.** The Customer shall, unless it is exempt under regulation, be responsible for all sales, use, value added, or other taxes or duties, as applicable, payable with respect to the SaaS Solution, Professional Services, or otherwise arising out of or in connection with this Agreement, other than Bentek's income taxes. If Bentek pays such taxes on the Customer's behalf, the Customer agrees to reimburse Bentek for such payment immediately upon demand. If any tax in the nature of withholding tax is payable on any sums payable to Bentek under this Agreement, the Customer shall pay Bentek such amount as is necessary to ensure that the net amount received by Bentek after such withholding shall be equal to the amount originally due.

5. Support and Professional Services.

Bentek's provision of Professional Services are governed by the terms of the PSA. The Customer shall be responsible for furnishing Bentek with all information determined by Bentek to be necessary for the performance of the Support and Professional Services to be provided by Bentek as specified in this Agreement and the PSA.

6. Ownership.

(a) Subject to the provisions of Section 7 hereof, Bentek owns all intellectual property rights, including without limitation, copyrights, patents, trade secrets, moral rights, in and to the support, Tools, and SaaS Solution, including all modifications, changes, enhancements, or additions thereto. The Customer agrees that, except for the purchase of subscriptions for End Users to access the SaaS Solution in this Agreement, nothing in this Agreement gives the Customer any right, title or interest in, to or under any of the software, network, systems, or any intellectual property rights therein. To the extent of any such interest accruing to the Customer and/or its End Users notwithstanding the provisions hereof may constitute "work for hire", the Customer hereby agrees to assign (and shall cause its End Users to assign) and, upon its creation, does hereby assign to Bentek the ownership of such intellectual property absolutely, and all patent and intellectual property rights therein.

(b) Bentek shall own all right, title and interest (including patent rights, copyrights, trade secret rights, mask work rights, trademark rights and all other intellectual property rights throughout the world relating to any and all suggestions, enhancement requests, recommendations, or feedback provided by Customer and End Users relating to or arising out of the Tools, SaaS Solution, and support. Customer for itself hereby makes, and shall cause End Users to make, all assignments necessary to accomplish the foregoing ownership. Customer shall itself, and shall cause End Users, to further assist Bentek, at Bentek's expense, to further evidence, record and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights assigned. Customer hereby irrevocably designates and appoints Bentek as its agents and attorneys-in-fact to act for and in Customer's and its End Users' behalf to execute and file any document and to do all other lawfully permitted acts to further the foregoing with the same legal force and effect as if executed by Customer and End User.

7. Customer Data.

(a) Protection of Customer Information. Bentek acknowledges and agrees that any Customer Information, in whatever form, stored and/or processed on the network or systems hosting the SaaS Solution, is and shall remain the sole property of the Customer. Bentek agrees that it will not use any Customer Data for any purpose other than to perform its obligations under this Agreement. Bentek agrees that either (i) upon request of and as directed by the Customer, or (ii) upon the termination of this Agreement, Bentek shall either destroy or return such Customer Data to the Customer in a standard file format as Bentek may reasonably determine. Bentek shall take or cause to be taken the same efforts it exercises in protecting the security of its information, but in no event, shall Bentek exercise less than commercially reasonable precautions to protect the security of Customer Data.

(b) **Regulation of Customer Data**. The Customer acknowledges and agrees that the Customer and its End Users or its agents will be solely and exclusively responsible for the collection and provision of all Customer Data including, without limitation, identifiable personal data regarding

the Customer's employees, End Users, or other individuals. The Customer shall not and shall not permit its End Users or agents to provide Bentek with Customer Data or other data that constitutes a Prohibited Act hereunder. The Customer acknowledges and agrees that Bentek is under no obligation to review Customer Data to ensure either its accuracy or its compliance with the terms and conditions of this subsection.

(c) **Unauthorized Access**. Bentek shall in no way be held liable for any loss of data or other claims to the extent the same arise from unauthorized access to the systems, network, or SaaS Solution by obtaining a user name or password caused by a negligent or willful act of the Customer, its End Users, or its agents.

(d) **Business Associate Agreement.** If Customer or a Third Party authorized by Customer provides health information to Bentek to perform any services pursuant to this Agreement, and to the extent that such health information constitutes Personal Health Information ("PHI") as that term is defined in the Business Associate Agreement attached hereto and incorporated herein as Exhibit B ("BAA"), then the terms of the BAA shall also apply with respect to such PHI.

8. Confidentiality.

(a) Definition. For purposes of this Agreement, "Confidential Information" shall include, but is not limited to, the following: any documentation and other tangible or intangible discoveries, ideas, concepts, software, designs, drawings, specifications, source code, object code, diagrams, flow charts, procedures and "know-how" comprising all or any portion of a computer program, strategic and development plans or concepts, financial information, business plans, marketing plans, sales plans, marketing and sales strategies, data, business records, project records, market reports, Customer Data, employee lists and business manuals, policies and procedures, information relating to products, processes, technologies or theory and all other information which may be disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party"), or to which the Receiving Party may be provided access by a Disclosing Party, or others, in accordance with this Agreement, or which is generated by the Disclosing Party as a result of or in connection with bona fide business purposes of the Disclosing Party, which is not generally available to the public.

(b) **Obligation of Confidentiality.** The Receiving Party covenants and agrees to receive and hold the Confidential Information in confidence. Without limiting the generality of the foregoing, the Receiving Party covenants and agrees:

(i) to protect and safeguard the Disclosing Party's Confidential Information against unauthorized use, publication or disclosure;

(ii) not to use any of the Disclosing Party's Confidential Information except as required for its performance under this Agreement;

(iii) not to, directly or indirectly, in any way, reveal, report, publish, disclose, transfer or otherwise use any of the Disclosing Party's Confidential Information except as specifically authorized by the Disclosing Party in accordance with this Agreement;

(iv) to restrict access to the Disclosing Party's Confidential Information to those of its officers, directors, agents, attorneys, consultants, employees, contractors and partners who clearly and demonstrably need such access to fulfill its obligations under this Agreement;

(v) to advise in writing each of the persons to whom it provides access to any of the Disclosing Party's Confidential Information, that such persons are strictly prohibited from making any use, publishing or otherwise disclosing to others, or permitting others to use for their benefit or to the detriment of the Disclosing Party, any of the Disclosing Party's Confidential Information, and, upon the request of the Disclosing Party, to provide the Disclosing Party with a copy of a written agreement to that effect signed by such persons; and

(vi) to comply with any other reasonable security measures requested in writing by the Disclosing Party.

(c) **Exceptions to Confidentiality Provisions.** The foregoing confidentiality obligations do not apply:

(i) to the extent that the Confidential Information is or becomes generally available to the public other than as a result of a breach of this Agreement or any other obligation of confidentiality; and,

(ii) to the extent that the Receiving Party is directly ordered by a court or other governmental authority to disclose all or any part of the Confidential Information, provided, however, that the party so ordered will give prompt notice to the other of any such order, or of any legal or governmental proceeding that might result in such an order, and will not disclose any Confidential Information until the other party has been provided with a reasonable opportunity to limit or prevent such disclosure.

(d) **Remedies for Breach.** Each party acknowledges that any unauthorized disclosure or use of Confidential Information may cause immediate and irreparable harm to the other, for which damages may not be an adequate remedy, and as such, each party shall, in addition to any other rights or remedies it may have in law or equity under this Agreement or otherwise, be entitled to

injunctive relief.

(e) **Return of Confidential Information.** Each of the parties agrees that immediately upon request by the other, and in any event, immediately upon termination or expiration of this Agreement, it shall deliver and return to the other all copies of Confidential Information (including all copies thereof, in any form whatsoever) disclosed and/or in its possession, care or control.

9. WARRANTIES AND DISCLAIMERS.

(a) **LIMITED WARRANTY**. Bentek warrants that (i) the SaaS Solution and Tools shall perform substantially in accordance with the User Documentation; (ii) Bentek owns the SaaS Solution and Tools and/or has the express authority to license the SaaS Solution and Tools; (iii) as of the Effective Date, there are no known claims of infringement by the SaaS Solution or Tools. For any breach of the warranty in section 9(a)(ii) and/or (iii), Bentek's entire liability and Customer's sole and exclusive remedy is provided in section 15(a) and (c) below. For any breach of the warranty in section 9(a)(i), Bentek's entire liability and Customer's sole and exclusive remedy is at Bentek's option, either (1) to exercise reasonable efforts to correct such non-conformity in a manner determined by Bentek, within 5 business days of receiving written notice from Customer describing the non-conformity in reasonable detail; or (2) replace the SaaS Solution or Tools containing the non-conformity, or (3) refund, pro-rata the fees received by Bentek for the SaaS Solution or Tools containing the non-conformity, in which case the applicable Order Form which corresponds to the subscriptions for the non-conforming SaaS Solution shall automatically terminate upon the pro rata refund of fees paid for such subscriptions.

(b) **Mutual Warranties.** Each party represents and warrants that (i) it has the legal power to enter into this Agreement, and (ii) it will not knowingly or intentionally transmit to the other party any Malicious Code (except for Malicious Code previously transmitted to the warranting party by the other party)

(c) Warranty Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, BENTEK DISCLAIMS ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY LAW WITH REGARD TO THE SAAS SOLUTION, SUPPORT, AND ANY TOOLS WHICH MAY BE SOLD, LICENSED OR PROVIDED, INCLUDING THOSE AT NO COST, PURSUANT TO THIS AGREEMENT.

10. **Security**.

(a) The Customer agrees that the Customer is solely responsible for (i) the confidentiality of all Customer and End User passwords and all use or charges incurred from use of the SaaS Solution, Professional Services, and support accessed from Bentek with the Customer's and End Users' passwords, and (ii) the content of all visual, written or audible communications using the Customer's account. Although Bentek is not responsible for any such communications, Bentek may suspend any such communications of which Bentek is made aware of, at any time, and Bentek shall provide prompt notice thereof to the Customer. The Customer agrees that the Customer and Users will not use the SaaS Solution, Professional Services, Tools, support, related systems and network in a manner that constitutes a Prohibited Act.

11. Term and Termination.

(a) **Term.** This Agreement commences on the Effective Date and continues until all subscriptions for End Users granted in accordance with this Agreement have expired or been terminated. Subscriptions for End Users commence on the start date specified in the applicable Order Form and continue for the subscription term specified therein. Except as otherwise specified in the applicable Order Form, all End User subscriptions shall automatically renew for additional periods equal to the then-expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 90 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless Bentek provides written notice of a pricing increase at least 90 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter.

(b) **Renewal.** This Agreement shall be automatically renewed for additional one (1) year periods (a "Renewal Term") on the same terms and conditions as provided herein (or as may be otherwise negotiated between the parties) unless either party notifies the other in writing at least 90 days prior to the end of the Term or a Renewal Term, as the case may be, that it has elected to terminate this Agreement, in which case the Agreement shall terminate at the end of the relevant Term.

(c) **Termination.** This Agreement may be terminated by either party upon the occurrence of any of the following events, which shall be deemed to be a breach of the terms of this Agreement:

(i) there is a material breach of this Agreement; provided that the party terminating this Agreement shall first have given prior written notice to the other of its intent to terminate, together with details of the default causing the termination, and the party receiving such notice shall have

been given 20 days to cure any such default;

(ii) if either party ceases or threatens to cease to carry on its business, commits an act of bankruptcy, becomes insolvent, makes an assignment or bulk sale of its assets, or proposes a compromise or arrangement to its creditors;

(iii) if any proceeding is taken with respect to a compromise or arrangement, or to have either party declared bankrupt or wound up, or to have a receiver appointed with respect to any part of the assets of a party, or if any encumbrancer takes possession of any part thereof and such proceeding is not dismissed within 60 days of such proceeding being initiated, and with respect to any encumbrancer, any default has not been cured within 60 days of the occurrence of such default; or

(iv) Bentek may, at its sole option suspend the Customer's access to the Software, Support, Services, System and/or Network, and/or terminate this Agreement immediately and take any remedial action under any applicable law:

A. In the event that any Customer Data constitutes or may reasonably be considered to constitute a Prohibited Act hereunder; or

B. The Customer, its End Users or its agent commits or suffers to be committed a Prohibited Act hereunder.

(d) **Events Upon Termination.** Upon termination of this Agreement:

(i) the Customer shall pay to Bentek all amounts outstanding and owing to the effective date of termination upon receipt of a final invoice from Bentek;

(ii) each of the parties shall deliver or destroy all Confidential Information of the other, which is in its possession, care, or control to the other as provided in Section 8(e);

(iii) each of the parties shall release the other from all obligations under this Agreement except for obligations accrued and owing up to the effective date of termination and those obligations which survive as provided in section 11(d)(iv);

(iv) the provisions in Section 5, 6, 7, 8, 9, 10, 11(d), 13, 14, 15, 16(j), (k), (l), and (m) of this Agreement shall continue in force following termination of this Agreement.

12. **Inspection Right.** During normal business hours during the Term or any Renewal Term, Bentek or its authorized representative, shall have the right, upon reasonable advance written notice, to audit and inspect the Customer's utilization of the Software and/or Services via accessing the Customer's accounts, in order to verify compliance with the terms and conditions of this Agreement. Bentek shall be solely responsible for the cost and expenses of such audit; however, if Customer is not in compliance with this Agreement, then Customer shall be liable for the cost and expenses of the audit.

13. **Access.** Bentek shall have the right to access the Software, Systems and Network for purposes of maintenance, support, administration, invoicing and inspection, as reasonably necessary in its sole discretion.

14. LIMITATIONS OF LIABILITY, DAMAGES, AND CAUSE OF ACTION

(a) Limited Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, EXCLUDING ANY BREACH BY CUSTOMER OF SECTIONS 2(a), 2(e), 6, BREACH BY BENTEK OF ANY OF ITS OBLIGATIONS WITH RESPECT TO PHI UNDER THE BAA AS REFERENCED IN SECTION 7(d), OR ANY BREACH BY EITHER PARTY OF ITS OBLIGATIONS UNDER SECTION 8 OR SECTION 15 OF THIS AGREEMENT, NEITHER PARTY, ITS DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND WHATSOEVER, WHETHER OR NOT FORESEEABLE (INCLUDING, WITHOUT LIMITATION, LEGAL FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF ANY PARTY'S NEGLIGENCE OR FOR ANY CAUSE OF ACTION WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, EVEN IF THE OTHER PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING CONTAINED TO THE CONTRARY IN THIS AGREEMENT OR THE BAA, BENTEK SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY OR ARISING FROM CUSTOMER'S AND END USER INTENTIONAL MISUSE OR NEGLIGENT USE OF (i) USER NAMES AND PASSWORDS; (ii) CONFIDENTIAL INFORMATION; AND (iii) PHI; INCLUDING, BUT NOT LIMITED TO, FAILURE OF CUSTOMER AND END USER TO PROTECT AGAINST UNAUTHORIZED USE OF ANY OF THE FOREGOING.

(b) LIMITATION OF DAMAGES. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER OR, WITH RESPECT TO ANY SINGLE INCIDENT, THE LESSER OF $1,000 OR THE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT. THE FOREGOING SHALL NOT LIMIT CUSTOMER'S LIABILITY FOR BREACH OF SECTION 2(a) (GRANT AND SCOPE OF LICENSE) AND/OR 2(e)

(CUSTOMER'S USE OF SAAS SOLUTION), CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTIONS 4 (FEES AND TAXES), BENTEK'S BREACH OF ANY OF ITS OBLIGATIONS WITH RESPECT TO PHI UNDER THE BAA AS REFERENCED IN SECTION 7(d) (BUSINESS ASSOCIATE AGREEMENT) OF THIS AGREEMENT, BREACH OF A PARTY'S OBLIGATIONS UNDER SECTION 8 (CONFIDENITALITY) OF THIS AGREEMENT, AND A PARTY'S OBLIGATIONS OR BREACH OF ITS OBLIGATIONS UNDER SECTION 15 (INDEMNIFICATION) OF THIS AGREEMENT.

(c) NO ACTION AGAINST EITHER PARTY OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, REGARDLESS OF FORM (INCLUDING NEGLIGENCE), ARISING OUT OF ANY CLAIMED BREACH OF THIS AGREEMENT, USE OF THE SaaS SOLUTION OR IN ANY OTHER WAY RELATED TO THIS AGREEMENT AS OUTLINED ABOVE MAY BE BROUGHT BY THE OTHER PARTY MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ARISEN.

15. Indemnification for Intellectual Property Claims.

(a) **Indemnification of Customer.** Bentek shall indemnify Customer against all claims, liabilities, and costs, including reasonable attorneys' fees, reasonably incurred in the defense of any claim brought against Customer by third parties alleging that Customer's and/or its End Users' use of the SaaS Solution or Tools infringes any United States patent, a copyright or trade secret, provided that such indemnity shall not apply if the alleged infringement results from use of the SaaS Solution or Tools other than in their respective unaltered forms as supplied by Bentek or unlicensed activities or use not in compliance with this Agreement, and so long as Customer promptly notifies Bentek in writing of any such claim and Bentek is permitted to control fully the defense and any settlement of such claim as long as such settlement shall not include a financial obligation on Customer. Customer shall cooperate fully in the defense of such claim and may appear, at its own expense, through counsel reasonably acceptable to Bentek and may settle any claim on a basis requiring Bentek to substitute for the SaaS Solution or Tools alternative substantially equivalent non-infringing software and services. In the event Customer's continued use of any SaaS Solution or Tools is prohibited by reason of infringement or misappropriation of a valid United States patent, copyright, trademark, or trade secret, or if infringement is likely in Bentek's opinion, Bentek may, at its sole option and at its expense, obtain the rights to continued use of any such SaaS Solution or Tools; replace or modify such SaaS Solution or Tools so that they are no longer infringing; or terminate the license to the SaaS or Tools involved and issue a pro rata refund to the Customer.

(b) **Additional Indemnification of Customer.** Bentek will indemnify, defend, save and hold the Customer harmless from and against any and all claims, suits, liabilities, losses, penalties or damages, including court costs and attorneys' fees, to the extent that such claims, losses, liabilities, damages and expenses arise out of or are based upon the gross negligence, fraudulent, criminal or dishonest acts of Bentek or its employees or its agents in the performance of Bentek's duties under this Agreement, except for any acts taken at the specific direction of the Customer.

(c) **Indemnification of Bentek.** To the extent allowed by law, Customer shall indemnify, defend, and hold Bentek harmless from and against any third party claim, suit, or proceeding, brought against Bentek based on a claim that (i) the use or transfer of any SaaS Solution or Tools which is not in compliance with the terms of this Agreement constitutes an infringement, violation, or misappropriation of a United States patent, copyright, trademark, trade secret, or other intellectual property; (ii) the use of any SaaS Solution or Tools delivered hereunder and modified, altered or combined with any equipment, device or software not supplied by Bentek hereunder and (iii) Bentek's conformity and attempted conformity with the specifications provided by Customer constitutes an infringement of any United States patent, copyright, trademark, or trade secret because of such modification, alteration conformity, attempted conformity, or combination so long as Bentek promptly notifies Customer in writing of any such claim and Customer is permitted to control fully the defense and any settlement of such claim as long as such settlement shall not include a financial obligation on Bentek or a restriction on its ability to continue to develop, market and support the SaaS Solution or Tools. Bentek shall cooperate fully in the defense of such claim and may appear, at its own expense, through counsel reasonably acceptable to Customer.

(d) **Additional Indemnification of Bentek.** To the extent allowed by law, the Customer agrees to indemnify and hold harmless Bentek and its officers, directors, shareholders, employees, agents, and contractors from and against any and all Bentek Claims (as hereafter defined) arising from any Prohibited Act as well as those arising from Customer's failure to pay license fees. Customer acknowledges that Bentek may terminate Customer's and its End Users' use of the SaaS Solution if after written notice, Customer fails to pay the license fees due and owing. "Claim" shall mean all losses, liabilities, damages, claims, taxes, and all related costs and expenses, including, without limitation, reasonable attorneys' fees and costs of investigation, litigation, settlement, judgment, interest and penalties.

(e) THE PROVISIONS OF THIS SECTION 15 STATE THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF THE INDEMNIFYING PARTY TO THE INDEMNIFIED PARTY AND IS THE INDEMNIFIED PARTY'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO THE INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS UNDER THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, THIS PROVISION DOES NOT APPLY TO THE BAA, WHICH PROVIDES FOR INDEMNIFICATION UNDER SECTION 8 OF THE BAA.

16. General Provisions.

(a) **Additional Subscriptions for the SaaS Solution and Support.** All Fee changes and agreements as to the provision of additional subscriptions for the SaaS Solution and support to the Customer by Bentek, from time to time, shall be appended hereto as amended or incorporated herein as additional Exhibits and shall be subject to the terms and conditions hereof upon mutual agreement in accordance with the Agreement.

(b) **Entire Agreement.** This Agreement, inclusive of the Exhibits and any amendments or additions thereto, constitutes the entire agreement and sets forth the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, covenants, arrangements and discussions with respect thereto. In the event of an inconsistency between the terms and conditions of this Agreement and any Exhibit now or hereafter appended hereto, the terms of the applicable Exhibit shall govern to the extent necessary to remedy such inconsistency.

(c) **Marketing.** Customer hereby grants to Bentek and Bentek accepts a world-wide, royalty free, and non-exclusive license to use the Customer's name, trademarks and trade names ("Customer Marks") to identify the Customer as a customer of Bentek on Bentek's website, and for use of such Customer Marks in Bentek's corporate, promotional and marketing literature.

(d) **Relationship of Customer and Bentek.** Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between the parties; no party is by virtue of this Agreement, authorized as an agent, employee or agent representative of the other party.

(e) **Non-Exclusivity.** Nothing in this Agreement will be construed to prevent Bentek from marketing, licensing, selling or otherwise providing the SaaS Solution and Professional Services or any aspects of Bentek's technology or services to any third party.

(f) **Modifications.** No modification of, amendment or addition to this Agreement is valid or binding unless set forth in writing and fully executed by both parties hereto.

(g) **Waiver.** Any waiver of any right or remedy under this Agreement must be in writing and signed by each party. No delay in exercising any right or remedy shall operate as a waiver of such right or remedy or any other right or remedy. A waiver on one occasion shall not be construed as a waiver of any right or remedy on any future occasion.

(h) **No Assignment.** This Agreement and any rights or obligations hereunder, shall not be assigned, sublicensed or otherwise transferred by the Customer without the prior written consent of Bentek. Any transfer by merger, consolidation, or liquidation shall constitute an assignment for purposes of this Agreement. Bentek may transfer or assign its rights and obligations hereunder in the event of a change in ownership or control.

(i) **Inurement.** This Agreement shall be binding upon and shall inure to the benefit of Bentek and the Customer and each of their successors and permitted assigns.

(j) **Governing Law.** The rights and obligations of the parties and all interpretations and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without regard to conflicts of laws principles. The parties agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods do not apply to this Agreement. The parties hereby irrevocably consent to the exclusive jurisdiction and venue of the state and federal courts located within Palm Beach County, Florida.

(k) **Notices.** Any notices, demands and other communications hereunder shall be in writing and shall be delivered, sent by facsimile transmission and by mail, registered or certified, return receipt requested, postage prepaid, and addressed as follows:

(i) to Bentek, at:
11505 Fairchild Gardens Avenue, Suite 102
Palm Beach Gardens, Florida 33410
Attn: Chief Financial Officer
Facsimile: (561) 626-6970
With a copy to (which shall not constitute notice):
Albert B. Maggio, Jr., P.A.
CRGO Law
7777 Glades Road
Suite 100
Boca Raton, Florida 33434

Facsimile: (561) 244-1062
(ii) to the Customer, at:
City of Kingsport, Tennessee 225 West Center Street Kingsport, Tennessee 37660 Attention:
All notices shall be effective and deemed to be delivered (i) if mailed, on the fifth business day following such mailing, unless there is an interruption in the mail, in which case it shall be deemed to have been given when received; or (ii) if delivered or sent by facsimile, on the business day following the date of dispatch or the date of transmission, as the case may be; provided that if sent or delivered by facsimile, written confirmation of such transmission is sent or delivered via regular certified or registered mail. Either party may change the address for notice by giving written notice of such change to the other party in the manner provided in this Section.

(l) **Severability.** If any provision of this Agreement is held to be unenforceable or illegal by a court of competent jurisdiction, such provision shall be modified to the extent necessary to render it enforceable, or shall be severed from this Agreement, and all other provisions of this Agreement shall remain in full force and effect.

(m) **Facsimile Transmission.** This Agreement may be executed and delivered by facsimile or other electronic means of transmission or by U.S. Mail, and upon receipt such transmission shall be deemed delivery of an original.

(n) **Counterparts.** This Agreement may be executed in several counterparts each of which when executed shall be deemed to be original, and such counterparts shall each constitute one and the same instrument and notwithstanding their date of execution shall be deemed to bear the day and year first above written.

(o) **Force Majeure.** Neither party to this Agreement shall be liable to the other for any failure or delay in performance by circumstances beyond its control, including but not limited to, acts of God, fire, labor difficulties or governmental action, provided that the party seeking to rely on such circumstances gives written notice of such circumstances to the other party hereto and uses reasonable efforts to overcome such circumstances.

ADDENDUM TO AGREEMENTS AND ORDER WITH BENTEK

This Addendum (herein "Addendum") Amends the Bentek Master Software as a Service Agreement, Exhibit A-1 Order Form for SaaS Solution, Exhibit A-1 to Order Form, including Quote from Bentek Benefits Technology dated February 27, 2019, Exhibit B Business Associate Agreement, all consisting of 27 pages, the Bentek Master Professional Services Agreement consisting of two pages, the Bentek Statement of Work consisting of two pages and all documents incorporated in any of those documents by reference, whether such incorporated documents are virtual or physical, (all of which are herein "Agreement") between Bentek, Inc. (herein "Bentek") and City of Kingsport, Tennessee (herein "City"). In consideration of using Bentek's agreement, the mutual promises set out herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged the Agreement is amended as follows:

1. Precedence. Notwithstanding any other provision in the Agreement, the language in this Addendum takes precedence over all other terms, conditions or language to the contrary or in conflict with the language herein, and the Agreement and this Addendum shall not be construed to create any ambiguity, it being the intent of the parties that this Addendum shall control.

2. Indemnity, Limitation of Liability and Disclaimer of Warranty. Article II, Section 29 of the Tennessee Constitution prohibits cities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. Any indemnity or hold harmless provision contained in the Agreement requiring City to indemnify or hold harmless Bentek or any other person or entity and any limitation of liability in favor of Bentek is enforceable only to the extent permitted by Tennessee law, provided City's monetary limits of liability under any such provision is limited to the monetary limits of liability as provided for in the Tennessee Governmental Tort Liability Act, T.C.A. section 29-20-101 et seq. No provision of the Agreement shall act or be deemed a waiver by City of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act, T.C.A. section 29-20-101 et seq. Because Tennessee law may not allow City to agree to the disclaimer of warranties any such disclaimer of warranties shall be enforceable only to the extent permitted by Tennessee law. City reserves all rights afforded to local governments under law for all general and implied warranties.

3. Non-appropriation. Bentek acknowledges that City is a governmental entity, and the validity of the Agreement is based upon the availability of public funding under its authority. In the event City fails to appropriate funds or make monies available for any fiscal year covered by the term of the Agreement for the services to be provided, the Agreement shall be terminated on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to City, and such termination shall not be a breach of the Agreement, and any unused payment made to Bentek shall be returned to City.

4. Damages. The Agreement does not create an obligation by City to pay any damages in excess of those amounts legally available to satisfy City's obligations under the Agreement.

5. Confidentiality. Any documents or materials, including the Agreement, in any format, including, but not limited to, paper, electronic, or virtual, that are public records pursuant to the Tennessee Open Records Act, set out in T.C.A. §10-7-503 et seq., are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, City must, upon proper request, release public documents and records as defined by T.C.A. §10-7-503 et seq., including, but not limited to, the Agreement and all records created and maintained related to the Agreement, without the requirement to disclose such request to Bentek or provide Bentek with notice or the time to obtain a protective order.

6. Governing Law. 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.

7. No Arbitration, Jurisdiction, Waiver of Jury Trial, Venue. Notwithstanding any other provision in the Agreement to the contrary, arbitration is not permitted and if a dispute arises between the parties concerning 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 courts in Kingsport, Tennessee or the Federal court for the Eastern District of Tennessee. The parties waive their right to a jury trial. Mandatory and exclusive venue and jurisdiction for any disputes shall be in the state court located in Kingsport, Tennessee or the Federal court for the Eastern District of Tennessee.

8. No Taxes, No Interest Payments. As a tax-exempt entity, City shall not be responsible for sales or use taxes incurred for products or services. City shall supply Bentek with its Sales and Use Tax Exemption Certificate upon Bentek's request. Bentek shall bear the burden of providing its suppliers with a copy of City's tax exemption certificate and Bentek shall assume all liability for such taxes, if any, that should be incurred.

9. Termination for Convenience. The Agreement may be terminated by City upon thirty (30) days written notice to Bentek. Such termination will not be deemed a breach of contract by either party. Should City exercise this provision, City will compensate Bentek for all satisfactory and authorized services completed as of the termination date, and Bentek will refund to City any funds paid by City in excess of such amount. Upon such termination, Bentek will not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

10. No Liability for Users or Third Parties. Except as provided in the Tennessee Governmental Tort Liability Act, T.C.A. section 29-20-101 et seq. City is not responsible for Users, their acts or data, or any acts or data of a third party.

11. No Automatic Renewal. The term of the Agreement shall not be renewed or extended beyond the initial term and any provision providing for automatic or continuing renewal of the Agreement is not applicable.

12. Limitation of Actions or Claims. Any claim by City asserted under this Agreement may be initiated within the time limits of the limitation of actions applicable in the State of Tennessee.

13. Unilateral Modification of Agreement Not Permitted. Unilateral modification or amendment of the Agreement by Bentek is prohibited and any provision permitting such by Bentek is not applicable to City. Any amendment or modification of the Agreement or this Addendum is binding only if it is in writing and properly executed by the non-electronic signatures of authorized representatives of the parties hereto, including attestation by City's city recorder and approved as to form by City's city attorney

14. Use of City's Logo or Name. Paragraph 16(c) of Bentek Master Software as a Service Agreement is deleted. Bentek shall not use City's name, marks, or any logo in marketing or publicity materials or for marketing or publicity purposes without prior written authorization from City.

15. Accessibility. Bentek warrants that the software conforms to the accessibility guidelines, including, but not limited to, supporting assistive software or devices such as large-print interfaces, text-to-speech output, refreshable braille displays, voice- activated input, and alternate keyboard or pointer interfaces, established by the World Wide Web Consortium's Web Content Accessibility Guidelines 2.1 (WCAG 2.1), and the accessibility guidelines established by Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and implementing regulations set forth in 36 C.F.R. Part 1194. Bentek shall provide City a certification of such compliance. Bentek shall promptly respond to and resolve any complaint regarding accessibility of its products or services. Bentek further agrees to indemnify and hold harmless City from any claims arising out of Bentek's failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of the Agreement.

16. Warranty. Bentek warrants that the products purchased herein when used in accordance with the documentation shall operate and conform in all material respects in conformity with this Agreement and the written representations of Bentek, including applicable user manuals and guides

supplied by Bentek or with Bentek's Software. If it does not perform as warranted, Bentek shall use commercially reasonable efforts to correct the products so that it operates in all material respects in conformity with the written representations of Bentek. If it cannot correct the products within a reasonable period of time, Bentek shall refund the purchase price of the products.

17. Binding Effect This Agreement is the entire agreement between City, (including City's employees and other end users) and Bentek. No employee of City or any other person, without authorization of the board of mayor and aldermen of City can bind City to any contract or agreement and anything contrary contained in the Agreement, the Terms of Service or other agreements or understandings, whether electronic, click-through, or shrink-wrap, and whether verbal or written, with City's employees or other end users, to the contrary are null, void and without effect as it applies to City.

18. No Liability of City Officials and Employees. No member, official, or employee of City shall be personally liable to Bentek 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.

19. Survival. This Addendum shall survive the completion of or any termination of the Agreement or other document which may accompany the Agreement or be incorporated by reference.

20. Effective Date. This Addendum has the effective date of the Agreement.

[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 5th day of November, 2019.

_____
PATRICK W. SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Memorandum

TO: Chris McCartt, City Manager

FROM: George DeCroes, HR Director GD

DATE: October 21, 2019

RE: BenTek Software

As you are aware, we are continuously looking for ways to simplify and communicate our employee benefits to City employees.

We have identified a software package named, BenTek, which interfaces with our current software provider, Central Square. Central Square currently provides the City with integrated applications including, payroll, human resources, accounting, financial and others. The purchase of the BenTek software will improve efficiencies within the HR, Payroll and Accounting areas and automate the employee benefit enrollment process, which is currently done manually.

City Code Section 2-599 permits the City Manager to enter in to a one source contract when it is determined to be in the best interest of the City of Kingsport. It is my opinion that this present situation warrants such, because of the interface capability that Central Square has with BenTek.

If you are in agreement with this recommendation I would ask that you sign below in order to have proper authorization and documentation for this purchase. Should you have any questions please feel free to contact me.

Approved: Chris McCartt Date: 10-28-19

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Authorizing FY20 Community Development Partner Agreements

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-256-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: Haga
Presentation By: Ken Weems, AICP

Recommendation:
Approve 2020 CDBG Partner Agreements Resolution.

Executive Summary:
At its business meeting on June 18, 2019, the Board of Mayor and Aldermen approved the Community Development program budget ordinance providing for the Community Development Program funded by the Department of Housing and Urban Development (HUD). The budget included a set aside of CDBG funding for Public Services programs, to be allocated at a later date to agencies by recommendation of the Community Development Advisory Committee. On October 28, 2019, the Community Development Advisory Committee reviewed agency applications and recommended allocations for Public Services partners funded under CDBG. The Advisory Committee's recommendations are as follows:

- $17,100 – South Central Kingsport CDC
- $10,000 – Sons and Daughters of Douglass
- $10,000 – Help Our Potential Evolve (H.O.P.E.)

Attached is a resolution authorizing the Mayor to execute agreements with CDBG Public Service agencies. Also attached are the agreements providing CDBG funding.

Attachments:
1. CDBG Partner Authorizing Resolution
2. Partner Agreements

Funding source appropriate and funds are available: JP

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS WITH VARIOUS AGENCIES AND ORGANIZATIONS FOR COMMUNITY DEVELOPMENT BLOCK GRANT AND EMERGENCY SOLUTIONS GRANT FUNDING IN FISCAL YEAR 2019-2020

WHEREAS, the City of Kingsport desires to enter into agreements for services in fiscal year 2019-2020 benefiting the general welfare of city residents with Help Our Potential Evolve, Inc.; Sons and Daughters of Douglass, Inc.; and South Central Kingsport Community Development, Inc.

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 to execute, in a form approved by the city attorney, agreements for services in fiscal year 2019-2020 benefiting the general welfare of City of Kingsport residents with Help Our Potential Evolve, Inc.; Sons and Daughters of Douglass, Inc.; and South Central Kingsport Community Development, Inc.

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 5th day of November, 2019.

_____
PATRICK W. SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

GRANT CONTRACT
BETWEEN THE CITY OF KINGSPORT, TENNESSEE
AND
SONS AND DAUGHTERS OF DOUGLASS, Inc.

This Grant Contract, by and between the City of Kingsport, hereinafter referred to as the "City" and **__Sons and Daughters of Douglass, Inc.____**, hereinafter referred to as the "Operating Agency", is for the provision of services to the homeless and those at risk for homelessness under the Community Development Block Grant Program ("CDBG"), as further described under "Scope of Services and Deliverables" (the "SCOPE OF SERVICES).

Operating Agency's address _301 Louis Street, Kingsport, TN_____
Operating Agency's Edison Vendor ID # __26-2297598_____

A. SCOPE OF SERVICES AND DELIVERABLES:

A.1. The Operating Agency shall provide all services and deliverables ("Scope") as required, described, and detailed in this Grant contract.

A.2. To provide and operate public service activities to low and moderate income individuals and families within the city limits of Kingsport as specified in ATTACHMENT A: DESCRIPTION OF ACTIVITIES, ATTACHMENT B: IMPLEMENTATION PLAN, AND ATTACHMENT C: BUDGET.

A.3. Incorporation of Additional Documents. Each of the following documents is included as part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Operating Agency's duties, responsibilities, and performance hereunder, these terms shall govern or order of precedence below:

a. Title 24 Code of Federal Regulations, Part 570 and Part 91, of the Community Development Block Grant Program authorized by Title I of the Housing and Community Development Act of 1974 (42 USC 5301 et.seq.), as amended (the "Federal CDBG Regulations").

b. The United States Department of Housing and Urban Development CDBG Desk Guide for Program and Eligibility Policies and Procedures.

A.4. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as ATTACHMENT D, is incorporated in this Grant Contract.

A.5. To comply with the Eligible Activity Requirements of 24 CFR 570, Subpart C, and Part 91 as applicable in accordance with the type of project assisted.

A.6. To maintain records adequate to document compliance with 24 CFR 570, along with such other records the City and HUD determines necessary to enable the City and HUD to fulfill its responsibilities in the CDBG Program. All records will be retained for a three (3) year period in accordance with the requirements of 24 CFR Part 570.

A.7. To furnish to the City all reports required to be filed in accordance with any directives of the City and within the time period prescribed by the City for such reports.

B. TERM OF GRANT CONTRACT:

B.1. Grant Term. This Grant Contract shall be effective on July 1, 2019 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date to June 30, 2020 ("Term"). The City shall have no obligation for goods or services provided by the Operating Agency prior to the Effective Date or extending beyond the close of the Term.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the City under this Grant Contract exceed Ten Thousand DOLLARS ($10,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated hereto as Attachment C, shall constitute the maximum amount due the Operating Agency under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Operating Agency.

C.2. Compensation Firm. The Maximum Liability of the City is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the Term and are not subject to escalation for any reason unless amended, except as provided in Section C.6.

C.3. Payment Methodology. The Operating Agency shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Operating Agency shall submit invoices, in form and substance acceptable to the City, with all necessary supporting documentation, prior to any reimbursement of allowable costs.

C.4. Travel Compensation. Reimbursement to the Operating Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "City Comprehensive Travel Regulations", as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

C.5. Invoice Requirements. The Operating Agency shall invoice the City based on an approved payment schedule, using the forms and all necessary supporting documentation specified by the HUD CDBG Requirements, and present such to:

City of Kingsport
Office of Housing and Community Development
201 W. Market Street, Kingsport, Tennessee 37660
Attention: Mark Haga

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. Reimbursable expenditures may NOT vary from the Grant Budget line item amount(s) detailed. Any change in Grant Budget line items shall require an amendment to the Grant Contract.

C.7. Disbursement Reconciliation and Close Out. The Operating Agency shall submit any final invoice and a grant disbursement reconciliation report within forty-five (45) days of the Grant Contract end date, in form and substance acceptable to the City.

a. If total disbursements by the City pursuant to this Grant Contract exceed the amounts permitted by Section C of this Grant Contract, the Operating Agency shall refund the difference to the City. The Operating Agency shall submit said refund with the final grant disbursement reconciliation report.

b. The City shall not be responsible for the payment of any invoice submitted to the City after the grant disbursement reconciliation report. The City will not deem any Operating Agency costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the City, and such invoices will NOT be paid.

c. The Operating Agency's failure to provide a final grant disbursement reconciliation report to the City as required shall result in the Operating Agency being deemed ineligible for reimbursement under this Grant Contract, and the Operating Agency shall be required to refund any and all payments by the city pursuant to this Grant Contract.

d. The Operating Agency must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

C.8. Indirect Cost. Should the Operating Agency request reimbursement for indirect costs, the Operating Agency must submit to the City a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Operating Agency will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Operating Agency makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Operating Agency agrees to remit any overpayment of funds to the City, and subject to the availability of funds the City agrees to remit any underpayment to the Operating Agency.

C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of City of Kingsport Departments of Finance and Administration Policies or any amendments or revisions made to this policy statement during the Term.

C.10. Payment of Invoice. A payment by the City shall not prejudice the City's right to object to or question any reimbursement, invoice, or matter in relation thereto. A payment by the City shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.

C.11. Non-allowable Costs. Any amounts payable to the Operating Agency shall be subject to reduction for amounts included in any invoice or payment that are determined by the City, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute non-allowable costs.

C.12. City's Right to Set Off. The City reserves the right to deduct from amounts that are or shall become due and payable to the Operating Agency under this Grant Contract or any other contract between the Operating Agency and the City of Kingsport under which the Operating Agency has a right to receive payment from the City.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The City is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Kingsport and Tennessee laws and regulations.

D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Kingsport and Tennessee laws and regulations.

D.3 Termination for Convenience. The City may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of the Grant Contract by the City. The City shall give the Operating Agency at least thirty (30) days written notice before the effective termination date. The Operating Agency shall be entitled to compensation for authorized expenditures and satisfactory services, in compliance with Federal CDBG Regulations, completed as of the termination date, but in no event shall the City be liable to the Operating Agency for compensation for any service that has not been rendered. The final decision as to the amount for which the City is liable shall be determined by the City. The Operating Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the City's exercise of its right to terminate for convenience.

D.4 Termination for Cause. If the Operating Agency fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Operating Agency violates any terms of this Grant Contract ("Breach Condition"), the City shall have the right to immediately terminate the Grant Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Operating Agency shall not be relived of liability to the City for damages sustained by virtue of any Breach Condition and the City may seek other remedies allowed at law or in equity for breach of this Grant Contract. Upon such termination, the Operating Agency shall have no claim to any CDBG funds remaining under this Grant Contract.

D.5. Subcontracting. The Operating Agency shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the City. If such subcontracts are approved by the City, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest", "Lobbying", "Nondiscrimination", "Public Accountability", "Public Notice", and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Operating Agency shall remain responsible for all work performed.

D.6. Conflicts of Interest. The Operating Agency warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the City of Kingsport as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Operating Agency in connection with any work contemplated or performed relative to this Grant Contract.

The Operating Agency acknowledges, understands, and agrees that this Grant Contract shall be null and void if the Operating Agency is, or within the past six months has been, an employee of the City of Kingsport or the U. S. Department of Housing and Urban Development or if the Operating Agency is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the City of Kingsport or the U. S. Department of Housing and Urban Development.

D.7. Lobbying. The Operating 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 undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the

extension, continuation, renewal, amendment, or modification of any federal contract, 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 contract, grant, loan, or cooperative agreement, the Operating Agency shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

D.8 Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The City:

Mark A. Haga
City of Kingsport Office of Housing and Community Development
201 W. Market Street, Kingsport, Tennessee 37660
Telephone 423-229-9486
Email markhaga@kingsporttn.gov
Email pagejeffers@kingsporttn.gov

The Operating Agency:

Sons and Daughters of Douglass, Inc.
301 Louis Street, Suite 104
Kingsport, TN 37660
Telephone 423-288-6040
Email _____

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the City reserves the right to terminate this Grant Contract upon written notice to the Operating Agency. The City's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the City. Upon receipt of the written notice, the Operating Agency shall cease all work associated with the Grant Contract. Should such an event occur, the Operating Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Operating Agency shall have no right to recover from the City any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.10. Nondiscrimination. The Operating Agency agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Operating Agency on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Operating Agency shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.11. HIPAA Compliance. The City and the Operating Agency shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of the Grant Contract.

a. The Operating Agency warrants to the City that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Grant Contract.

b. The Operating Agency warrants that it will cooperate with the City, including cooperation and coordination with City privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.

c. The City and the Operating Agency will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the City and the Operating Agency in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

d. The Operating Agency will indemnify the City and hold it harmless for any violation by the Operating Agency or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the City because of the violation.

D.12. Public Accountability. If the Operating Agency is subject to Tenn. Code Ann. § 8-4-401 *et seq*., or if this Grant Contract involves the provision of services to citizens by the Operating Agency on behalf of the City, the Operating Agency agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Operating Agency shall also display in a prominent place, located near the passageway through which public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") inches in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL FREE HOTLINE: 1-800-232-5454

The sign shall be on the form prescribed by the City. The City shall obtain copies of the sign from HUD, and upon request from the Operating Agency, provide Operating Agency with any necessary signs.

D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Operating Agency in relation to this Grant Contract shall include the statement, "This project is funded under an agreement with the City of Kingsport and the U.S. Department of Housing and Urban Development." All notices by the Operating Agency in relation to this Grant Contract shall be approved by the City.

D.14. Licensure. The Operating Agency and its employees and all sub-Operating Agencies shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

D.15. Records. The Operating Agency and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Operating Agency and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the City of Kingsport and the U. S. Department of Housing and Urban Development, or their duly appointed representatives.

The records shall be maintained in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification, Public Company Accounting Oversight Board (PCAOB) Accounting Standards Codification, or Governmental Accounting Standards Board (GASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Audit Requirements, and Cost Principles for Federal Awards.*

The Operating Agency shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Operating Agency shall establish a system of internal controls that utilize the COSO Internal Control – Integrated Framework model as the basic foundation for the internal control system. The Operating Agency shall incorporate any additional Tennessee Comptroller of the Treasury directives into its internal control system.

D.16. Monitoring. The Operating Agency's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the City of Kingsport and the U. S. Department of Housing and Urban Development, or their duly appointed representatives.

D.17. Progress Reports. The Operating Agency shall submit brief, periodic, progress reports to the City as requested.

D.18. Reports. The Operating Agency shall submit all reports with form, substance and deadlines as specified in the Federal CDBG Regulations. The Operating Agency shall submit, within one (1) month of the conclusion of the Term, a CDBG annual report to the City.

D.19. Audit Reports. For purpose of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

The Operating Agency shall provide audited financial statements to the City of Kingsport if during the Operating Agency's fiscal year, the Operating Agency (1) expends seven hundred fifty thousand dollars ($750,000) or more in direct and indirect federal financial

assistance and the City is a pass-through entity; (2) expends seven hundred fifty thousand dollars ($750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars ($750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity. At least ninety (90) days before the end of its fiscal year, the Operating Agency shall complete ATTACHMENT E: NOTICE OF AUDIT to notify the City whether or not Operating Agency is subject to an audit. The Operating Agency should submit only one, completed document during the Operating Agency's fiscal year. Any Operating Agency that is subject to an audit and so indicates on Attachment E shall complete ATTACHMENT F: PARENT CHILD INFORMATION. If the Operating Agency is subject to an audit, Operating Agency shall obtain the Tennessee Comptroller's approval before engaging a licensed, independent public accountant to perform the audit. The Operating Agency may contact the Tennessee Comptroller for assistance identifying auditors.

All audits shall be performed in accordance with the Comptroller's requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.*

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

The audit contract between the Operating Agency and the Auditor shall be on a contract form prescribed by the Comptroller. The Operating Agency shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Operating Agency shall be subject to the provision relating to such fees contained within the Grant Contract. The Operating Agency shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.

D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Operating Agency shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Operating Agency is a subrecipient, the Operating Agency shall comply with 2 C.F.R. §§ 200.318-300.326 when procuring property and services under a federal award.

The Operating Agency shall obtain prior approval from the City before purchasing any equipment under this Grant Contract.

D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract 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.

The Operating Agency, being an independent contractor and not an employee of the City, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Operating Agency's employees, and to pay all applicable taxes incident to this Grant Contract.

D.23. City Liability. The City shall have no liability except as specifically provided in this Grant Contract.

D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Operating Agency's representatives, suppliers, subcontractors, customers or business apart from the Grant Contract is not a Force Majeure Event under this Grant Contract. Operating Agency will promptly notify the City of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the City within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Operating Agency's performance longer than forty-eight (48) hours, the City may, upon notice to Operating Agency: (a) cease payment of the fees until Operating Agency resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Operating Agency will not increase its charges under this Grant Contract or charge the City any fees other than those provided for in the Grant Contract as the result of a Force Majeure Event.

D.25. Tennessee Department of Revenue Registration. The Operating Agency shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.

D.26 Reserved.

D.27. City Interest in Equipment or Motor Vehicles. The Operating Agency shall take legal title to all equipment or motor vehicles purchased totally or in part with funds provided under this Grant contract, subject to the City's, equitable interest therein, to the extent of its *pro rata* share, based upon, the City's, contribution to the purchase price. The term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition costs which equals or exceeds five thousand dollars ($5,000). The term "motor vehicle" shall include any article of tangible personal property that is required to be registered under the "Tennessee Motor Vehicle Title and Registration Law", Tenn. Code Ann. Title 55, Chapters 1-6.

As authorized by the Tennessee Uniform Commercial Code, Tenn. Code Ann. Title 47, Chapter 9 and the "Tennessee Motor Vehicle Title and Registration Law," Tenn. Code Ann. Title 55, Chapters 1-6, the parties intend this Grant contract to create a security interest in favor of the City in the equipment or motor vehicles acquired by the Operating Agency pursuant to the provisions of this Grant contract. A further intent of this Grant contract is to acknowledge and continue the security interest in favor of the City in the equipment or motor vehicles acquired by the Operating Agency pursuant to the provisions of this program's prior year Grant contracts between the City, and the Operating Agency.

The Operating Agency grants the City a security interest in all equipment or motor vehicles acquired in whole or in part by the Operating Agency under this Grant contract. This Grant contract is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment or motor vehicles herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Operating Agency hereby grants the City a security interest in said equipment or motor vehicles. The Operating Agency agrees that the City may file this Grant contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment or motor vehicles herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Operating Agency agrees to execute and deliver to the City, upon the City's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant contract in such form as the City may require to perfect a security interest with respect to said equipment or motor vehicles. The Operating Agency shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the City may reasonably require. Without the prior written consent of the City, the Operating Agency shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment or motor vehicles, including replacements and additions thereto. Upon the Operating Agency's breach of any covenant or agreement contained in this Grant contract, including the covenants to pay when due all sums secured by this Grant contract. The City shall have the remedies of a secured party under the Uniform Commercial Code and, at the City's option, may also invoke the remedies herein provided.

The Operating Agency agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant contract. The Operating Agency shall maintain a perpetual inventory system for all equipment or motor vehicles purchased with funds provided under this Grant contract and shall submit an inventory control report which must include, at a minimum, the following:

a. Description of the equipment or motor vehicles;

b. Manufacturer's serial number or other identification number, when applicable;

c. Consecutive inventory equipment or motor vehicles tag identification;

d. Acquisition date, cost, and check number;

e. Fund source, State Grant number, or other applicable fund source identification;

f. Percentage of state funds applied to the purchase;

g. Location within the Operating Agency's operations where the equipment or motor vehicles is used;

h. Condition of the property or disposition date if Operating Agency no longer has possession;

i. Depreciation method, if applicable; and

j. Monthly depreciation amount, if applicable.

k. The Operating Agency shall tag equipment or motor vehicles with an identification number which is cross referenced to the equipment or motor vehicle item on the inventory control report. The Operating Agency shall inventory equipment or motor vehicles annually. The Operating Agency must compare the results of the inventory with the inventory control report and investigate any differences. The Operating Agency must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

l. The Operating Agency shall submit its inventory control report of all equipment or motor vehicles purchased with funding through this Grant contract within thirty (30) days of its end date and in form and substance acceptable to the City. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Operating Agency shall notify the City, in writing, of any equipment or motor vehicle loss describing the reasons for the loss. Should the equipment or motor vehicles be destroyed, lost, or stolen, the Operating Agency shall be responsible to the City for the *pro rata* amount of the residual value at the time of loss based upon the City's original contribution to the purchase price.

m. Upon termination of the Grant contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant contract, the Operating Agency shall request written approval from the City for any proposed disposition of equipment or motor vehicles purchased with Grant funds. All equipment or motor vehicles shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

D.28. City, State and Federal Compliance. The Operating Agency shall comply with all applicable city, state, and federal laws, ordinances, rules and regulations in performance of this Grant Contract.

D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Operating 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 Grant Contract. The Operating Agency acknowledges and agrees that any rights or claims against the City of Kingsport or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. § 29-20-101 *et seq*. and the sovereign immunity the city has through the State of Tennessee.

D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.

D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall control.

E.2. Debarment and Suspension. The Operating Agency certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

b. Have not within a three (3) year period preceding this the date of this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant 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;

c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

d. Have not within a three (3) year period preceding the date of this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Operating Agency shall provide immediate written notice to the City if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.3. Work Papers Subject to Review. The Operating Agency shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by the City, the U. S. Department of Housing and Urban Development, or their respective representatives upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.

E.4 Environmental Tobacco Smoke. Pursuant to the provisions of the federal “Pro-Children Act of 1994” and the Children’s Act for Clean Indoor Air of 1995”, Tenn. Code Ann. §§ 39-17-1601 through 1606, the Operating Agency shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Operating Agency shall post “no smoking” signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be a part of any subcontract related to this Grant Contract.

E.5. Hold Harmless. To the extent permitted by State law, the Operating Agency agrees to indemnify and hold harmless the City of Kingsport, the U. S. Department of Housing and Urban Development, as well as its officers, agents and employees from and against any

and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Operating Agency, its employees, or any person acting for or on its or their behalf relating to this Grant Contract. The Operating Agency further agrees it shall be liable for the reasonable cost of attorneys and court costs for the City, the U. S. Department of Housing and Urban Development to enforce the terms of this Grant Contract.

In the event of any such suit or claim, the parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the City, the U. S. Department of Housing and Urban Development to give notice shall only relieve the Operating Agency of its obligations under this Section to the extent that the Operating Agency can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Operating Agency, through its attorney(s), the right to represent the City of Kingsport, the U. S. Department of Housing and Urban Development in any legal matter, as the right to represent the City and the State is governed by Tenn. Code Ann. § 8-6-106.

E.6. Federal Funding Accountability and Transparency Act ("FFATA"). This Grant requires the Operating Agency to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Operating Agency is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Operating Agency provides information to the City as required. The Operating Agency shall comply with the following:

a. Reporting of Total Compensation of the Operating Agency's Executives.

(1) The Operating Agency shall report the names and total compensation of each of its five (5) most highly compensated executives for the Operating Agency's preceding completed fiscal year, if in the Operating Agency's preceding fiscal year it received:

i. 80 percent or more of the Operating Agency's annual gross revenues from federal procurement contracts and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and sub awards); and

ii. $25,000,000 or more in annual gross annual revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and sub awards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports files under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm).

As defined in 2 CFR § 170.315. "Executive" means officers, managing partners, or any other employees in management positions.

(2) Total compensation means the cash and noncash dollar value earned by the executive during the Operating Agency's preceding fiscal year and includes the following (for information see 17 § CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings or deferred compensation which is not tax qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites of property) for the executive exceeds $10,000.

b. The Operating Agency must report executive total compensation described above to the City by the end of the month during which this Grant Contract is fully executed.

c. If this Grant Contract is amended to extend the Term, the Operating Agency must submit an executive total compensation report to the City by the end of the month in which the amendment to this Grant Contract becomes effective.

d. The Operating Agency will obtain a Data Universal Numbering System ("DUNS") number and maintain its DUNS number for the terms of this Grant Contract. More information about obtaining a DUNS Number can be found at: http://fedgov.dnb.com/webform/.

The Operating Agency's failure to comply with the above requirements is a material breach of this Grant Contract for which the City may terminate this Grant Contract for cause. The City will not be obligated to pay any outstanding invoice received from the Operating Agency unless and until the Operating Agency is in full compliance with the above requirements.

E.7. Training. The Operating Agency agrees to attend all training sessions regarding management of the CDBG Program which are scheduled by the City and HUD.

E.8. CDBG Program Requirements. Under this Grant Contract, Operating Agency is receiving an allocation or grant of Community Development Block Grant Program funds. The Operating Agency understands these funds are made available through the U.S. Department of Housing and Urban Development (HUD) and to facilitate the receipt of these funds the Operating Agency agrees and certifies to comply with all applicable HUD requirements. Without limitations, Operating Agency specifically agrees and certifies as to the following:

a. The Operating Agency will abide with all of the requirements of 24 CFR, Part 570 and Part 91, Community Development Block Grant Program.

b. The Operating Agency will comply with other applicable Federal requirements in 24 CFR, Part 570 and Part 91, as follows:

1. 24 CFR 5.105(a). Section 3 Nondiscrimination and Equal Opportunity;

2. 24 CFR 570 Subpart A, General Provisions;

3. 24 CFR 570 Subpart C, Eligible Activities;

4. 24 CFR 570 Subpart J, Grant Administration;

5. 24 CFR 570 Subpart K, Other Program Requirements;

6. 24 CFR 570 Subpart O, Performance Reviews;

7. Title VI and Executive Order 13166 Affirmative Outreach

c. If the Operating Agency is primarily a religious organization, it agrees to use its funds to provide all eligible activities under this program in a manner that is free from religious influences as provided by 24 CFR 576.406.

d. The Operating Agency will comply with the uniform administrative requirements of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award, and the requirements of 24 CFR 576.407.

e. The Operating Agency will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Estate Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR, Part 24 and the requirements of 24 CFR 576.59.

f. The Operating Agency will comply with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992, implementing regulations at 24 CFR, Part 35, Subparts A, B, H, J, K, and M as applicable.

g. The Operating Agency will use CDBG funds pursuant to its or the City's Consolidated Plan approved by HUD and all requirements of 24 CFR, Part 570 and Part 91.

h. The Operating Agency will maintain adequate documentation to determine eligibility of persons served by the CDBG program.

i. The Operating Agency will develop and implement procedures to ensure the confidentiality of records pertaining to any individual fleeing domestic violence situations. In addition the address and location of family violence shelter facilities receiving ESG funding may not be publicly disclosed except with the written authorization of the person(s) responsible for the shelter facility's operation.

E.9. Drug Free Workplace. The Operating Agency will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Operating Agency's workplace and specifying the action that will be taken against employees for violation of such prohibition;

b. Establishing an ongoing drug-free awareness program to inform employees about:

1. The dangers of drug abuse in the workplace;

2. The Operating Agency's policy of maintaining a drug-free workplace;

3. Any drug counseling, rehabilitation and employee assistance programs; and

4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of this Grant Contract be given a copy of the statement required by Paragraph E.10. (a);

d. Notifying the employee in the statement required by Paragraph E.10(a) that, as a condition of employment under this Grant Contract, the employee will:

1. Abide by the terms of the statement; and

2. Notify the employees in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the City in writing, within ten calendar days after receiving notice under Paragraph E.10(d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

f. Taking one of the following actions, within thirty calendar days of receiving notice under Paragraph E.10(d)(2), with respect to any employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirement of the Rehabilitation Act of 1973, as amended; or

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or the appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs E.10 (a), (b), (c), (d), (e) and (f).

E.10. Corrective Action. If the City takes any corrective or remedial action as outlined in 24 CFR § 570.910 that is the result of any action taken by the Operating Agency, the Operating Agency will take any action required by the City to prevent a continuation of the deficiency, mitigate to the extent possible its adverse effects or consequences, and prevent its recurrence. These remedies could, among other actions, include repaying CDBG funds to the City.

IN WITNESS WHEREOF, the parties have by their duly authorized representatives set out their signatures.

CITY OF KINGSPORT

_____ _____
Patrick W. Shull, Mayor Date

ATTEST:

_____ _____
Sidney H. Cox, City Recorder Date

SONS AND DAUGHTERS OF DOUGLASS, Inc.

_____ _____
Douglas S. Releford, President Date

APPROVED AS TO FORM:

_____ _____
Michael Billingsley, City Attorney Date

ATTACHMENT A

2019 CDBG PROGRAM
DESCRIPTION OF OPERATING AGENCY ACTIVITIES

OPERATING AGENCY: __Sons and Daughters of Douglass, Inc._____

I. The activities for the 2019 CDBG Project shall consist of the following:

A. Purpose of Project.

Sons and Daughters will provide Advocacy and Education Services for low and moderate income, minority children in the school system of the City. The goal of the project is to encourage low/mod income and minority students to excel in basic education and to better equip them for success. These funds will enable this program to provide material support necessary provide advocacy and education services.

B. Method of Operation.

The program will be available to residents of Kingsport, consisting primarily of low and very low-income, minority persons. The program will be administered by Sons and Daughters and will provide funding to purchase school supplies and other educational materials for eligible students in the City's education system.

ATTACHMENT B

2019 CDBG Program
IMPLEMENTATION PLAN FOR CDBG PROJECTS

OPERATING AGENCY: _Sons and Daughters of Douglass, Inc.____

I. The time table for completing the activities for the project shall be:

1.	Determination of status for Environmental Review	July 1, 2019
2.	Release of Funds	July 1, 2019
3.	Begin providing services to homeless	July 1, 2019
4.	Contract complete	June 30, 2020

ATTACHMENT C

2019 CDBG PROGRAM

PROJECT BUDGET

OPERATING AGENCY: __Sons and Daughters of Douglass, Inc.____

CDBG funds will be used as follows:

Supplies	**$10,000**
TOTAL FOR GRANT	**$10,000**

ATTACHMENT D

Federal Award Identification Worksheet

Operating Agency's name (must match registered name in DUNS)	**Sons and Daughters of Douglass, Inc.**

Operating Agency's DUNS number	
Federal Award Identification Number (FAIN)	B-19-MC-47-0004
Federal award date	July 1, 2019
CFDA number and name	14.218 Community Development Grant Program
Grant contract's begin date	July 1, 2019
Grant contract's end ate	June 30, 2020
Amount of federal funds obligated by this grant contract	$10,000
Total amount of federal funds obligated to the Operating Agency	$10,000
Total amount of the federal award to the City of Kingsport	$391,364
Name of federal awarding agency	U.S. Department of Housing and Urban Development
Name and contact information for the federal awarding official	Mary C. Wilson, Director Community Planning and Development U.S. Department of Housing and Urban Development Knoxville Field Office 710 Locust Street, Third Floor Knoxville, TN 37902-2526
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	To be determined by cost allocation plan approved by Operating Agency's cognizant agency

ATTACHMENT E

Notice of Audit Report

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Operating Agency should submit only one, completed "Notice of Audit Report" document to the City during the Operating Agency's fiscal year.***

☐ _____ is subject to an audit for fiscal year 2019.

☐ Sons and Daughters of Douglass, Inc. is not subject to an audit for fiscal year 2019.

Any Operating Agency that is subject to an audit must complete the information below.

Operating Agency's Edison Vendor ID Number: _____

Type of funds expended	Estimated amount of funds expended by end of Operating Agency's fiscal year
Federal pass-through funds a. Funds passed through the City of Kingsport b. Funds passed through any other entity	a. $10,000 b. $0
Funds received directly from the federal government	$
Non-federal funds received directly from the City of Kingsport	$

Auditor's Name: _____

Auditor's address: _____

Auditor's phone number: _____

Auditor's email: _____

ATTACHMENT F

Parent Child Information

Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Operating Agency should submit only one, completed "Parent Child Information" document to the City***

during the Operating Agency's fiscal year if the Operating Agency indicates it is subject to an audit on the "Notice of Audit Report" document.

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Operating Agency's Edison Vendor ID number: _____

Is _____ a parent? Yes ☐ No ☐

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is _____ a child? Yes ☐ No ☐

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

GRANT CONTRACT
BETWEEN THE CITY OF KINGSPORT, TENNESSEE
AND
SOUTH CENTRAL KINGSPORT COMMUNITY DEVELOPMENT, Inc.

This Grant Contract, by and between the City of Kingsport, hereinafter referred to as the "City" and **__South Central Kingsport Community Development, Inc.____**, hereinafter referred to as the "Operating Agency", is for the provision of services to the homeless and those at risk for homelessness under the Community Development Block Grant Program ("CDBG"), as further described under "Scope of Services and Deliverables" (the "SCOPE OF SERVICES).

Operating Agency's address _1140 Martin Luther King Dr., Kingsport, TN 37660____
Operating Agency's Edison Vendor ID # _____

A. SCOPE OF SERVICES AND DELIVERABLES:

A.1. The Operating Agency shall provide all services and deliverables ("Scope") as required, described, and detailed in this Grant contract.

A.2. To provide and operate public service activities to low and moderate income individuals and families within the city limits of Kingsport as specified in ATTACHMENT A: DESCRIPTION OF ACTIVITIES, ATTACHMENT B: IMPLEMENTATION PLAN, AND ATTACHMENT C: BUDGET.

A.3. Incorporation of Additional Documents. Each of the following documents is included as part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Operating Agency's duties, responsibilities, and performance hereunder, these terms shall govern or order of precedence below:

a. Title 24 Code of Federal Regulations, Part 570 and Part 91, of the Community Development Block Grant Program authorized by Title I of the Housing and Community Development Act of 1974 (42 USC 5301 et.seq.), as amended (the "Federal CDBG Regulations").

b. The United States Department of Housing and Urban Development CDBG Desk Guide for Program and Eligibility Policies and Procedures.

A.4. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as ATTACHMENT D, is incorporated in this Grant Contract.

A.5. To comply with the Eligible Activity Requirements of 24 CFR 570, Subpart C, and Part 91 as applicable in accordance with the type of project assisted.

A.6. To maintain records adequate to document compliance with 24 CFR 570, along with such other records the City and HUD determines necessary to enable the City and HUD to fulfill its responsibilities in the CDBG Program. All records will be retained for a three (3) year period in accordance with the requirements of 24 CFR Part 570.

A.7. To furnish to the City all reports required to be filed in accordance with any directives of the City and within the time period prescribed by the City for such reports.

B. TERM OF GRANT CONTRACT:

B.1. Grant Term. This Grant Contract shall be effective on July 1, 2019 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date to June 30, 2020 ("Term"). The City shall have no obligation for goods or services provided by the Operating Agency prior to the Effective Date or extending beyond the close of the Term.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the City under this Grant Contract exceed Eleven Thousand DOLLARS ($11,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated hereto as Attachment C, shall constitute the maximum amount due the Operating Agency under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Operating Agency.

C.2. Compensation Firm. The Maximum Liability of the City is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the Term and are not subject to escalation for any reason unless amended, except as provided in Section C.6.

C.3. Payment Methodology. The Operating Agency shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Operating Agency shall submit invoices, in form and substance acceptable to the City, with all necessary supporting documentation, prior to any reimbursement of allowable costs.

C.4. Travel Compensation. Reimbursement to the Operating Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "City Comprehensive Travel Regulations", as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

C.5. Invoice Requirements. The Operating Agency shall invoice the City based on an approved payment schedule, using the forms and all necessary supporting documentation specified by the HUD CDBG Requirements, and present such to:

City of Kingsport
Office of Housing and Community Development
201 W. Market Street, Kingsport, Tennessee 37660
Attention: Mark Haga

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. Reimbursable expenditures may NOT vary from the Grant Budget line item amount(s) detailed. Any change in Grant Budget line items shall require an amendment to the Grant Contract.

C.7. Disbursement Reconciliation and Close Out. The Operating Agency shall submit any final invoice and a grant disbursement reconciliation report within forty-five (45) days of the Grant Contract end date, in form and substance acceptable to the City.

a. If total disbursements by the City pursuant to this Grant Contract exceed the amounts permitted by Section C of this Grant Contract, the Operating Agency shall refund the difference to the City. The Operating Agency shall submit said refund with the final grant disbursement reconciliation report.

b. The City shall not be responsible for the payment of any invoice submitted to the City after the grant disbursement reconciliation report. The City will not deem any Operating Agency costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the City, and such invoices will NOT be paid.

c. The Operating Agency's failure to provide a final grant disbursement reconciliation report to the City as required shall result in the Operating Agency being deemed ineligible for reimbursement under this Grant Contract, and the Operating Agency shall be required to refund any and all payments by the city pursuant to this Grant Contract.

d. The Operating Agency must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

C.8. Indirect Cost. Should the Operating Agency request reimbursement for indirect costs, the Operating Agency must submit to the City a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Operating Agency will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Operating Agency makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Operating Agency agrees to remit any overpayment of funds to the City, and subject to the availability of funds the City agrees to remit any underpayment to the Operating Agency.

C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of City of Kingsport Departments of Finance and Administration Policies or any amendments or revisions made to this policy statement during the Term.

C.10. Payment of Invoice. A payment by the City shall not prejudice the City's right to object to or question any reimbursement, invoice, or matter in relation thereto. A payment by the City shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.

C.11. Non-allowable Costs. Any amounts payable to the Operating Agency shall be subject to reduction for amounts included in any invoice or payment that are determined by the City, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute non-allowable costs.

C.12. City's Right to Set Off. The City reserves the right to deduct from amounts that are or shall become due and payable to the Operating Agency under this Grant Contract or any other contract between the Operating Agency and the City of Kingsport under which the Operating Agency has a right to receive payment from the City.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The City is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Kingsport and Tennessee laws and regulations.

D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Kingsport and Tennessee laws and regulations.

D.3 Termination for Convenience. The City may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of the Grant Contract by the City. The City shall give the Operating Agency at least thirty (30) days written notice before the effective termination date. The Operating Agency shall be entitled to compensation for authorized expenditures and satisfactory services, in compliance with Federal CDBG Regulations, completed as of the termination date, but in no event shall the City be liable to the Operating Agency for compensation for any service that has not been rendered. The final decision as to the amount for which the City is liable shall be determined by the City. The Operating Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the City's exercise of its right to terminate for convenience.

D.4 Termination for Cause. If the Operating Agency fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Operating Agency violates any terms of this Grant Contract ("Breach Condition"), the City shall have the right to immediately terminate the Grant Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Operating Agency shall not be relived of liability to the City for damages sustained by virtue of any Breach Condition and the City may seek other remedies allowed at law or in equity for breach of this Grant Contract. Upon such termination, the Operating Agency shall have no claim to any CDBG funds remaining under this Grant Contract.

D.5. Subcontracting. The Operating Agency shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the City. If such subcontracts are approved by the City, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest", "Lobbying", "Nondiscrimination", "Public Accountability", "Public Notice", and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Operating Agency shall remain responsible for all work performed.

D.6. Conflicts of Interest. The Operating Agency warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the City of Kingsport as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Operating Agency in connection with any work contemplated or performed relative to this Grant Contract.

The Operating Agency acknowledges, understands, and agrees that this Grant Contract shall be null and void if the Operating Agency is, or within the past six months has been, an employee of the City of Kingsport or the U. S. Department of Housing and Urban Development or if the Operating Agency is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the City of Kingsport or the U. S. Department of Housing and Urban Development.

D.7. Lobbying. The Operating 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 undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the

extension, continuation, renewal, amendment, or modification of any federal contract, 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 contract, grant, loan, or cooperative agreement, the Operating Agency shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

D.8 Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The City:

Mark A. Haga
City of Kingsport Office of Housing and Community Development
201 W. Market Street, Kingsport, Tennessee 37660
Telephone 423-229-9486
Email markhaga@kingsporttn.gov
Email pagejeffers@kingsporttn.gov

The Operating Agency:

South Central Kingsport Community Development, Inc.
1140 Martin Luther King Drive
Kingsport, TN 37660
Telephone 423-677-9779
Email _____

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the City reserves the right to terminate this Grant Contract upon written notice to the Operating Agency. The City's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the City. Upon receipt of the written notice, the Operating Agency shall cease all work associated with the Grant Contract. Should such an event occur, the Operating Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Operating Agency shall have no right to recover from the City any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.10. Nondiscrimination. The Operating Agency agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Operating Agency on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Operating Agency shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.11. HIPAA Compliance. The City and the Operating Agency shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of the Grant Contract.

a. The Operating Agency warrants to the City that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Grant Contract.

b. The Operating Agency warrants that it will cooperate with the City, including cooperation and coordination with City privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.

c. The City and the Operating Agency will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the City and the Operating Agency in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

d. The Operating Agency will indemnify the City and hold it harmless for any violation by the Operating Agency or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the City because of the violation.

D.12. Public Accountability. If the Operating Agency is subject to Tenn. Code Ann. § 8-4-401 *et seq*., or if this Grant Contract involves the provision of services to citizens by the Operating Agency on behalf of the City, the Operating Agency agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Operating Agency shall also display in a prominent place, located near the passageway through which public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") inches in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL FREE HOTLINE: 1-800-232-5454

The sign shall be on the form prescribed by the City. The City shall obtain copies of the sign from HUD, and upon request from the Operating Agency, provide Operating Agency with any necessary signs.

D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Operating Agency in relation to this Grant Contract shall include the statement, "This project is funded under an agreement with the City of Kingsport and the U.S. Department of Housing and Urban Development." All notices by the Operating Agency in relation to this Grant Contract shall be approved by the City.

D.14. Licensure. The Operating Agency and its employees and all sub-Operating Agencies shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

D.15. Records. The Operating Agency and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Operating Agency and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the City of Kingsport and the U. S. Department of Housing and Urban Development, or their duly appointed representatives.

The records shall be maintained in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification, Public Company Accounting Oversight Board (PCAOB) Accounting Standards Codification, or Governmental Accounting Standards Board (GASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Audit Requirements, and Cost Principles for Federal Awards.*

The Operating Agency shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Operating Agency shall establish a system of internal controls that utilize the COSO Internal Control – Integrated Framework model as the basic foundation for the internal control system. The Operating Agency shall incorporate any additional Tennessee Comptroller of the Treasury directives into its internal control system.

D.16. Monitoring. The Operating Agency's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the City of Kingsport and the U. S. Department of Housing and Urban Development, or their duly appointed representatives.

D.17. Progress Reports. The Operating Agency shall submit brief, periodic, progress reports to the City as requested.

D.18. Reports. The Operating Agency shall submit all reports with form, substance and deadlines as specified in the Federal CDBG Regulations. The Operating Agency shall submit, within one (1) month of the conclusion of the Term, a CDBG annual report to the City.

D.19. Audit Reports. For purpose of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

The Operating Agency shall provide audited financial statements to the City of Kingsport if during the Operating Agency's fiscal year, the Operating Agency (1) expends seven hundred fifty thousand dollars ($750,000) or more in direct and indirect federal financial

assistance and the City is a pass-through entity; (2) expends seven hundred fifty thousand dollars ($750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars ($750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity. At least ninety (90) days before the end of its fiscal year, the Operating Agency shall complete ATTACHMENT E: NOTICE OF AUDIT to notify the City whether or not Operating Agency is subject to an audit. The Operating Agency should submit only one, completed document during the Operating Agency's fiscal year. Any Operating Agency that is subject to an audit and so indicates on Attachment E shall complete ATTACHMENT F: PARENT CHILD INFORMATION. If the Operating Agency is subject to an audit, Operating Agency shall obtain the Tennessee Comptroller's approval before engaging a licensed, independent public accountant to perform the audit. The Operating Agency may contact the Tennessee Comptroller for assistance identifying auditors.

All audits shall be performed in accordance with the Comptroller's requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.*

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

The audit contract between the Operating Agency and the Auditor shall be on a contract form prescribed by the Comptroller. The Operating Agency shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Operating Agency shall be subject to the provision relating to such fees contained within the Grant Contract. The Operating Agency shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.

D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Operating Agency shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Operating Agency is a subrecipient, the Operating Agency shall comply with 2 C.F.R. §§ 200.318-300.326 when procuring property and services under a federal award.

The Operating Agency shall obtain prior approval from the City before purchasing any equipment under this Grant Contract.

D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract 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.

The Operating Agency, being an independent contractor and not an employee of the City, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Operating Agency's employees, and to pay all applicable taxes incident to this Grant Contract.

D.23. City Liability. The City shall have no liability except as specifically provided in this Grant Contract.

D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Operating Agency's representatives, suppliers, subcontractors, customers or business apart from the Grant Contract is not a Force Majeure Event under this Grant Contract. Operating Agency will promptly notify the City of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the City within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Operating Agency's performance longer than forty-eight (48) hours, the City may, upon notice to Operating Agency: (a) cease payment of the fees until Operating Agency resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Operating Agency will not increase its charges under this Grant Contract or charge the City any fees other than those provided for in the Grant Contract as the result of a Force Majeure Event.

D.25. Tennessee Department of Revenue Registration. The Operating Agency shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.

D.26 Reserved.

D.27. City Interest in Equipment or Motor Vehicles. The Operating Agency shall take legal title to all equipment or motor vehicles purchased totally or in part with funds provided under this Grant contract, subject to the City's, equitable interest therein, to the extent of its *pro rata* share, based upon, the City's, contribution to the purchase price. The term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition costs which equals or exceeds five thousand dollars ($5,000). The term "motor vehicle" shall include any article of tangible personal property that is required to be registered under the "Tennessee Motor Vehicle Title and Registration Law", Tenn. Code Ann. Title 55, Chapters 1-6.

As authorized by the Tennessee Uniform Commercial Code, Tenn. Code Ann. Title 47, Chapter 9 and the "Tennessee Motor Vehicle Title and Registration Law," Tenn. Code Ann. Title 55, Chapters 1-6, the parties intend this Grant contract to create a security interest in favor of the City in the equipment or motor vehicles acquired by the Operating Agency pursuant to the provisions of this Grant contract. A further intent of this Grant contract is to acknowledge and continue the security interest in favor of the City in the equipment or motor vehicles acquired by the Operating Agency pursuant to the provisions of this program's prior year Grant contracts between the City, and the Operating Agency.

The Operating Agency grants the City a security interest in all equipment or motor vehicles acquired in whole or in part by the Operating Agency under this Grant contract. This Grant contract is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment or motor vehicles herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Operating Agency hereby grants the City a security interest in said equipment or motor vehicles. The Operating Agency agrees that the City may file this Grant contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment or motor vehicles herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Operating Agency agrees to execute and deliver to the City, upon the City's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant contract in such form as the City may require to perfect a security interest with respect to said equipment or motor vehicles. The Operating Agency shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the City may reasonably require. Without the prior written consent of the City, the Operating Agency shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment or motor vehicles, including replacements and additions thereto. Upon the Operating Agency's breach of any covenant or agreement contained in this Grant contract, including the covenants to pay when due all sums secured by this Grant contract. The City shall have the remedies of a secured party under the Uniform Commercial Code and, at the City's option, may also invoke the remedies herein provided.

The Operating Agency agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant contract. The Operating Agency shall maintain a perpetual inventory system for all equipment or motor vehicles purchased with funds provided under this Grant contract and shall submit an inventory control report which must include, at a minimum, the following:

a. Description of the equipment or motor vehicles;

b. Manufacturer's serial number or other identification number, when applicable;

c. Consecutive inventory equipment or motor vehicles tag identification;

d. Acquisition date, cost, and check number;

e. Fund source, State Grant number, or other applicable fund source identification;

f. Percentage of state funds applied to the purchase;

g. Location within the Operating Agency's operations where the equipment or motor vehicles is used;

h. Condition of the property or disposition date if Operating Agency no longer has possession;

i. Depreciation method, if applicable; and

j. Monthly depreciation amount, if applicable.

k. The Operating Agency shall tag equipment or motor vehicles with an identification number which is cross referenced to the equipment or motor vehicle item on the inventory control report. The Operating Agency shall inventory equipment or motor vehicles annually. The Operating Agency must compare the results of the inventory with the inventory control report and investigate any differences. The Operating Agency must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

l. The Operating Agency shall submit its inventory control report of all equipment or motor vehicles purchased with funding through this Grant contract within thirty (30) days of its end date and in form and substance acceptable to the City. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Operating Agency shall notify the City, in writing, of any equipment or motor vehicle loss describing the reasons for the loss. Should the equipment or motor vehicles be destroyed, lost, or stolen, the Operating Agency shall be responsible to the City for the *pro rata* amount of the residual value at the time of loss based upon the City's original contribution to the purchase price.

m. Upon termination of the Grant contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant contract, the Operating Agency shall request written approval from the City for any proposed disposition of equipment or motor vehicles purchased with Grant funds. All equipment or motor vehicles shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

D.28. City, State and Federal Compliance. The Operating Agency shall comply with all applicable city, state, and federal laws, ordinances, rules and regulations in performance of this Grant Contract.

D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Operating 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 Grant Contract. The Operating Agency acknowledges and agrees that any rights or claims against the City of Kingsport or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. § 29-20-101 *et seq*. and the sovereign immunity the city has through the State of Tennessee.

D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.

D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall control.

E.2. Debarment and Suspension. The Operating Agency certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

b. Have not within a three (3) year period preceding this the date of this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant 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;

c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

d. Have not within a three (3) year period preceding the date of this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Operating Agency shall provide immediate written notice to the City if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.3. Work Papers Subject to Review. The Operating Agency shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by the City, the U. S. Department of Housing and Urban Development, or their respective representatives upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.

E.4 Environmental Tobacco Smoke. Pursuant to the provisions of the federal “Pro-Children Act of 1994” and the Children’s Act for Clean Indoor Air of 1995”, Tenn. Code Ann. §§ 39-17-1601 through 1606, the Operating Agency shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Operating Agency shall post “no smoking” signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be a part of any subcontract related to this Grant Contract.

E.5. Hold Harmless. To the extent permitted by State law, the Operating Agency agrees to indemnify and hold harmless the City of Kingsport, the U. S. Department of Housing and Urban Development, as well as its officers, agents and employees from and against any

and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Operating Agency, its employees, or any person acting for or on its or their behalf relating to this Grant Contract. The Operating Agency further agrees it shall be liable for the reasonable cost of attorneys and court costs for the City, the U. S. Department of Housing and Urban Development to enforce the terms of this Grant Contract.

In the event of any such suit or claim, the parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the City, the U. S. Department of Housing and Urban Development to give notice shall only relieve the Operating Agency of its obligations under this Section to the extent that the Operating Agency can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Operating Agency, through its attorney(s), the right to represent the City of Kingsport, the U. S. Department of Housing and Urban Development in any legal matter, as the right to represent the City and the State is governed by Tenn. Code Ann. § 8-6-106.

E.6. Federal Funding Accountability and Transparency Act ("FFATA"). This Grant requires the Operating Agency to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Operating Agency is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Operating Agency provides information to the City as required. The Operating Agency shall comply with the following:

a. Reporting of Total Compensation of the Operating Agency's Executives.

(1) The Operating Agency shall report the names and total compensation of each of its five (5) most highly compensated executives for the Operating Agency's preceding completed fiscal year, if in the Operating Agency's preceding fiscal year it received:

i. 80 percent or more of the Operating Agency's annual gross revenues from federal procurement contracts and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and sub awards); and

ii. $25,000,000 or more in annual gross annual revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and sub awards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports files under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm).

As defined in 2 CFR § 170.315. "Executive" means officers, managing partners, or any other employees in management positions.

(2) Total compensation means the cash and noncash dollar value earned by the executive during the Operating Agency's preceding fiscal year and includes the following (for information see 17 § CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings or deferred compensation which is not tax qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites of property) for the executive exceeds $10,000.

b. The Operating Agency must report executive total compensation described above to the City by the end of the month during which this Grant Contract is fully executed.

c. If this Grant Contract is amended to extend the Term, the Operating Agency must submit an executive total compensation report to the City by the end of the month in which the amendment to this Grant Contract becomes effective.

d. The Operating Agency will obtain a Data Universal Numbering System ("DUNS") number and maintain its DUNS number for the terms of this Grant Contract. More information about obtaining a DUNS Number can be found at: http://fedgov.dnb.com/webform/.

The Operating Agency's failure to comply with the above requirements is a material breach of this Grant Contract for which the City may terminate this Grant Contract for cause. The City will not be obligated to pay any outstanding invoice received from the Operating Agency unless and until the Operating Agency is in full compliance with the above requirements.

E.7. Training. The Operating Agency agrees to attend all training sessions regarding management of the CDBG Program which are scheduled by the City and HUD.

E.8. CDBG Program Requirements. Under this Grant Contract, Operating Agency is receiving an allocation or grant of Community Development Block Grant Program funds. The Operating Agency understands these funds are made available through the U.S. Department of Housing and Urban Development (HUD) and to facilitate the receipt of these funds the Operating Agency agrees and certifies to comply with all applicable HUD requirements. Without limitations, Operating Agency specifically agrees and certifies as to the following:

a. The Operating Agency will abide with all of the requirements of 24 CFR, Part 570 and Part 91, Community Development Block Grant Program.

b. The Operating Agency will comply with other applicable Federal requirements in 24 CFR, Part 570 and Part 91, as follows:

1. 24 CFR 5.105(a). Section 3 Nondiscrimination and Equal Opportunity;

2. 24 CFR 570 Subpart A, General Provisions;

3. 24 CFR 570 Subpart C, Eligible Activities;

4. 24 CFR 570 Subpart J, Grant Administration;

5. 24 CFR 570 Subpart K, Other Program Requirements;

6. 24 CFR 570 Subpart O, Performance Reviews;

7. Title VI and Executive Order 13166 Affirmative Outreach

c. If the Operating Agency is primarily a religious organization, it agrees to use its funds to provide all eligible activities under this program in a manner that is free from religious influences as provided by 24 CFR 576.406.

d. The Operating Agency will comply with the uniform administrative requirements of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award, and the requirements of 24 CFR 576.407.

e. The Operating Agency will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Estate Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR, Part 24 and the requirements of 24 CFR 576.59.

f. The Operating Agency will comply with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992, implementing regulations at 24 CFR, Part 35, Subparts A, B, H, J, K, and M as applicable.

g. The Operating Agency will use CDBG funds pursuant to its or the City's Consolidated Plan approved by HUD and all requirements of 24 CFR, Part 570 and Part 91.

h. The Operating Agency will maintain adequate documentation to determine eligibility of persons served by the CDBG program.

i. The Operating Agency will develop and implement procedures to ensure the confidentiality of records pertaining to any individual fleeing domestic violence situations. In addition the address and location of family violence shelter facilities receiving ESG funding may not be publicly disclosed except with the written authorization of the person(s) responsible for the shelter facility's operation.

E.9. Drug Free Workplace. The Operating Agency will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Operating Agency's workplace and specifying the action that will be taken against employees for violation of such prohibition;

b. Establishing an ongoing drug-free awareness program to inform employees about:

1. The dangers of drug abuse in the workplace;

2. The Operating Agency's policy of maintaining a drug-free workplace;

3. Any drug counseling, rehabilitation and employee assistance programs; and

4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of this Grant Contract be given a copy of the statement required by Paragraph E.10. (a);

d. Notifying the employee in the statement required by Paragraph E.10(a) that, as a condition of employment under this Grant Contract, the employee will:

1. Abide by the terms of the statement; and

2. Notify the employees in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the City in writing, within ten calendar days after receiving notice under Paragraph E.10(d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

f. Taking one of the following actions, within thirty calendar days of receiving notice under Paragraph E.10(d)(2), with respect to any employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirement of the Rehabilitation Act of 1973, as amended; or

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or the appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs E.10 (a), (b), (c), (d), (e) and (f).

E.10. Corrective Action. If the City takes any corrective or remedial action as outlined in 24 CFR § 570.910 that is the result of any action taken by the Operating Agency, the Operating Agency will take any action required by the City to prevent a continuation of the deficiency, mitigate to the extent possible its adverse effects or consequences, and prevent its recurrence. These remedies could, among other actions, include repaying CDBG funds to the City.

IN WITNESS WHEREOF, the parties have by their duly authorized representatives set out their signatures.

CITY OF KINGSPORT

_____ _____
Patrick W. Shull, Mayor Date

ATTEST:

_____ _____
Sidney H. Cox, City Recorder Date

SOUTH CENTRAL KINGSPORT COMMUNITY DEVELOPMENT, Inc.

_____ _____
Kenneth Calvert, President Date

APPROVED AS TO FORM:

_____ _____
Michael Billingsley, City Attorney Date

ATTACHMENT A

2019 CDBG PROGRAM
DESCRIPTION OF OPERATING AGENCY ACTIVITIES

OPERATING AGENCY: __South Central Kingsport Community Development, Inc._____

I. The activities for the 2019 CDBG Project shall consist of the following:

A. Purpose of Project

In accordance with the application submitted by South Central Kingsport CDC for 2019 CDBG funding, the South Central Kingsport CDC Promoting Community Quality of Life project will advance the lives of low and moderate income residents in the city of Kingsport, with special emphasis on citizens residing in the area designated as South Central Kingsport. These include:

- **Educational and employment readiness for low and moderate income persons seeking employment;**
- **Cultural enrichment for low and moderate income minority youth, adults, and seniors; and**
- **Community involvement and development.**

B. Method of Operation

The programs will be available to residents of the South Central Kingsport Neighborhood consisting primarily of Block Group 2 and portion of Block Group 1 of Census tract 402 and a portion of Census Tract 407. The programs will be administered by South Central, which will provide staff support for record keeping, disbursement of funds and approval of participants.

ATTACHMENT B

2019 CDBG Program

IMPLEMENTATION PLAN FOR CDBG PROJECTS

OPERATING AGENCY: _South Central Kingsport Community Development, Inc.____

I. The time table for completing the activities for the project shall be:

1.	Determination of status for Environmental Review	July 1, 2019
2.	Release of Funds	July 1, 2019
3.	Begin providing services to residents	July 1, 2019
4.	Contract complete	June 30, 201920

ATTACHMENT C

2019 CDBG PROGRAM

PROJECT BUDGET

OPERATING AGENCY: __South Central Kingsport Community Development, Inc.____

CDBG funds will be used as follows:

Program Costs	**$17,100**
TOTAL FOR GRANT	**$17,100**

ATTACHMENT D

Federal Award Identification Worksheet

Operating Agency's name (must match registered name in DUNS)	**South Central Kingsport Community Development, Inc.**
Operating Agency's DUNS number	
Federal Award Identification Number (FAIN)	B-19-MC-47-0004
Federal award date	July 1, 2019
CFDA number and name	14.218 Community Development Grant Program
Grant contract's begin date	July 1, 2019
Grant contract's end ate	June 30, 2020
Amount of federal funds obligated by this grant contract	$17,100
Total amount of federal funds obligated to the Operating Agency	$17,100
Total amount of the federal award to the City of Kingsport	$391,364
Name of federal awarding agency	U.S. Department of Housing and Urban Development
Name and contact information for the federal awarding official	Mary C. Wilson, Director Community Planning and Development U.S. Department of Housing and Urban Development Knoxville Field Office 710 Locust Street, Third Floor Knoxville, TN 37902-2526
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	To be determined by cost allocation plan approved by Operating Agency's cognizant agency

ATTACHMENT E

Notice of Audit Report

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Operating Agency should submit only one, completed "Notice of Audit Report" document to the City during the Operating Agency's fiscal year.***

☐ _____ is subject to an audit for fiscal year 2019.

☐ South Central Kingsport Community Development, Inc. is not subject to an audit for fiscal year 2019.

Any Operating Agency that is subject to an audit must complete the information below.

Operating Agency's Edison Vendor ID Number: _____

Type of funds expended	**Estimated amount of funds expended by end of Operating Agency's fiscal year**
Federal pass-through funds a. Funds passed through the City of Kingsport b. Funds passed through any other entity	a. $17,100 b. $0
Funds received directly from the federal government	$
Non-federal funds received directly from the City of Kingsport	$

Auditor's Name: _____

Auditor's address: _____

Auditor's phone number: _____

Auditor's email: _____

ATTACHMENT F

Parent Child Information

Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Operating Agency should submit only one, completed "Parent Child Information" document to the City during the Operating Agency's fiscal year if the Operating Agency indicates it is subject to an audit on the "Notice of Audit Report" document.***

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Operating Agency's Edison Vendor ID number: _____

Is _____ a parent? Yes ☐ No ☐

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is _____ a child? Yes ☐ No ☐

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

GRANT CONTRACT
BETWEEN THE CITY OF KINGSPORT, TENNESSEE
AND
HELP OUR POTENTIAL EVOLVE, Inc.

This Grant Contract, by and between the City of Kingsport, hereinafter referred to as the "City" and **__Help Out Potential Evolve, Inc.____**, hereinafter referred to as the "Operating Agency", is for the provision of services to the homeless and those at risk for homelessness under the Community Development Block Grant Program ("CDBG"), as further described under "Scope of Services and Deliverables" (the "SCOPE OF SERVICES).

Operating Agency's address _1201 N. Wilcox Dr., Kingsport, TN_____
Operating Agency's Edison Vendor ID # __46-1500067_____

A. SCOPE OF SERVICES AND DELIVERABLES:

A.1. The Operating Agency shall provide all services and deliverables ("Scope") as required, described, and detailed in this Grant contract.

A.2. To provide and operate public service activities to low and moderate income individuals and families within the city limits of Kingsport as specified in ATTACHMENT A: DESCRIPTION OF ACTIVITIES, ATTACHMENT B: IMPLEMENTATION PLAN, AND ATTACHMENT C: BUDGET.

A.3. Incorporation of Additional Documents. Each of the following documents is included as part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Operating Agency's duties, responsibilities, and performance hereunder, these terms shall govern or order of precedence below:

a. Title 24 Code of Federal Regulations, Part 570 and Part 91, of the Community Development Block Grant Program authorized by Title I of the Housing and Community Development Act of 1974 (42 USC 5301 et.seq.), as amended (the "Federal CDBG Regulations").

b. The United States Department of Housing and Urban Development CDBG Desk Guide for Program and Eligibility Policies and Procedures.

A.4. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as ATTACHMENT D, is incorporated in this Grant Contract.

A.5. To comply with the Eligible Activity Requirements of 24 CFR 570, Subpart C, and Part 91 as applicable in accordance with the type of project assisted.

A.6. To maintain records adequate to document compliance with 24 CFR 570, along with such other records the City and HUD determines necessary to enable the City and HUD to fulfill its responsibilities in the CDBG Program. All records will be retained for a three (3) year period in accordance with the requirements of 24 CFR Part 570.

A.7. To furnish to the City all reports required to be filed in accordance with any directives of the City and within the time period prescribed by the City for such reports.

B. TERM OF GRANT CONTRACT:

B.1. Grant Term. This Grant Contract shall be effective on July 1, 2019 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date to June 30, 2020 ("Term"). The City shall have no obligation for goods or services provided by the Operating Agency prior to the Effective Date or extending beyond the close of the Term.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the City under this Grant Contract exceed Ten Thousand DOLLARS ($10,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated hereto as Attachment C, shall constitute the maximum amount due the Operating Agency under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Operating Agency.

C.2. Compensation Firm. The Maximum Liability of the City is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the Term and are not subject to escalation for any reason unless amended, except as provided in Section C.6.

C.3. Payment Methodology. The Operating Agency shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Operating Agency shall submit invoices, in form and substance acceptable to the City, with all necessary supporting documentation, prior to any reimbursement of allowable costs.

C.4. Travel Compensation. Reimbursement to the Operating Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "City Comprehensive Travel Regulations", as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

C.5. Invoice Requirements. The Operating Agency shall invoice the City based on an approved payment schedule, using the forms and all necessary supporting documentation specified by the HUD CDBG Requirements, and present such to:

City of Kingsport
Office of Housing and Community Development
201 W. Market Street, Kingsport, Tennessee 37660
Attention: Mark Haga

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. Reimbursable expenditures may NOT vary from the Grant Budget line item amount(s) detailed. Any change in Grant Budget line items shall require an amendment to the Grant Contract.

C.7. Disbursement Reconciliation and Close Out. The Operating Agency shall submit any final invoice and a grant disbursement reconciliation report within forty-five (45) days of the Grant Contract end date, in form and substance acceptable to the City.

a. If total disbursements by the City pursuant to this Grant Contract exceed the amounts permitted by Section C of this Grant Contract, the Operating Agency shall refund the difference to the City. The Operating Agency shall submit said refund with the final grant disbursement reconciliation report.

b. The City shall not be responsible for the payment of any invoice submitted to the City after the grant disbursement reconciliation report. The City will not deem any Operating Agency costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the City, and such invoices will NOT be paid.

c. The Operating Agency's failure to provide a final grant disbursement reconciliation report to the City as required shall result in the Operating Agency being deemed ineligible for reimbursement under this Grant Contract, and the Operating Agency shall be required to refund any and all payments by the city pursuant to this Grant Contract.

d. The Operating Agency must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

C.8. Indirect Cost. Should the Operating Agency request reimbursement for indirect costs, the Operating Agency must submit to the City a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Operating Agency will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Operating Agency makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Operating Agency agrees to remit any overpayment of funds to the City, and subject to the availability of funds the City agrees to remit any underpayment to the Operating Agency.

C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of City of Kingsport Departments of Finance and Administration Policies or any amendments or revisions made to this policy statement during the Term.

C.10. Payment of Invoice. A payment by the City shall not prejudice the City's right to object to or question any reimbursement, invoice, or matter in relation thereto. A payment by the City shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.

C.11. Non-allowable Costs. Any amounts payable to the Operating Agency shall be subject to reduction for amounts included in any invoice or payment that are determined by the City, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute non-allowable costs.

C.12. City's Right to Set Off. The City reserves the right to deduct from amounts that are or shall become due and payable to the Operating Agency under this Grant Contract or any other contract between the Operating Agency and the City of Kingsport under which the Operating Agency has a right to receive payment from the City.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The City is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Kingsport and Tennessee laws and regulations.

D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Kingsport and Tennessee laws and regulations.

D.3 Termination for Convenience. The City may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of the Grant Contract by the City. The City shall give the Operating Agency at least thirty (30) days written notice before the effective termination date. The Operating Agency shall be entitled to compensation for authorized expenditures and satisfactory services, in compliance with Federal CDBG Regulations, completed as of the termination date, but in no event shall the City be liable to the Operating Agency for compensation for any service that has not been rendered. The final decision as to the amount for which the City is liable shall be determined by the City. The Operating Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the City's exercise of its right to terminate for convenience.

D.4 Termination for Cause. If the Operating Agency fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Operating Agency violates any terms of this Grant Contract ("Breach Condition"), the City shall have the right to immediately terminate the Grant Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Operating Agency shall not be relived of liability to the City for damages sustained by virtue of any Breach Condition and the City may seek other remedies allowed at law or in equity for breach of this Grant Contract. Upon such termination, the Operating Agency shall have no claim to any CDBG funds remaining under this Grant Contract.

D.5. Subcontracting. The Operating Agency shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the City. If such subcontracts are approved by the City, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest", "Lobbying", "Nondiscrimination", "Public Accountability", "Public Notice", and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Operating Agency shall remain responsible for all work performed.

D.6. Conflicts of Interest. The Operating Agency warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the City of Kingsport as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Operating Agency in connection with any work contemplated or performed relative to this Grant Contract.

The Operating Agency acknowledges, understands, and agrees that this Grant Contract shall be null and void if the Operating Agency is, or within the past six months has been, an employee of the City of Kingsport or the U. S. Department of Housing and Urban Development or if the Operating Agency is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the City of Kingsport or the U. S. Department of Housing and Urban Development.

D.7. Lobbying. The Operating 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 undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the

extension, continuation, renewal, amendment, or modification of any federal contract, 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 contract, grant, loan, or cooperative agreement, the Operating Agency shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

D.8 Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The City:

Mark A. Haga
City of Kingsport Office of Housing and Community Development
201 W. Market Street, Kingsport, Tennessee 37660
Telephone 423-229-9486
Email markhaga@kingsporttn.gov
Email pagejeffers@kingsporttn.gov

The Operating Agency:

Help Our Potential Evolve, Inc.
1201 N. Wilcox Dr., Suite B
Kingsport, TN 37660
Telephone 423-276-6541
Email _____

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the City reserves the right to terminate this Grant Contract upon written notice to the Operating Agency. The City's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the City. Upon receipt of the written notice, the Operating Agency shall cease all work associated with the Grant Contract. Should such an event occur, the Operating Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Operating Agency shall have no right to recover from the City any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.10. Nondiscrimination. The Operating Agency agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Operating Agency on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Operating Agency shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.11. HIPAA Compliance. The City and the Operating Agency shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of the Grant Contract.

a. The Operating Agency warrants to the City that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Grant Contract.

b. The Operating Agency warrants that it will cooperate with the City, including cooperation and coordination with City privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.

c. The City and the Operating Agency will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the City and the Operating Agency in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

d. The Operating Agency will indemnify the City and hold it harmless for any violation by the Operating Agency or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the City because of the violation.

D.12. Public Accountability. If the Operating Agency is subject to Tenn. Code Ann. § 8-4-401 *et seq*., or if this Grant Contract involves the provision of services to citizens by the Operating Agency on behalf of the City, the Operating Agency agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Operating Agency shall also display in a prominent place, located near the passageway through which public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") inches in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL FREE HOTLINE: 1-800-232-5454

The sign shall be on the form prescribed by the City. The City shall obtain copies of the sign from HUD, and upon request from the Operating Agency, provide Operating Agency with any necessary signs.

D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Operating Agency in relation to this Grant Contract shall include the statement, "This project is funded under an agreement with the City of Kingsport and the U.S. Department of Housing and Urban Development." All notices by the Operating Agency in relation to this Grant Contract shall be approved by the City.

D.14. Licensure. The Operating Agency and its employees and all sub-Operating Agencies shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

D.15. Records. The Operating Agency and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Operating Agency and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the City of Kingsport and the U. S. Department of Housing and Urban Development, or their duly appointed representatives.

The records shall be maintained in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification, Public Company Accounting Oversight Board (PCAOB) Accounting Standards Codification, or Governmental Accounting Standards Board (GASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Audit Requirements, and Cost Principles for Federal Awards.*

The Operating Agency shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Operating Agency shall establish a system of internal controls that utilize the COSO Internal Control – Integrated Framework model as the basic foundation for the internal control system. The Operating Agency shall incorporate any additional Tennessee Comptroller of the Treasury directives into its internal control system.

D.16. Monitoring. The Operating Agency's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the City of Kingsport and the U. S. Department of Housing and Urban Development, or their duly appointed representatives.

D.17. Progress Reports. The Operating Agency shall submit brief, periodic, progress reports to the City as requested.

D.18. Reports. The Operating Agency shall submit all reports with form, substance and deadlines as specified in the Federal CDBG Regulations. The Operating Agency shall submit, within one (1) month of the conclusion of the Term, a CDBG annual report to the City.

D.19. Audit Reports. For purpose of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

The Operating Agency shall provide audited financial statements to the City of Kingsport if during the Operating Agency's fiscal year, the Operating Agency (1) expends seven hundred fifty thousand dollars ($750,000) or more in direct and indirect federal financial

assistance and the City is a pass-through entity; (2) expends seven hundred fifty thousand dollars ($750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars ($750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity. At least ninety (90) days before the end of its fiscal year, the Operating Agency shall complete ATTACHMENT E: NOTICE OF AUDIT to notify the City whether or not Operating Agency is subject to an audit. The Operating Agency should submit only one, completed document during the Operating Agency's fiscal year. Any Operating Agency that is subject to an audit and so indicates on Attachment E shall complete ATTACHMENT F: PARENT CHILD INFORMATION. If the Operating Agency is subject to an audit, Operating Agency shall obtain the Tennessee Comptroller's approval before engaging a licensed, independent public accountant to perform the audit. The Operating Agency may contact the Tennessee Comptroller for assistance identifying auditors.

All audits shall be performed in accordance with the Comptroller's requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.*

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

The audit contract between the Operating Agency and the Auditor shall be on a contract form prescribed by the Comptroller. The Operating Agency shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Operating Agency shall be subject to the provision relating to such fees contained within the Grant Contract. The Operating Agency shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.

D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Operating Agency shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Operating Agency is a subrecipient, the Operating Agency shall comply with 2 C.F.R. §§ 200.318-300.326 when procuring property and services under a federal award.

The Operating Agency shall obtain prior approval from the City before purchasing any equipment under this Grant Contract.

D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract 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.

The Operating Agency, being an independent contractor and not an employee of the City, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Operating Agency's employees, and to pay all applicable taxes incident to this Grant Contract.

D.23. City Liability. The City shall have no liability except as specifically provided in this Grant Contract.

D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Operating Agency's representatives, suppliers, subcontractors, customers or business apart from the Grant Contract is not a Force Majeure Event under this Grant Contract. Operating Agency will promptly notify the City of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the City within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Operating Agency's performance longer than forty-eight (48) hours, the City may, upon notice to Operating Agency: (a) cease payment of the fees until Operating Agency resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Operating Agency will not increase its charges under this Grant Contract or charge the City any fees other than those provided for in the Grant Contract as the result of a Force Majeure Event.

D.25. Tennessee Department of Revenue Registration. The Operating Agency shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.

D.26 Reserved.

D.27. City Interest in Equipment or Motor Vehicles. The Operating Agency shall take legal title to all equipment or motor vehicles purchased totally or in part with funds provided under this Grant contract, subject to the City's, equitable interest therein, to the extent of its *pro rata* share, based upon, the City's, contribution to the purchase price. The term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition costs which equals or exceeds five thousand dollars ($5,000). The term "motor vehicle" shall include any article of tangible personal property that is required to be registered under the "Tennessee Motor Vehicle Title and Registration Law", Tenn. Code Ann. Title 55, Chapters 1-6.

As authorized by the Tennessee Uniform Commercial Code, Tenn. Code Ann. Title 47, Chapter 9 and the "Tennessee Motor Vehicle Title and Registration Law," Tenn. Code Ann. Title 55, Chapters 1-6, the parties intend this Grant contract to create a security interest in favor of the City in the equipment or motor vehicles acquired by the Operating Agency pursuant to the provisions of this Grant contract. A further intent of this Grant contract is to acknowledge and continue the security interest in favor of the City in the equipment or motor vehicles acquired by the Operating Agency pursuant to the provisions of this program's prior year Grant contracts between the City, and the Operating Agency.

The Operating Agency grants the City a security interest in all equipment or motor vehicles acquired in whole or in part by the Operating Agency under this Grant contract. This Grant contract is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment or motor vehicles herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Operating Agency hereby grants the City a security interest in said equipment or motor vehicles. The Operating Agency agrees that the City may file this Grant contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment or motor vehicles herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Operating Agency agrees to execute and deliver to the City, upon the City's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant contract in such form as the City may require to perfect a security interest with respect to said equipment or motor vehicles. The Operating Agency shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the City may reasonably require. Without the prior written consent of the City, the Operating Agency shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment or motor vehicles, including replacements and additions thereto. Upon the Operating Agency's breach of any covenant or agreement contained in this Grant contract, including the covenants to pay when due all sums secured by this Grant contract. The City shall have the remedies of a secured party under the Uniform Commercial Code and, at the City's option, may also invoke the remedies herein provided.

The Operating Agency agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant contract. The Operating Agency shall maintain a perpetual inventory system for all equipment or motor vehicles purchased with funds provided under this Grant contract and shall submit an inventory control report which must include, at a minimum, the following:

a. Description of the equipment or motor vehicles;

b. Manufacturer's serial number or other identification number, when applicable;

c. Consecutive inventory equipment or motor vehicles tag identification;

d. Acquisition date, cost, and check number;

e. Fund source, State Grant number, or other applicable fund source identification;

f. Percentage of state funds applied to the purchase;

g. Location within the Operating Agency's operations where the equipment or motor vehicles is used;

h. Condition of the property or disposition date if Operating Agency no longer has possession;

i. Depreciation method, if applicable; and

j. Monthly depreciation amount, if applicable.

k. The Operating Agency shall tag equipment or motor vehicles with an identification number which is cross referenced to the equipment or motor vehicle item on the inventory control report. The Operating Agency shall inventory equipment or motor vehicles annually. The Operating Agency must compare the results of the inventory with the inventory control report and investigate any differences. The Operating Agency must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

l. The Operating Agency shall submit its inventory control report of all equipment or motor vehicles purchased with funding through this Grant contract within thirty (30) days of its end date and in form and substance acceptable to the City. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Operating Agency shall notify the City, in writing, of any equipment or motor vehicle loss describing the reasons for the loss. Should the equipment or motor vehicles be destroyed, lost, or stolen, the Operating Agency shall be responsible to the City for the *pro rata* amount of the residual value at the time of loss based upon the City's original contribution to the purchase price.

m. Upon termination of the Grant contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant contract, the Operating Agency shall request written approval from the City for any proposed disposition of equipment or motor vehicles purchased with Grant funds. All equipment or motor vehicles shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

D.28. City, State and Federal Compliance. The Operating Agency shall comply with all applicable city, state, and federal laws, ordinances, rules and regulations in performance of this Grant Contract.

D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Operating 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 Grant Contract. The Operating Agency acknowledges and agrees that any rights or claims against the City of Kingsport or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. § 29-20-101 *et seq*. and the sovereign immunity the city has through the State of Tennessee.

D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.

D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall control.

E.2. Debarment and Suspension. The Operating Agency certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

b. Have not within a three (3) year period preceding this the date of this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant 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;

c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

d. Have not within a three (3) year period preceding the date of this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Operating Agency shall provide immediate written notice to the City if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.3. Work Papers Subject to Review. The Operating Agency shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by the City, the U. S. Department of Housing and Urban Development, or their respective representatives upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.

E.4 Environmental Tobacco Smoke. Pursuant to the provisions of the federal “Pro-Children Act of 1994” and the Children’s Act for Clean Indoor Air of 1995”, Tenn. Code Ann. §§ 39-17-1601 through 1606, the Operating Agency shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Operating Agency shall post “no smoking” signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be a part of any subcontract related to this Grant Contract.

E.5. Hold Harmless. To the extent permitted by State law, the Operating Agency agrees to indemnify and hold harmless the City of Kingsport, the U. S. Department of Housing and Urban Development, as well as its officers, agents and employees from and against any

and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Operating Agency, its employees, or any person acting for or on its or their behalf relating to this Grant Contract. The Operating Agency further agrees it shall be liable for the reasonable cost of attorneys and court costs for the City, the U. S. Department of Housing and Urban Development to enforce the terms of this Grant Contract.

In the event of any such suit or claim, the parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the City, the U. S. Department of Housing and Urban Development to give notice shall only relieve the Operating Agency of its obligations under this Section to the extent that the Operating Agency can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Operating Agency, through its attorney(s), the right to represent the City of Kingsport, the U. S. Department of Housing and Urban Development in any legal matter, as the right to represent the City and the State is governed by Tenn. Code Ann. § 8-6-106.

E.6. Federal Funding Accountability and Transparency Act ("FFATA"). This Grant requires the Operating Agency to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Operating Agency is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Operating Agency provides information to the City as required. The Operating Agency shall comply with the following:

a. Reporting of Total Compensation of the Operating Agency's Executives.

(1) The Operating Agency shall report the names and total compensation of each of its five (5) most highly compensated executives for the Operating Agency's preceding completed fiscal year, if in the Operating Agency's preceding fiscal year it received:

i. 80 percent or more of the Operating Agency's annual gross revenues from federal procurement contracts and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and sub awards); and

ii. $25,000,000 or more in annual gross annual revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and sub awards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports files under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm).

As defined in 2 CFR § 170.315. "Executive" means officers, managing partners, or any other employees in management positions.

(2) Total compensation means the cash and noncash dollar value earned by the executive during the Operating Agency's preceding fiscal year and includes the following (for information see 17 § CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings or deferred compensation which is not tax qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites of property) for the executive exceeds $10,000.

b. The Operating Agency must report executive total compensation described above to the City by the end of the month during which this Grant Contract is fully executed.

c. If this Grant Contract is amended to extend the Term, the Operating Agency must submit an executive total compensation report to the City by the end of the month in which the amendment to this Grant Contract becomes effective.

d. The Operating Agency will obtain a Data Universal Numbering System ("DUNS") number and maintain its DUNS number for the terms of this Grant Contract. More information about obtaining a DUNS Number can be found at: http://fedgov.dnb.com/webform/.

The Operating Agency's failure to comply with the above requirements is a material breach of this Grant Contract for which the City may terminate this Grant Contract for cause. The City will not be obligated to pay any outstanding invoice received from the Operating Agency unless and until the Operating Agency is in full compliance with the above requirements.

E.7. Training. The Operating Agency agrees to attend all training sessions regarding management of the CDBG Program which are scheduled by the City and HUD.

E.8. CDBG Program Requirements. Under this Grant Contract, Operating Agency is receiving an allocation or grant of Community Development Block Grant Program funds. The Operating Agency understands these funds are made available through the U.S. Department of Housing and Urban Development (HUD) and to facilitate the receipt of these funds the Operating Agency agrees and certifies to comply with all applicable HUD requirements. Without limitations, Operating Agency specifically agrees and certifies as to the following:

a. The Operating Agency will abide with all of the requirements of 24 CFR, Part 570 and Part 91, Community Development Block Grant Program.

b. The Operating Agency will comply with other applicable Federal requirements in 24 CFR, Part 570 and Part 91, as follows:

1. 24 CFR 5.105(a). Section 3 Nondiscrimination and Equal Opportunity;

2. 24 CFR 570 Subpart A, General Provisions;

3. 24 CFR 570 Subpart C, Eligible Activities;

4. 24 CFR 570 Subpart J, Grant Administration;

5. 24 CFR 570 Subpart K, Other Program Requirements;

6. 24 CFR 570 Subpart O, Performance Reviews;

7. Title VI and Executive Order 13166 Affirmative Outreach

c. If the Operating Agency is primarily a religious organization, it agrees to use its funds to provide all eligible activities under this program in a manner that is free from religious influences as provided by 24 CFR 576.406.

d. The Operating Agency will comply with the uniform administrative requirements of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award, and the requirements of 24 CFR 576.407.

e. The Operating Agency will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Estate Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR, Part 24 and the requirements of 24 CFR 576.59.

f. The Operating Agency will comply with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992, implementing regulations at 24 CFR, Part 35, Subparts A, B, H, J, K, and M as applicable.

g. The Operating Agency will use CDBG funds pursuant to its or the City's Consolidated Plan approved by HUD and all requirements of 24 CFR, Part 570 and Part 91.

h. The Operating Agency will maintain adequate documentation to determine eligibility of persons served by the CDBG program.

i. The Operating Agency will develop and implement procedures to ensure the confidentiality of records pertaining to any individual fleeing domestic violence situations. In addition the address and location of family violence shelter facilities receiving ESG funding may not be publicly disclosed except with the written authorization of the person(s) responsible for the shelter facility's operation.

E.9. Drug Free Workplace. The Operating Agency will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Operating Agency's workplace and specifying the action that will be taken against employees for violation of such prohibition;

b. Establishing an ongoing drug-free awareness program to inform employees about:

1. The dangers of drug abuse in the workplace;

2. The Operating Agency's policy of maintaining a drug-free workplace;

3. Any drug counseling, rehabilitation and employee assistance programs; and

4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of this Grant Contract be given a copy of the statement required by Paragraph E.10. (a);

d. Notifying the employee in the statement required by Paragraph E.10(a) that, as a condition of employment under this Grant Contract, the employee will:

1. Abide by the terms of the statement; and

2. Notify the employees in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the City in writing, within ten calendar days after receiving notice under Paragraph E.10(d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

f. Taking one of the following actions, within thirty calendar days of receiving notice under Paragraph E.10(d)(2), with respect to any employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirement of the Rehabilitation Act of 1973, as amended; or

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or the appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs E.10 (a), (b), (c), (d), (e) and (f).

E.10. Corrective Action. If the City takes any corrective or remedial action as outlined in 24 CFR § 570.910 that is the result of any action taken by the Operating Agency, the Operating Agency will take any action required by the City to prevent a continuation of the deficiency, mitigate to the extent possible its adverse effects or consequences, and prevent its recurrence. These remedies could, among other actions, include repaying CDBG funds to the City.

IN WITNESS WHEREOF, the parties have by their duly authorized representatives set out their signatures.

CITY OF KINGSPORT

_____ _____
Patrick W. Shull, Mayor Date

ATTEST:

_____ _____
Sidney H. Cox, City Recorder Date

HELP OUR POTENTIAL EVOLVE, Inc.

_____ _____
Chaiba Bloomer, President Date

APPROVED AS TO FORM:

_____ _____
Michael Billingsley, City Attorney Date

ATTACHMENT A

2019 CDBG PROGRAM
DESCRIPTION OF OPERATING AGENCY ACTIVITIES

OPERATING AGENCY: __Help Our Potential Evolve, Inc._____

I. The activities for the 2019 CDBG Project shall consist of the following:

A. Purpose of Project.

H.O.P.E. will expand its Youth Leadership Program to offer activities and events which increase personal and financial responsibility of low/mod income high school students in the Kingsport community, leading to greater awareness of, access to and success in education and employment.

B. Method of Operation.

The program will be available to residents of Kingsport, consisting primarily of low and very low-income, minority persons. The program will be administered by H.O.P.E. and will provide funding to purchase training materials for community service and leadership programs and transportation costs associated with delivering these programs.

ATTACHMENT B

2019 CDBG Program
IMPLEMENTATION PLAN FOR CDBG PROJECTS

OPERATING AGENCY: Help Our Potential Evolve, Inc.

I. The time table for completing the activities for the project shall be:

1.	Determination of status for Environmental Review	July 1, 2019
2.	Release of Funds	July 1, 2019
3.	Begin providing services to homeless	July 1, 2019
4.	Contract complete	June 30, 2020

ATTACHMENT C

2019 CDBG PROGRAM

PROJECT BUDGET

OPERATING AGENCY: __Help Our Potential Evolve, Inc.____

CDBG funds will be used as follows:

Program Costs	**$10,000**
TOTAL FOR GRANT	**$10,000**

ATTACHMENT D

Federal Award Identification Worksheet

Operating Agency's name (must match registered name in DUNS)	**Help Our Potential Evolve, Inc.**
Operating Agency's DUNS number	

Federal Award Identification Number (FAIN)	B-19-MC-47-0004
Federal award date	July 1, 2019
CFDA number and name	14.218 Community Development Grant Program
Grant contract's begin date	July 1, 2019
Grant contract's end ate	June 30, 2020
Amount of federal funds obligated by this grant contract	$10,000
Total amount of federal funds obligated to the Operating Agency	$10,000
Total amount of the federal award to the City of Kingsport	$391,364
Name of federal awarding agency	U.S. Department of Housing and Urban Development
Name and contact information for the federal awarding official	Mary C. Wilson, Director Community Planning and Development U.S. Department of Housing and Urban Development Knoxville Field Office 710 Locust Street, Third Floor Knoxville, TN 37902-2526
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	To be determined by cost allocation plan approved by Operating Agency's cognizant agency

ATTACHMENT E

Notice of Audit Report

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Operating Agency should submit only one, completed "Notice of Audit Report" document to the City during the Operating Agency's fiscal year.***

☐ _____ is subject to an audit for fiscal year 2019.

☐ Help Our Potential Evolve, Inc. is not subject to an audit for fiscal year 2019.

Any Operating Agency that is subject to an audit must complete the information below.

Operating Agency's Edison Vendor ID Number: _____

Type of funds expended	Estimated amount of funds expended by end of Operating Agency's fiscal year
Federal pass-through funds a. Funds passed through the City of Kingsport b. Funds passed through any other entity	a. $10,000 b. $0
Funds received directly from the federal government	$
Non-federal funds received directly from the City of Kingsport	$

Auditor's Name: _____

Auditor's address: _____

Auditor's phone number: _____

Auditor's email: _____

ATTACHMENT F

Parent Child Information

Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Operating Agency should submit only one, completed "Parent Child Information" document to the City during the Operating Agency's fiscal year if the Operating Agency indicates it is subject to an audit on the "Notice of Audit Report" document.***

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Operating Agency's Edison Vendor ID number: _____

Is _____ a parent? Yes ☐ No ☐

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is _____ a child? Yes ☐ No ☐

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Awarding the Bid for the Purchase of Two (2) Automated Refuse/Recycling Trucks

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-254-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: Committee
Presentation By: R. McReynolds, S. Hightower

Recommendation:
Approve the Resolution.

Executive Summary:
Bids were opened on October 15, 2019 for the purchase of Two (2) Automated Refuse/Recycling Truck for use by the Public Works Sanitation Department. The advertisement for the Invitation to Bid was published in the Kingsport Times News on September 29, 2019 and placed on our website for 16 calendar days. It is the recommendation of the committee to accept the low, responsible compliant bid from Worldwide Equipment, Inc. for Two (2) 2021 Mack LR64R W/New Way 31 Yd. ASC Body and reject the trade-in offers as follows:

$285,219.00	Unit Cost
$570,438.00	Total Purchase Price

This unit is a fleet replacement.

Funding is identified in Project/Account # 51150085019010.

Attachments:
1. Resolution
2. Bid Opening Minutes
3. Vendor List
4. Recommendation Memo w/ Photo

Funding source appropriate and funds are available: JE

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. _____

A RESOLUTION AWARDING THE BID FOR THE PURCHASE OF TWO AUTOMATED REFUSE/RECYCLING TRUCKS TO WORLDWIDE EQUIPMENT, INC.; REJECTING ALL TRADE-IN OFFERS INCLUDED IN THE BID; AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

WHEREAS, bids were opened October 15, 2019, for the purchase of two (2) automated refuse/recycling trucks for the use at the public works sanitation department; and

WHEREAS, upon review of the bids, the board finds Worldwide Equipment, Inc. is the lowest responsible compliant bidder meeting specifications for the particular grade or class of material, work or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to purchase two (2) 2021 Mack LR64R W/New Way 31 Yd. ASC Body automated refuse/recycling trucks from Worldwide Equipment, Inc., at a total purchase cost of $121,240.00; and

WHEREAS, included with the bid was an offer for two trade-in vehicles, units #1752 and 1763, which are rejected, as staff has determined that the offering of Worldwide Equipment, Inc. is below the expectations of the true value potential; and

WHEREAS, funding is identified in account number 51150085019010.

Now therefore,

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

SECTION I. That the bid for the purchase of two (2) 2021 Mack LR64R W/New Way 31 Yd. ASC Body automated refuse/recycling trucks, at a total purchase cost of $570,438.00, is awarded to Worldwide Equipment, Inc., and the city manager is authorized to execute a purchase order for same.

SECTION II. That the offer for two trade-in vehicles, units #1752 and 1763, included in the bid packet by Worldwide Equipment, Inc. is rejected.

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 public.

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

ADOPTED this the 5th day of November, 2019.

_____
PATRICK W. SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

MINUTES
BID OPENING
October 15, 2019
4:00 P.M.

Present: Nikisha Eichmann, Assistant Procurement Manager; and Michelle Ramey, Assistant Procurement Manager, Schools

The Bid Opening was held in the Council Room, City Hall.

The Assistant Procurement Manager opened with the following bids:

AUTOMATED REFUSE/RECYCLING TRUCK					
Vendor:	Total Cost:	Trade-In #1752:	Trade-In #1763:	Delivery Time:	Make/Model:
CMI Equipment Sales, Inc.	No Bid	N/A	N/A	N/A	N/A
The Pete Store, LLC	$555,036.00	$4,500.00	$4,500.00	180-240 Days	Peterbilt/520 Dual Steer Heil/Dura Pack Python
Worldwide Equipment, Inc.	$554,286.00	$5,000.00	$5,000.00	225-255 Days	2021 Mack LR64R W/Heil DP Python
Worldwide Equipment, Inc.	$570,438.00	$1,000.00	$1,000.00	315-345 Days	2021 Mack LR64R W/New Way 31 Yd. ASC Body

The submitted bids will be evaluated and a recommendation made at a later date.

Vehicle Vendors

Email Address	Business
brian@autoworldbsg.com	Auto World of Big Stone Gap
carlarcher@billgatton.com	Bill Gatton
chite@courtesykingsport.com	Courtesy Chevrolet
crabtreebgmc@gmail.com	Crabtree Buick GMC
kp_porter@hotmail.com	Empire Ford
jason.empireford@gmail.com	Empire Ford II
alandrinnon@fairwaykingsport.com	Fairway Ford
drewjohnson32@yahoo.com	Freedom Ford/Chevrolet
herb.odom@freelandauto.com	Freeland Auto
wpickard@goldencircle.com	Golden Circle Ford
ctuckerold@lcford.com	Lance Cunningham Ford
lcag.fleet@gmail.com	Lonnie Cobb Ford
Donna.Newell@Ford1.biz	Neighborhood Ford
piper.kirk@tricitiesdodge.com	Tri Cities Dodge
dmeador@heavymachinesinc.com	Heavy Machines
sales@goodpasturemotor.com	Goodpasture Motor Co
dave@g-sproducts.com	GSP Marketing
jrogers@thepetestore.com	The Pete Store
chris.jessee@mhc.com	MHC Kenworth
robert@mtjoyrv.com	Mid State Equipment
mequip@iglou.com	Municipal Equipment
nick.jennings@tricitiesdodge.com	Tri-cities dodge
scott.pekar@thetruckpeople.com	Worldwide Equipment
todd.love@thetruckpeople.com	Worldwide Ford Sales
rob@ciequipment.com	Carolina Industrial Equipment
cbaton@cdjrcolumbia.com	Columbia Chrysler Dodge Jeep Ram
cmiequip@bellsouth.net	CMI Equip
cory@pweasi.com	Public Works Equipment
richmondmachinery@msn.com	Richmond Machinery
roddersandjetsco@aol.com	Rodders & Jets
dhigdon@stowerscat.com	Stowers
craig@stringfellow.bz	Stringfellow
bjanutolo@triadfreightlinertn.com	Triad Freightliner

Memo

To: Nikisha Eichmann, Assistant Procurement Manager

From: Truck Committee: Rodney Deel, Sanitation Supervisor
Greg Willis, Streets Supervisor
Steve Hightower, Fleet Manager

Date: October 23, 2019

Re: Automated Refuse/Recycling Truck Purchase Recommendation

This will confirm our review and recommendation to purchase the compliant bid of the following vendor and reject the $1,000 per unit trade in offering for units #1752 and 1763.

Item	Quantity	Description	Award to Vendor	Fuel Economy
1	2	2021 Mack LR64R with New Way	World Wide Equipment	2.5 - 6 MPG

Compliant Bidder

The bidder offering recommended is compliant in all major aspects of the minimum specification requirements for the Automated Refuse Truck(s) specified. The lower bid offerings of World Wide Equipment and the Pete Store were not compliant in several areas. The most critical exception taken by the lower bid offerings was the lack of the 144" rapid rail collection long arm reach requirement needed for the successful pickup of heavy cans through street parked vehicles. The lower bid offerings were for a Heil/ Dura Pack body with Python Arm is that it is a completely different operating system which utilizes a bending type swivel arm with elbow with a total reach of only nine feet (108 inches). This type of system is three feet short of the minimum. An illustration of the Python Arm is attached within the Recommendation.

These units will be Fleet Replacements

Delivery and Compliance to Specifications expectations have been added to insure prompt delivery of any vehicle or piece of equipment purchased by the City of Kingsport. Failure of the awarded vendor to deliver on time or correct pre acceptance inspection deficiencies within the allotted time results in a monetary penalty assessed on a daily basis. This process will insure the departments receive their replacement units in a timely manner. Specified time allotted for delivery of this unit is 315-345 days after notification with 15 days to correct inspection deficiencies after delivery inspection and a $50 dollar a day penalty assessed for non- compliance.

Review of Specifications

The bid offerings were reviewed by Sanitation Supervisor - Rodney Deel, Streets Supervisor - Greg Willis, and Fleet Manger - Steve Hightower, who are agreement with this recommendation. Confirming email of agreement is attached.

Fuel Economy Improvement 0%

The unit(s) being replaced have a similar fuel economy to the unit(s) being purchased so there will be no estimated improvement in fuel economy ratings.

Trade In Information

1. Trade in(s):
   a. Recommendation is to reject trade in offerings.
   b. Recommendation for trade in offer rejection is due to the market value expectation of the present units. It is determined by staff that the offering of World Wide is below the expectations of the true value potential. It is our objective to dispose the replaced units by utilizing the City's standard accepted methods.

Origin Information

1. New Unit Origin of Manufacture:
   a. Cab/ Chassis Mfg.– Macungie, PA
      i. 90% Domestic/ 10% Foreign Materials
   b. Body Manufacture – Scranton, Io.
      i. 90% Domestic/ 10% Foreign Materials
2. New Unit Purchase Dealer:
   a. Cab/ Chassis/ Body – World Wide Equipment – Abingdon, VA
   b. Body Dealership – Municipal Equipment - Louisville, KY

Should you have any questions about this recommendation, please do not hesitate to contact us.

Thank you

Picture for demonstration purposes only and is not the exact product being purchased

From: Deel, Rodney
Sent: Thursday, October 17, 2019 11:35 AM
To: Hammonds, Ronnie <RonnieHammonds@KingsportTN.gov>; Hightower, Steve <SteveHightower@KingsportTN.gov>
Cc: Willis, Greg <GregWillis@KingsportTN.gov>; Williams, Adam <AWilliams@KingsportTN.gov>
Subject: ASL Bids

Ronnie,

Steve and I reviewed the Bids for the 2 ASL garbage trucks. We are in agreement that the low complaint bid from Worldwide Equipment for 2021 Mack LR64R w / new way 31 Yd ASC body is the recommended one. Steve can we continue with the purchase of the 2 ASL garbage trucks?

Thanks,

Rodney Deel
Household Refuse Supervisor
City of Kingsport
423-224-2675
rodneydeel@kingsporttn.gov

Heil Python Arm

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Execute a Signature Authority Form Allowing the Chief of Police or Designee to Complete Grant Reports as Required by the Tennessee Highway Safety Office (THSO) for the Tennessee Highway Safety Office's FY '20 Coordinator Grant

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.:	AF-242-2019	Final Adoption:	November 5, 2019
Work Session:	November 4, 2019	Staff Work By:	Capt. Gore
First Reading:	N/A	Presentation By:	Chief Quillin

Recommendation:
Approve the Resolution.

Executive Summary:
The Tennessee Highway Safety Office (THSO) requires quarterly reports as well as other grant related documents be signed by a representative of the agency (City of Kingsport) receiving grant funds. To that effect, the THSO will include a Signature Authority Consent Form in the paperwork for the grant acceptance, which allows the Mayor to grant signatory authority to sign all grant related documents on behalf of the organization for the FY '20 THSO Coordinator grant.

Attachments:
1. Resolution

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. _____

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 GRANT REPORTS AND OTHER DOCUMENTS REQUIRED BY THE TENNESSEE HIGHWAY SAFETY OFFICE FY20 COORDINATOR GRANT

WHEREAS, the Tennessee Highway Safety Office FY20 Coordinator Grant, through the Tennessee Department of Safety and Homeland Security, require a new Signature Authority Consent Form for contracts, invoices, and other documents involved with the grants; and

WHEREAS, the Signature Authority Consent Form authorizes the mayor to execute formal documents, and to designate an individual as signatory authority "to sign grant documents required for reporting as contracted on behalf" of the city for a specific grant;

Now therefore,

BE IT RESOLVED BY THE, BOARD OF MAYOR AND ALDERMAN 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, an Signature Authority Consent Form for contracts, invoices, and other documents with the Tennessee Highway Safety Office for the Tennessee Highway Safety Office FY20 Coordinator Grant, said Signatory Authority Consent Form being generally as follows:

SIGNATURE AUTHORITY CONSENT FORM

I_____ as the _____ of
Name of Person Granting Signature Authority (Printed) **Title of Person Granting Authority**

_____ hereby grant the person(s) identified below signatory authority
Name of Organization Receiving Grant

for the FY2020 grant awarded by the Tennessee Highway Safety Office.
The following individual or individuals are entitled to sign all grant related documents on behalf of my organization.

Name and Title (Printed)	**Signature**
Name and Title (Printed)	**Signature**
Name and Title (Printed)	**Signature**

The above signatory authority granted to the above individual(s) may be revoked by me or by my organization at any time by written notice to the Tennessee Highway Safety Office.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION II. That the mayor is authorized to designate the chief of police as his designee to complete and execute grant reports and other reporting documents, as required by the grant from the Tennessee Highway Safety Office.

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 5th day of November, 2019.

_____
PATRICK W. SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____
J. MIKE BILLINGSLEY, CITY ATTORNEY

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Approval of Easement and Right-of-Way

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-244-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: R. Trent; H. Clabaugh
Presentation By: R. McReynolds

Recommendation:
Approve the offer.

Executive Summary:
In order to update and relocate existing sanitary sewer services away from CSX Railroad right-of-way, the Public Works Department has requested easements and rights-of-way across affected properties. Appraisals have been prepared in accordance with the City of Kingsport's Real Property Acquisition Policies & Procedures and indicates the fair market value as per the below property owners.

Tax Map/Parcel	Property Owner	Easement/ROW Area	Appraisal Value
#045E; E-009.00	David W. Frady, Trustee 1725 Washington Avenue Kingsport, TN 37664	Perm. 528 sq. ft.	$380.00

This project will be funded under #SW1905.

Attachments:
1. Project Location Map

Funding source appropriate and funds are available: JA

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

WEST CENTER STREET SANITARY SEWER RELOCATION 2018-C02

EASEMENT LOCATION MAP
DAVID W. FRADY TRUSTEE

KINGSPORT
TENNESSEE

AGENDA ACTION FORM

Apply for and Receive the Tennessee Agriculture Enhancement Program Grant

To: Board of Mayor and Aldermen
From: Chris McCartt, City Manager CM

Action Form No.: AF-245-2019
Work Session: November 4, 2019
First Reading: N/A

Final Adoption: November 5, 2019
Staff Work By: Kristie Leonard
Presentation By: C. McCartt/K. Leonard

Recommendation:
Approve the Resolution.

Executive Summary:
The Tennessee Department of Agriculture makes enhancement grants available to local Farmers Markets to help with their marketing needs. This Promotion and Retail Grant will assist with marketing efforts for the Kingsport Farmers Market during fiscal year 2020. The total grant amount is $750.

There are no matching funds required for the grant.

Attachments:
1. Resolution
2. Contract

	Y	N	O
Adler			
Cooper			
Duncan			
George			
Olterman			
Phillips			
Shull			

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE A FARMERS MARKET PROMOTION AND RETAIL GRANT FROM THE TENNESSEE DEPARTMENT OF AGRICULTURE

WHEREAS, the city, would like to apply for a Farmers Market Promotion and Retail Grant from the Tennessee Department of Agriculture, which will provide funds to support the marketing associated with the farmers market; and

WHEREAS, the maximum amount of the grant award is $750.00, with no local match required.

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, all documents necessary and proper to apply for and receive a Farmers Market Promotion and Retail Grant funds from the Tennessee Department of Agriculture in the amount of $750.00, and requires no local match.

SECTION II. That the mayor is authorized to execute any and all documents including those necessary and proper to demonstrate the city's compliance with the grant requirements or its provisions necessary to effectuate the purpose of the grant or 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 public.

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

ADOPTED this the 5th day of November, 2019.

_____
PATRICK W. SHULL, MAYOR

ATTEST:

_____
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

_____
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Statewide Agricultural Farmers Market Grant Program
Tennessee Agricultural Enhancement Program
Application Guidelines
Fiscal Year 2019-2020

A. General Information

The purpose of the Farmers Market Promotion Program is to increase income to Tennessee farmers by providing assistance for the promotion, marketing, and/or improvement of farmers markets in communities throughout Tennessee.

1. Grants are available to qualified farmers markets in amounts up to $750.
2. Funding is limited.
3. Funds are to be used for activities such as advertising, social media promotions, collateral material development, participation in the Pick TN Conference, or membership in the Tennessee Association of Farmers Markets (TAFM), etc.
4. Records of expenditures for these activities should be maintained for 5 years for verification purposes.

The Tennessee Department of Agriculture is providing this opportunity through the Tennessee Agricultural Enhancement Program (TAEP). TAEP is a result of the State of Tennessee's commitment to supporting farm development and Tennessee's agricultural community.

Program Timeline
To participate in the Farmers Market Promotion Program, all Eligibility Requirements must be met and all TAEP Agreement & Payment Authorization forms must be received by the Tennessee Department of Agriculture no later than December 1, 2019.

B. Eligibility Requirements

Grant funds are available to Tennessee farmers markets who meet the eligibility requirements below. Grants are not available to individuals.

A qualified farmers market must:

1. Be listed on the Tennessee Department of Agriculture's Pick Tennessee Products website – PickTnProducts.org.
2. Verify their online listing at PickTnProducts.org is correct.
3. Operate at a designated location and at a fixed time.
4. Have five (5) or more farmer producers selling their own agricultural products direct to the consumer.
5. Ensure farmers market activities meet all state and local building, food safety, and regulatory requirements.
6. Have an organized structure (board) or be connected to a local public entity.

C. To participate in the Statewide Agricultural Farmers Market Grant Program please:

1. Verify the online listing at PickTnProducts.org is correct. If correct, check the correct box on the TAEP Agreement & Payment Authorization form. If corrections are needed please list the needed changes on a separate piece of paper.
2. Complete the TAEP Agreement & Payment Authorization form, *attached.*
3. Complete the IRS Form W9, *attached.*
4. Submit the TAEP Agreement & Payment Authorization form, the IRS Form W9, and any corrections needed to the address below.
5. The deadline to submit all paperwork is December 1, 2019.

D. Tennessee Department of Agriculture reserves the right to:

1. Consider each funding request on a case by case basis.
2. Reject any or all requests.
3. Provide partial funding.
4. Provide funding contingent on receiving additional information from applicant.
5. Require the applicant to work with the Tennessee Department of Agriculture to complete all requirements.
6. Verify funds are utilized for designated purposes.

E. Contact Information

Please direct any questions concerning the Farmers Market Promotion to:

Rachel L. Sullivan
Tennessee Department of Agriculture
PO Box 40627
Nashville, TN 37204

Rachel.L.Sullivan@tn.gov
615-837-5336

TN Department of Agriculture

Deadline: December 1, 2019

TAEP AGREEMENT & PAYMENT AUTHORIZATION

STATE		BUYER (Initiative Participant)	
DEPARTMENT:		NAME:	Kingsport Farmers Market
PROGRAM:	Agricultural Growth Initiative		
DGA #		ADDRESS:	308 Clinchfield Street Kingsport, TN 37660
VENDOR ID #:			
DEPT. ID#:		PHONE NUMBER:	HOME: 423-224-2821 CELL: 423-440-2147
ACCOUNT CODE:		FISCAL YEAR:	2020
INVOICE #:			

Agricultural Growth Initiative

☒ Farmers Market listing on PickTnProducts.org is correct.

☐ Farmers Market listing on PickTnProducts.org needs to be updated. Corrections attached.

amount, not to exceed the amount authorized, is hereby awarded to pay costs associated with promoting, marketing and improving farmers markets as approved by the Tennessee Department of Agriculture.

AGREEMENT BEGIN DATE	AGREEMENT END DATE
October 1, 2019	June 30, 2020
STATE APPROVAL SIGNATURE & DATE	INITIATIVE PARTICIPANT ACCEPTANCE SIGNATURE & DATE
PRINTED NAME:	PRINTED NAME:

Instructions:	Sign your name in the shaded box above and attached all invoices. Refer to the Terms & Conditions of Agreement & Payment Authorization on reverse before signing.

**********DO NOT WRITE BELOW THIS LINE - STATE USE ONLY **********

AUTHORIZATION SIGNATURE:		TITLE:	
DATE:		PAYMENT AUTHORIZED:	
SERVICE DATE:			

- CONTINUED -