



AGENDA

BOARD OF MAYOR AND ALDERMEN WORK SESSION

**Monday, February 3, 2020, 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
Ken Weems, Planning Manager
Jessica Harmon, Assistant to City Manager

1. Call to Order
2. Roll Call
3. Miracle Field Update – Jud Teague
4. Review of Items on February 4, 2020 Business Meeting Agenda
5. Adjourn

Next Work Session Feb. 17

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

February 4, 2020

Project Status in Pictures

1 Cox Hollow Road Sewer Work

Current project work includes the continued installation of the force main along Snapps Ferry & Cox Hollow Rd.

2 Miracle Field

Crews are working on truss installation and the roof at bathroom/concession building and pavilion area.

3 Market Street Bulb Out

This project is intended to facilitate safer pedestrian crossings and will include ADA compliant ramps.

4 Kingsport Aquatic Center Expansion

Coping and tile have started on the outdoor pool. It's on schedule to be completed in March.

5 Mitchell Road Sewer Work

Current project work includes the installation of gravity sanitary sewer along Mitchell Rd.



Status Updates on Active Projects sorted by Cost

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	Current Status
\$7,500,000.00	Ryan McReynolds	SR 347 (Rock Springs Road) [State & MTPO funded]	TDOT Managed, joint funded reconstruction of the State portion of Rock Springs Road	12/31/2021	Letter requesting a revised scope and contract are going to the MTPO 2/6/2020.
\$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	Final ROW Plans submitted to TDOT 11/27/2019.
\$5,963,000.00	Niki Ensor	West Kingsport Forcemain and Pump Station Improvements	Rehab of West Kingsport SLS (#119) and installation of new forcemain to the WWTP.	12/31/2020	Pre construction meeting held 1/10/20. NTP - 2/3/20
\$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	Expect to advertise for bid in February
\$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	12/2/19 - Project on hold to focus efforts on recent reliability issues at the WTP high service pump house.
\$3,500,000.00	Michael Thompson	Island Road Improvements from SR-126 to Kingsport City Limits	This project will realign Island Road to the southeast to improve vertical and horizontal roadway geometry for better traffic management and safety. The remaining unused portion of Island Road will be converted into a separated buffered multi-use path co	4/30/2024	Mattern & Craig working in NEPA phase.
\$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.	7/11/2020	Waste pipe removal and replacement has started; replacement of vertical water piping has started.
\$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	Week of 1/13/20 - Integrator continues to install programs at the WWTP. Electrical sub started installing panels at remote sites.
\$2,500,000.00	Michael Thompson	2021 Main Road Paving (MTPO Funded)	Paving of functionally classified roadways: Meadowview Pkwy, Moreland Dr, Cooks Valley, Fall Creek and Netherland Inn Road	12/31/2021	Consultant has provided a scope and fee to TDOT. City has reviewed and accepted.
\$2,341,130.00	Kitty Frazier	Miracle Field Complex	Construction of ball field, playground, and amenities.	5/31/2020	Roof/truss work and concrete sidewalk work is ongoing. Waterline is 95% complete.
\$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	Progress meeting held on 11/6/19 to discuss future space needs and progress of design plans for expansion.
\$2,041,600.00	Chris McCartt	Kingsport Aquatic Center Expansion	New outdoor pool and deck, new construction of administration addition. New shaded pavilion, new walk-in freezer and restroom buildout. Construction of new masonry screen wall.	4/10/2020	Coping and tile work on outdoor pool has started; Sprinkler piping has been installed in Administration addition.

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$1,157,898.78	Chad Austin	Border Regions - Sanitary Sewer - Area 2 and Mitchell Road	Sanitary Sewer Extension into annexed areas around Tri Cities Crossing	5/9/2020	Crews are installing sewer on Mitchell Rd
\$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	Waiting on funds to be deposited into LGIP account. Kick off meeting on 1/31/2020.
\$1,000,000.00	Michael Thompson	Area 11b Asphalt Paving	Paving of asphalt streets in Upper Sevier Terrace (area between Fairview, W. Stone Drive, Lynn Garden Dr)	8/1/2020	City crews will be performing this work in Spring 2020.
\$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	Awaiting license agreement from TDOT.
\$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]	5/29/2020	C.O. Approved by TDOT - project to resume in April 2020
\$873,345.88	Chad Austin	2019 I & I Sewer Rehab/Replacement	Project will include sanitary sewer rehab/replacement in the White Street/Gibson Mill area, Fort Robinson area, Konnarock Road, Brooks Street Alley, and DB Track & Field.	2/1/2021	Pre-construction meeting scheduled for January 29, 2020 at 2 p.m.
\$746,995.00	Chad Austin	Border Regions Areas 1 and 3: Sanitary Sewer (Fordtown Rd, Mitchell Rd, Bob Jobe Rd)	Extension of gravity sanitary sewer service to annexed areas in Border Regions Area.	3/7/2020	Crews installing sewer on Eastern Star Rd
\$699,000.00	Niki Ensor	Hillcrest & Allandale Water Storage Tank Rehabilitation	Will be a partial rehabilitation Allandale tank and a full rehabilitation of Hillcrest Tank.	9/30/2020	Barge has completed plan package and sending to TDEC for review. Bid Opening is February 12, 2020.
\$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	Plans are approved. City has license agreement in hand for signatures. Once submitted to TDOT this should finalize the right-of-way phase of this project.
\$481,183.00	Ryan McReynolds	Wilcox Bridge (Wilcox Dr. & E. Sullivan St.)	Bridge re-painting and landscaping	5/29/2020	Due to temperature requirements from CSX on the paint application to the bridge this project start will be delayed until Spring 2020.
\$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 relocated as part of the TDOT project.	7/30/2022	TDOT has moved the letting date to 2021.
\$400,000.00	Michael Thompson	2020 Contracted Paving - E Sullivan Street	Paving of E. Sullivan Street from E. Center Street to Church Circle	10/30/2020	Scope of sewer repairs is undecided at this time. Paving will bid once a path forward is determined.
\$376,352.00	Michael Thompson	Area 10-Phase 2 Contracted Concrete	Replacing concrete roadway panels along Hollywood Drive	6/30/2020	Awaiting fully executed contracts to schedule preconstruction meeting.

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$370,120.00		Commerce Street Bulb Outs	Construct sidewalk bulb outs at Commerce Street & New Street as well as Commerce Street & Market Street to facilitate safer pedestrian crossings. ADA compliant ramps along with storm water infrastructure improvements are also part of this project.	5/11/2020	Contractor has began demolition at Market & Commerce intersection.
\$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
\$247,595.00	Chad Austin	Border Regions Area 3 - Cox Hollow Rd. and Snapps Ferry Road - Low Pressure Sewer	Sewer extensions to serve the Border Regions Annexations in the vicinity of Tri-Cities Crossing. This particular project is for a low pressure sanitary sewer system (2" and 3" force main) along Cox Hollow Road and Snapps Ferry Road.	3/7/2020	Installation of the force main is approximately 80% complete.
\$10,000.00	David Edwards	Lochwood Road Flooding Early Detection and Notification System	Automated flood water level monitoring and notification system for Lochwood Road. System will notify City employees of flood conditions.		Continuing field testing

Status Updates on Active Projects sorted by Completion Date

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AGENDA

BOARD OF MAYOR AND ALDERMEN

BUSINESS MEETING

**Tuesday, February 4, 2020, 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
Ken Weems, Planning Manager
Jessica Harmon, Assistant to City Manager

I. CALL TO ORDER

II.A. PLEDGE OF ALLEGIANCE TO THE FLAG

II.B. INVOCATION – Alderman Jennifer Adler

III. ROLL CALL

IV.A. RECOGNITIONS & PRESENTATIONS

None

IV.B. APPOINTMENTS

None

V. APPROVAL OF MINUTES

1. Work Session – January 21, 2020
2. Business Meeting – January 21, 2020

VI. COMMUNITY INTEREST ITEMS

A. PUBLIC HEARINGS

None

COMMENT

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

B. BUSINESS MATTERS REQUIRING FIRST READING

1. Reenact a Franchise Agreement with Atmos Energy (AF: 23-2020) (Ryan McReynolds)
 - Ordinance – First Reading
2. Amend Time of Impoundment of Vehicles by Police from After 24 Hours' Notice to 48 Hours (AF: 26-2020) (David Quillin)
 - Ordinance – First Reading

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION

1. Reauthorize an Electronic Citation Fee upon a Plea of Guilty or Nolo Contendre, or a Judgment of Guilty for Violation of Certain Traffic Ordinances of the City of Kingsport (AF: 17-2020) (David Quillin)
 - Ordinance – Second Reading & Final Adoption
2. Amend the FY 2020 the General Purpose School Fund Budget (AF: 24-2020) (David Frye)
 - Ordinance – Second Reading & Final Adoption
3. Amending City Code Authorizing the City Manager, or Designee to Execute All License Agreements with TDOT for Improvements or Maintenance of Licensed Premises (AF: 11-2020) (Ryan McReynolds)
 - Ordinance – Second Reading & Final Adoption

D. OTHER BUSINESS

1. Awarding the Bid for the Purchase of Various Water and Sewer Maintenance Items (AF: 34-2020) (Chris McCartt, Ryan McReynolds)
 - Resolution
2. Enter Into a Contractual Agreement with the Tennessee Department of Transportation for Reimbursement of Capital Expenses (AF: 27-2020) (Chris Campbell)
 - Resolution

3. Approving A&E Services for KATS Vehicle Storage and Maintenance Facility Project (AF: 28-2020) (Chris Campbell)

- Resolution

4. Approval of Easements and Rights-of-Way (AF: 30-2020) (Ryan McReynolds)

Not a resolution

- Offers

5. Purchase the Aspen Student Information System from Follett School Solutions, Inc, Utilizing the State of TN Contract# NC 61797 (AF: 31-2020) (David Frye)

- Resolution

VII. CONSENT AGENDA

None

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

Minutes of the Regular Work Session of the
Board of Mayor and Aldermen, City of Kingsport, Tennessee
Tuesday, January 21, 2020, 4:00 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
Alderman James Phillips

City Administration

Chris McCartt, City Manager
J Michael Billingsley, City Attorney
Sidney H. Cox, City Recorder

1. **CALL TO ORDER:** 4:00 p.m. by Mayor Patrick W. Shull.
2. **ROLL CALL:** By Deputy City Recorder Marshall.
3. **NEIGHBORHOOD ADVISORY COMMISSION QUARTERLY UPDATE.** Mr. Ted Fields gave a presentation on this item and answered questions.
4. **LIBRARY STRATEGIC PLAN UPDATE.** Chris Markley presented this item, highlighting the four goals in the library's strategic plan. She then answered questions from the board.
5. **REVIEW OF AGENDA ITEMS ON THE JANUARY 21, 2020 REGULAR BUSINESS MEETING AGENDA.** City Manager McCartt and members of staff gave a summary or presentation for each item on the proposed agenda. The following items were discussed at greater length or received specific questions or concerns.

VI.D.5 Extend Bid Award by Amending Agreement with Premier Landscapes for Landscape Maintenance Services for 2020 (AF: 15-2020). City Manager McCartt stated this company has been maintaining at a high level for five years and staff recommends extending their services. Alderman Olterman commented he has received many compliments regarding how the city looks.

VI.D.7 Amend Agreement with WestRock Converting Company for Recycling Services (AF: 14-2020). Assistant City Manager McReynolds provided details on this item. Discussion followed as he answered questions from the board.

VI.D.8 Service Contract for Substitute Staffing Services with ESS Southeast LLC for Kingsport City Schools (AF: 20-2020). Jennifer Guthrie presented this item and answered questions from the board. There was considerable discussion on how this program would be implemented, sustained and deemed successful. Ms. Guthrie stated it would be into the next school year before there would be valid results.

**Minutes of the Regular Work Session of the Board of Mayor and Aldermen of
Kingsport, Tennessee, Tuesday, January 21, 2020**

VI.D.9 Award Contract for Athletic Uniforms and Sports Equipment to BSN Sports
(AF: 21-2020). Kingsport City Schools Finance Director David Frye pointed out this was money they were currently spending but now able to take advantage of certain things.

6. ADJOURN. Seeing no other matters presented for discussion at this work session, Mayor Shull adjourned the meeting at 5:12 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, January 21, 2020, 7:00 PM
Large Court Room – City Hall

PRESENT:

Board of Mayor and Aldermen

Mayor Patrick W. Shull, Presiding
Vice Mayor Colette George Alderman Darrell Duncan
Alderman Jennifer Adler Alderman Tommy Olterman
Alderman Betsy Cooper 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 Patrick W, Shull.
- II.A. **PLEDGE OF ALLEGIANCE TO THE FLAG:** Ken Weems, Planning Manager.
- II.B. **INVOCATION:** Pastor Richard Dice, Christ Church.
- III. **ROLL CALL:** By City Recorder Cox. All Present.
- IV.A. **RECOGNITIONS AND PRESENTATIONS.**
 1. Parks and Recreation Four Star Awards (Kitty Frazier, Alderman Cooper).
- IV.B. **APPOINTMENTS/REAPPOINTMENTS.**
 1. **Appointment to the Public Art Committee** (AF: 18-2020) (Mayor Shull).

Motion/Second: Adler/George, to approve:

APPOINTMENT OF MS. SUZANNE BARRETT JUSTIS TO FULFILL THE UNEXPIRED TERM OF JULIE WITHERSPOON GUNN ON THE **PUBLIC ART COMMITTEE** EFFECTIVE IMMEDIATELY AND EXPIRING ON DECEMBER 31, 2020.

Passed: All present voting “aye.”

V. **APPROVAL OF MINUTES.**

Motion/Second: Phillips/Olterman, to approve minutes for the following meetings:

- A. January 6, 2020 Regular Work Session
- B. January 7, 2020 Regular Business Meeting

Approved: All present voting “aye.”

VI. **COMMUNITY INTEREST ITEMS.**

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, January 21, 2020**

A. PUBLIC HEARINGS. None.

PUBLIC COMMENT. Mayor Shull invited citizens in attendance to speak about any of the remaining agenda items. Mrs. Dana Admire commented in opposition of Item VI.D.7.

[NOTE: Item VI.D.8 was heard at this time. Item VI.B.1 resumed thereafter.]

B. BUSINESS MATTERS REQUIRING FIRST READING.

1. Reauthorize an Electronic Citation Fee Upon a Plea of Guilty or Nolo Contendre or a Judgment of Guilty for Violation of Certain Traffic Ordinances of the City of Kingsport (AF: 17-2020) (David Quillin).

Motion/Second: Duncan/George, to pass:

AN ORDINANCE AMENDING SECTION 30-29 OF THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, REESTABLISHING THE FEE FOR CITY COURT AUTHORIZED BY TENNESSEE CODE ANNOTATED SECTION 55-10-207 AS COURT COSTS; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

2. Amend FY20 General Purpose School Fund Budget (AF: 24-2020) (David Frye).

Motion/Second: Phillips/Cooper, to pass:

AN ORDINANCE TO AMEND THE GENERAL PURPOSE SCHOOL FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

3. Amend City Code Authorizing the City Manager or Designee to Execute All License Agreements with TDOT for Improvements or Maintenance of Licensed Premises (AF: 11-2020) (Ryan McReynolds).

Motion/Second: George/Adler, to pass:

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, SECTION 2-606 RELATING TO THE EXECUTION OF CONTRACTS AND PURCHASE ORDERS; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION.

1. Vacate Alley Right-of-Way Located Behind 904-910 East Center Street (AF: 05-2020) (Ken Weems).

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, January 21, 2020**

Motion/Second: George/Duncan, to pass:

ORDINANCE NO. 6844, AN ORDINANCE TO VACATE A SECTION OF AN UNNAMED ALLEY RIGHT-OF-WAY LOCATED BEHIND 904-910 EAST CENTER STREET SITUATED IN THE CITY, ELEVENTH CIVIL DISTRICT OF SULLIVAN COUNTY; 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. Amend the Water and Sewer Project Funds by Transferring Funds to the Cherokee Bend Phase 2 Materials Agreement Projects (AF: 03-2020)
(Ryan McReynolds).

Motion/Second: Duncan/George, to pass:

ORDINANCE NO. 6845, AN ORDINANCE TO AMEND THE WATER AND SEWER PROJECT FUNDS BY TRANSFERRING FUNDS TO THE CHEROKEE BEND PHASE 2 MATERIALS AGREEMENT PROJECTS (WA2052 AND SW2052); 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. Service Contract for Substitute Staffing Services with ESS Southeast LLC for Kingsport City Schools (AF: 20-2020) (David Frye, Jennifer Guthrie).

Motion/Second: Olterman/George, to pass:

Resolution No. 2020-118, A RESOLUTION APPROVING A SERVICE CONTRACT WITH ESS SOUTHEAST, LLC FOR SUBSTITUTE STAFFING SERVICES FOR THE KINGSFORT CITY SCHOOLS AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE CONTRACT

Passed: All present voting “aye.”

2. Ratify the Mayor’s Signature on Grant Application and Receive Grant from the Tennessee Arts Commission (AF: 12-2020) (Hannah Powell).

Motion/Second: George/Phillips, to pass:

Resolution No. 2020-111, A RESOLUTION TO RATIFY THE MAYOR’S SIGNATURE ON THE APPLICATION FOR AN ANNUAL PARTNERSHIP SUPPORT GRANT AND TO AUTHORIZE THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO RECEIVE AN ANNUAL PARTNERSHIP SUPPORT GRANT FROM THE TENNESSEE ARTS COMMISSION

Passed: All present voting “aye.”

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3. Amend Agreement with Gordon Food Service (AF: 19-2020)
(David Frye, Jennifer Walker)

Motion/Second: Duncan/Cooper, to pass:

Resolution No. 2020-112, A RESOLUTION APPROVING AMENDMENT NUMBER ONE TO THE AGREEMENT WITH GORDON FOOD SERVICE FOR GROCERY AND BEVERAGE ITEMS FOR THE KINGSFORT CITY SCHOOL NUTRITION SERVICES PROGRAM; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

Passed: All present voting "aye."

4. Bid Award for Dobyys-Bennett High School Cafeteria Serving Line Equipment Replacement to Armstrong Construction (AF: 22-2020) (David Frye).

Motion/Second: Olterman/George, to pass:

Resolution No. 2020-113, A RESOLUTION AWARDED THE BID FOR THE DOBYNS-BENNETT HIGH SCHOOL CAFETERIA SERVING LINE EQUIPMENT REPLACEMENT PROJECT TO ARMSTRONG CONSTRUCTION AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

5. Extend Bid Award by Amending Agreement with Premier Landscapes for Landscape Maintenance Services for 2020 (AF: 15-2020) (Ryan McReynolds).

Motion/Second: Adler/Phillips, to pass:

Resolution No. 2020-114, A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH PROMEIR LANDSCAPES, INC. FOR LANDSCAPE MAINTENANCE SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

Passed: All present voting "aye."

6. Extend Bid Award by Amending Agreement with Yard Dogs Lawn Care & Landscaping for Mowing and Trimming of Various Locations (AF: 16-2020) (Ryan McReynolds).

Motion/Second: Duncan/Olterman, to pass:

Resolution No. 2020-115, A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH YARD DOGS LAWN CARE & LANDSCAPING FOR MOWING AND TRIMMING SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

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Passed: All present voting “aye.”

7. Resolution to Condemn (AF: 25-2020) (Mike Billingsley). There was some discussion on this item as board members asked questions of Mrs. Admire and staff for clarification on the process before voting.

Motion/Second: Duncan/Olterman, to pass:

Resolution No. 2020-116, A RESOLUTION TO AUTHORIZE CONDEMNATION PROCEEDINGS FOR BORDER REGIONS SANITARY SEWER EXTENSION PROJECT

Passed: All present voting “aye.”

8. Amend Agreement with WestRock Converting Company for Recycling Services (AF: 14-2020) (Ryan McReynolds).

Motion/Second: George/Duncan, to pass:

Resolution No. 2020-117, A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH WESTROCK CONVERTING COMPANY FOR RECYCLING SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

Passed: All present voting “aye.”

9. Award Contract for Athletic Uniforms and Sports Equipment to BSN Sports (AF: 21-2020) (David Frye).

Motion/Second: Phillips/Duncan, to pass:

Resolution No. 2020-119, A RESOLUTION AWARDING THE PROPOSAL FOR THE CONTRACT FOR ATHLETIC UNIFORMS AND SPORTS EQUIPMENT TO BSN SPORTS AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting “aye.”

VII. CONSENT AGENDA. None.

VIII. COMMUNICATIONS.

A. CITY MANAGER. Mr. McCartt stated he attended the annual installation of officers for the Kingsport Lifesaving Crew on January 11. He commended their efforts in the community and their outstanding volunteer spirit.

B. MAYOR AND BOARD MEMBERS. Alderman Duncan thanked the many people willing to serve on the boards throughout the city. He also commented on the Martin Luther King service and parade yesterday which showcased the unity in the community. Alderman Cooper commented on the library

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presentation at the work session and encouraged everyone to go by and visit, noting the many activities they have going on. She also mentioned it was flu season and asked everyone to wash their hands and stay home if they were sick. Vice-Mayor George commented on the library newsletter. She also mentioned the Neighborhood Commission presentation at the work session, noting there was upcoming meeting allowing people a voice and a place to get answers. Alderman Phillips thanked those who came out for the parade yesterday. He also commented on the joys of owning a 15 week old puppy. Alderman Adler also mentioned the Neighborhood Commission, pointing out it was great resource to address issues. She also noted the Inventor Center has a full calendar of events coming up. Alderman Olterman asked everyone to go support their local high school girls' and boys' basketball teams as well as wrestling. Mayor Shull commented on the importance of the correct information getting to the public and stated he would be having his next town hall meeting on March 31 at 6:00 pm at the Renaissance Center.

C. VISITORS. Dana Admire, Malcolm Stallard and Dani Cook made comments.

IX. ADJOURN. Seeing no other business for consideration at this meeting, Mayor Shull adjourned the meeting at 8:22 p.m.

ANGELA MARSHALL
Deputy City Recorder

PATRICK W. SHULL
Mayor



AGENDA ACTION FORM

Reenact a Franchise Agreement with Atmos Energy

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

Action Form No.: AF-23-2020
 Work Session: February 3, 2020
 First Reading: February 4, 2020

Final Adoption: February 18, 2020
 Staff Work By: R. McReynolds/M. Billingsley
 Presentation By: Ryan McReynolds

Recommendation:

Approve the Ordinance.

Executive Summary:

The City of Kingsport and Atmos Energy Corporation (Atmos) have enjoyed a longstanding relationship granting Atmos the nonexclusive right to sell gas within the city limits. The legal relationship that provides the framework of operation between the City and Atmos is called the Franchise Agreement. Specifically, the Franchise Agreement defines the City's expectation of Atmos' use of the Public Ways.

On March 21, 2000 the city entered into a Franchise Agreement with Atmos Energy. This Agreement assigned a franchise to construct, maintain and operate a system for the purpose of transmitting and distributing gas as specifically defined in Ordinance No. 4742. The initial term of the Franchise Agreement was for twenty (20) years, and will expire on March 31, 2020.

It is recommended to extend the term of the Atmos Energy Franchise Agreement for an additional twenty (20) years to read as follows:

Following the initial twenty-year term, this Ordinance shall continue in force for an additional twenty (20) year period unless such franchise is terminated sooner pursuant to Section XXII hereof.

Attachments:

1. Ordinance
2. Copy of Ordinance No. 4742

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

ORDINANCE NO. _____

AN ORDINANCE TO REENACT ORDINANCE NO. 4742, ATMOS
ENERGY CORPORATION FRANCHISE AGREEMENT AND TO
AMEND TO THE TERM FOR AN ADDITIONAL TWENTY (20)
YEARS

WHEREAS, on March 21, 2000, the City of Kingsport and Atmos Energy entered into a Franchise Agreement; and

WHEREAS, the Agreement set forth a term of twenty (20) years; and

WHEREAS, the term expires at the end of March 2020; and

WHEREAS, the parties agree to an extension of the Agreement; and

WHEREAS, the Board of Mayor and Aldermen believe an extension to be in the best interest of the City of Kingsport.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF KINGSPORT as follows:

SECTION I. That Ordinance No. 4742 granting a Franchise Agreement to Atmos Energy, a copy of which is attached hereto as Exhibit A, is reenacted except Section II of Ordinance No. 4742 is amended by adding at the end of Section II: Term the following language:

Grant & Term. Following the initial twenty-year term, this Ordinance shall continue in force from March 31, 2020, for a twenty (20) year period unless such franchise is terminated sooner pursuant to Section XXII hereof.

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

[signature blocks on following page]

ATTEST:

CITY OF KINGSPORT, TENNESSEE:

By: _____
SIDNEY H. COX, City Recorder
City Administrator/Recorder

By: _____
PATRICK W. SHULL, Mayor

Approved as to Form:

J. MICHAEL BILLINGSLEY, City Attorney

ATMOS ENERGY CORPORATION

By: _____
Jay Kevin Dobbs, President
Kentucky/Mid-States Division

Date: _____

PASSED FIRST READING:
PASSED SECOND READING:

ORDINANCE NO. 4742

AN ORDINANCE GRANTING TO UNITED CITIES GAS COMPANY, A DIVISION OF ATMOS ENERGY CORPORATION, ITS SUCCESSORS AND ASSIGNS A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A SYSTEM OF GAS MAINS, SERVICE PIPES AND OTHER NECESSARY EQUIPMENT AND FACILITIES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING GAS IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, COURTS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC GROUNDS OF THE CITY OF KINGSPORT, TENNESSEE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION I: DEFINITIONS.

That for the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a) Board of Mayor and Aldermen – the Board of Mayor and Aldermen of the City of Kingsport, Tennessee.
- b) City – the City of Kingsport, Tennessee, and its respective successors and assigns.
- c) City Manager – the City Manager of the City of Kingsport, Tennessee as duly appointed pursuant to Charter. The term "City Manager" also includes his designee.
- d) Company – United Cities Gas Company, a division of Atmos Energy Corporation, a corporation organized and existing under the laws of the State of Texas, and the Commonwealth of Virginia, and its lawful successors or assigns.
- e) Construction – the installation, laying, erection, renewal, repair, replacement, extension or removal of a gas system and any such activity as may be necessary to construct, maintain and operate a gas system.

- f) Gas – natural gas and/or commingled gas and/or substitute therefore.
- g) Gas System – any pipe, pipeline, tube, main, duct conduit, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, appliance, attachment, appurtenance and any other personal property constructed, maintained, or operated by United Cities Gas Company as may be necessary to import, transport, distribute and sell natural gas.
- h) Streets – the public streets, highways, avenues, roads, courts, alleys, lanes, ways, utility easements, parkways, public rights-of-way, or other public grounds, held or controlled by the City, in the City as they now exist or as they may be established at any time during the term of this franchise in the City, but only to the extent of the City's right, title, interest or authority to grant a license or franchise to occupy and use such streets and easements for the construction and operation of a public utility system.
- i) T.R.A. – the Tennessee Regulatory Authority or any successor state agency having jurisdiction over the Company.

SECTION II: TERM.

That there is hereby granted to United Cities Gas Company, for a period of twenty (20) years from and after approval of this ordinance, and the filing of an acceptance by the Company, the nonexclusive right, authority, privilege, and franchise to construct, maintain and operate a Gas System to import, transport, distribute and sell Gas:

- (1) to the City and inhabitants, institutions and businesses thereof for domestic, commercial, industrial and institutional uses and any such other purposes for which it is or may hereafter be used; and
- (2) through the City to inhabitants, institutions and businesses outside the corporate boundaries for domestic, commercial, industrial and institutional uses and any such other purposes for which it is or may hereafter be used.

SECTION III: MODIFICATION.

That this ordinance may be modified in the future by mutual written agreement of the parties and approval by the T.R.A. and is subject to any ordinance that may be adopted by the City establishing reasonable uniform rules, procedures and obligations concerning the use of Streets for construction and operation of utility systems.

SECTION IV: COMPLIANCE WITH APPLICABLE LAWS.

That the Gas System shall be constructed, maintained and operated, in good and safe condition, in accordance with standard engineering practices, and in accordance with any applicable Federal Laws and Regulations, Statues of the State of Tennessee, the Rules and Regulations of the T.R.A., and Ordinances of the City which do not conflict with any such federal or state laws, rule or regulation, as such practices and laws, statutes, ordinances, rules and regulations now exist or as they may be from time to time amended, changed or modified.

SECTION V: STANDARD OF CARE.

That the Company shall at all times employ a high standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries or nuisances to the public.

SECTION VI: LOCATION OF FACILITIES.

(A) That the City reserves the right, by ordinance or resolution of the Board of Mayor and Aldermen, or otherwise through proper representatives of the City, to designate specifically the location of the Gas System of the Company with references to municipal facilities, such as sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, public cable television utilities, and railway communication and power lines, in such a manner as to protect the public safety and public and private property and to facilitate the creation of a convenient, attractive and harmonious community. Failure by the City to so designate does not relieve the Company of its responsibilities in matters of public safety as provided in this Ordinance. The Company shall construct, maintain and locate its Gas System so as not to unreasonably interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal and fiber optic facilities owned or operated by the City.

(B) The rights and privileges granted by this franchise shall not be in preference or hindrance to the rights of the City and any other lawful governmental authorities having jurisdiction to perform or carry out any public works or public improvements within the Streets. Should the Gas System of the Company interfere with the construction, maintenance or repair of such public works or improvements, the Company, after reasonable advance notice from the City, at the Company's sole expense, shall protect or relocate the Gas System or any applicable part thereof, as directed by the City or other governmental authorities having jurisdiction.

SECTION VII: USE OF PUBLIC WAYS.

(A) That the Company, in any opening it shall make in the Streets of the City, shall be subject to the provisions of this Ordinance and to all applicable ordinances, codes and regulations of the City, which are uniformly applied to all utilities.¹ Specifically, in addition to the requirements contained herein, except in the cases of emergencies, the Company shall at all times comply with Section 94-66 et seq. of the Code of Ordinances, City of Kingsport, 1998, as amended, with respect to any opening it shall make in the Streets of the City. The proposed location of any Gas System to be constructed by the Company in, upon, across, under or over the Streets of the City shall not unreasonably interfere with:

- (1) the public safety or the convenience of persons using the Streets, or
- (2) the use of Streets for purpose of travel, or
- (3) with any use or contemplated use of Streets by the City either above or below the surface of the Street for which plans have been prepared or for which plans are in the course of preparation, which plans have been authorized by the City, and of which the Company has been previously notified by the City.
- (4) personal property lawfully in, upon, along, across, under or over the Streets.

(B) The Gas System's location, construction and maintenance shall not unduly burden regular maintenance procedures of the City and shall be coordinated with the City's annual paving program through the City Manager.

(C) The City may require the Company to obtain a written permit whenever it becomes necessary for the Company to excavate in the Streets in order to install, construct, maintain or extend the Gas System. Such permits are applicable to any and all types of excavations in the Streets, and the Board of Mayor and Aldermen may, by resolution, establish a fee for each excavation made in a Street, provided it is uniformly applied to all persons or entities excavating in the street. Such permits may require the Company to (i) submit a drawing showing the proposed location of the particular part or point of the Streets where construction or excavation is to be conducted, (ii) identify the time and manner of the construction or excavation, (iii) identify the length of time in which such permit shall authorize such work to be done and the hours of each day during which such work shall be undertaken. Exceptions to the requirements for a written permit may be allowed in cases of

¹ The City will uniformly apply all applicable ordinances, codes and/or regulations to all utilities. The only possible exception is the Electric Company due to its 100-year franchise agreement.

emergencies involving public safety or restoration of service.

Whether or not the City requires the Company to obtain a permit, the Company shall submit to the City Manager a drawing of all proposed street cuts prior to performing the work except in the case of an emergency excavation.

In the case of emergency excavations made in the Streets without permit, the Company shall make a report of each such excavation to the City within two (2) working days and pay such fee as may be established by the Board of Mayor and Aldermen for excavations in the Streets. Any permit applications and inspections related to repair of excavations shall be promptly acted upon by the City so as not to unreasonably delay the Company in discharging its public service obligation. Any uniform fees² for permits or inspections charged by the City shall be based on the City's costs of administering the program of issuing permits and conducting inspections for all street cuts in the City. The City is exempt from paying any such fees for work it performs in the streets.

The Company shall use its best efforts to not interfere with or injure any utility or any other public improvement which the City has heretofore made or may hereinafter make in, upon, across, along or under any streets and shall not unnecessarily obstruct or impede such streets of the City.

(D) The permit shall become null and void if no significant construction or progress is made within six (6) months after issuance of the permit.

(E) The Company shall promptly remove or correct any obstruction, damage or defect in any Street which was caused by the Company in the installation, operation, maintenance or extension of the Gas System. Any such obstruction, damage, or defect which is not promptly removed, repaired or corrected by the Company after proper notice to do so, given by the City to the Company, may be removed or corrected by the City, and the cost thereof shall be charged against the Company. Any expense, cost, or damages incurred for repair, relocation, or replacement to City water, sanitary sewer, storm sewer, storm drainage, communication facilities or other property resulting from construction, operation, maintenance or extension of the Gas System shall be borne by the Company and any and all expense and cost incurred in connection therewith by the City shall be fully reimbursed by the Company to the City.

(F) If weather or other conditions do not permit the complete restoration required by this Section, the Company shall temporarily restore the affected Streets or property. Such temporary restoration shall be at the Company's sole expense and the Company shall promptly undertake and complete the required permanent restoration when

² See Footnote 1.

the weather or other conditions no longer prevent such permanent restoration.

(G) The Company shall not open, disturb or obstruct, at any one time, any more of the Streets than reasonably may be necessary to enable it to proceed in laying or repairing the Gas System. Neither shall the Company permit any Street so opened, disturbed or obstructed by it in the installation, construction, repair or extension of its Gas System to remain open or the Streets disturbed or obstructed for a longer period of time than reasonably shall be necessary.

(H) Whenever the City shall widen, reconstruct, realign, pave or repave, or otherwise work on any Streets, or shall change the grade or line of any Streets, or shall construct or reconstruct any water, sanitary sewer, storm sewer, drainage or communications facility of the City, it shall be the duty of the Company at the Company's cost and expense to move, alter or relocate its Gas System or any part thereof as reasonably requested by the City. Upon written notice by the City Manager of the City's intention to perform work as specified above, the Company shall within a reasonable period of time accomplish its obligation in accordance with and to conform to the plans of the City for such construction, reconstruction or improvements. Should the Company fail, refuse or neglect to comply with such notice, the Gas System or any part thereof may be removed, altered or relocated by the City, the cost of which shall be paid by the Company, and the City shall not be liable to the Company for any damages resulting from such removal, alteration or relocation. In cases where the Company believes the costs of relocation by the Company would be cost prohibitive and an alternative location of the City's facilities would be feasible, the City and the Company may jointly evaluate whether the Company could reasonably pay any additional costs to the City for the alternative City facility location in lieu of relocation the Company's facilities.

(I) All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation, maintenance, repair or replacement of the Gas System must be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work.

(J) The Company shall give all required notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the construction being performed.

(K) Inspections during construction may be made by the City.

(L) Construction and repair shall be performed with the least practical hindrance of the Streets for the purpose of travel or any other public purpose. After any work has commenced by the Company, in, upon, along, across, under, or over the Streets of the City, the same shall be continued in good faith and with due diligence until completed. If, as determined by the City Manager, the Company refuses or fails to proceed in good faith, or

any separable part thereof, with such diligence as will ensure its completion within a reasonable period of time, the City Manager will issue notice to the Company of his findings and instructions and, if after three (3) days of receipt of such notice, the Company has not commenced to re-execute the work, the City Manager will cause the construction required in said notice to be performed and charge the Company the entire cost and expense plus ten (10%) percent of the construction.

(M) When any construction opening or excavation, disturbance, cut or damage is made in, along, upon, across, under or over the Streets for any purpose whatsoever by the Company, any portion of said streets affected or damaged thereby shall be restored, as promptly as possible to as useful, safe, durable, in as good condition as existed prior to making of such opening or such excavation or such damage. If the company is unable to comply with the provisions of this section by reason of strikes, riots, acts of God, or acts of public enemies or other factors beyond its control, restorative work of a temporary nature allowing for such requirements as trench and backfill consolidation and fine grading and vegetative stabilization will be performed. The temporary restorative work shall be accomplished immediately in accordance with best acceptable construction procedures and shall be continuously maintained in a useful and safe condition pending permanent restoration, as per detail attached as Exhibit 1. Where a cut or disturbance is made in a section of sidewalk rather than replacing only the area actually cut, the Company shall replace the full width of the existing sidewalk as determined by the City Manager and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring. Where a cut or disturbance is made by the Company in a section of pavement, rather than repaving only the actual area cut the Company shall, if requested by the City Manager, repave the area between the street cuts when there are two or more street cuts made by the Company within 20' of each other. The width of the repavement shall correspond to the width of the street cut made by the Company. If the Company fails to timely perform said restoration and repair within a reasonable time, the City Manager may issue notice to the Company of his findings and instructions and, if after three (3) days the Company has not commenced the restoration and/or repair, the City Manager will cause the work required in said notice to be done and performed and charge the Company the entire cost and expense of restoration or repair plus ten (10%) percent.

(N) After the work of restoring such portion of the Street has been completed as provided herein, the Company shall keep such portion of such Street repaired or restored in as useful, safe, durable, and good condition as it existed prior to the making of such opening, excavation or damage, ordinary wear and tear excepted, for a period of eighteen (18) months from the completion of repair or restoration, if the City Manager determines that such portion of the Street was affected or damaged by the work of the Company.

(O) When Streets are opened, excavated, disturbed, obstructed or any other construction activity is required in the Streets by the Company, said Company, or other person acting on its behalf, shall place and maintain all necessary safety devices, barriers,

lights, and warnings to properly notify all persons of any dangers resulting from such construction entrances, and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting the Street and shall comply with all federal, state and local laws and regulations, including the Manual of Uniform Traffic Control Devices flagging requirements, the Manual for Streets and Highways, as approved by the Federal Highway Administrator and as may be amended from time to time shall be the standard used in determining the necessary placement of such devices, barrier, lights and warnings.

(P) The Company shall provide the City with a master set "as built" drawings and/or maps in an electronic form agreed to by City and the Company certifying the location of all its underground Gas Systems within the City. To the extent City and the Company cannot agree on an appropriate electronic form for the above referenced map or maps, the Company agrees to provide City with such information in hard copy or paper format. The Company shall also provide the City with a list of Streets along which its above ground Gas System is located. The Company shall provide updated maps in accordance with this Section on an annual basis if changes have occurred. The Company also agrees to cooperate with and participate in Tennessee One Call. On at least an annual basis the Company shall meet with the City Manager to discuss its plans for construction and/or maintenance of its gas system for the following year.

SECTION VIII: MISCELLANEOUS CONSTRUCTION PRACTICES.

(A) Any pipe, pipeline, tube, main, service, conduit, duct or other structure laid, constructed, erected, or installed pursuant to the provisions of this franchise, or any tunnel or bore dug or made in the Street in connection with the laying, construction, erection, or installation of the Gas System shall be not less than thirty (30) inches below the surface of the Street when such installation is under three (3) inches or over in diameter and shall not be less than twenty-four (24) inches deep when such installation is under three (3) inches in diameter and measured in each instance from the established grade of the nearest point to the property, tunnel or bore as the case may be.

(B) Where such depths are impractical due to extraordinary circumstances, the Company shall secure the approval of the City Manager, as to the suitable depth or location of said property, tunnel or bore and the same shall be placed in conformity with such approved location or depth, and in a manner reasonably satisfactory to the City Manager.

(C) All manholes, vaults, traps, catch basins or other structures shall be so capped and covered as to be flush with the surface of the Street, and shall not interfere in any way with the use of the Streets for the purpose of travel.

(D) The Company shall not lay, construct, erect, or install in the Streets any vent pipe from any vault, manhole or other structure of the Company except in the manner and

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at the location prescribed or approved by the City Manager, and only in accordance with sound engineering practices.

(E) Not more than one (1) main pipeline shall be laid, constructed, erected or installed in any Street, except where extraordinary circumstances exist making it necessary or in the best interest of the City and its inhabitants, to lay, construct, erect, or install more than one (1) main pipeline in any Street.

SECTION IX: SYSTEM MODIFICATION

If, during the term of this franchise, it becomes necessary or expedient for the City to change the course, grade, width, or location, or improve in any way any Streets, including the laying of any sewer, storm drain, conduit, water or other pipes, in which the Company has any Gas System which, in the opinion of the City Manager, will interfere with such changes on the part of the City, it is agreed the Company will, at its own expense, within twenty (20) days after written notice from the City Manager and request to do so, begin the work of completing any and all things necessary to affect such change in position or location in conformity with such written instructions. It is further agreed that the Company will lend necessary and related support thereof to the City while such work is being completed or performed. Work by the Company shall be done in such a manner as to not impede the progress of the changes being made by the City; provided, however, that this section shall not be interpreted to deny the Company reimbursement in its rate base as provided by State statute.

SECTION X: UNDERGROUND INSTALLATION.

The City reserves the right by ordinance at any time during the term of this franchise to require the Company at its own cost and expense to remove any or all of its mains and service lines above the surface of the streets and to place and locate the same below the surface of the streets whenever such right, in the reasonable opinion of the City Manager, should be exercised by the City. However, this right does not include, above ground pressure regulating, metering or other equipment which is not customarily installed below ground.

SECTION XI: REVIEW BY BOARD.

If the Company is dissatisfied with any determination of the City Manager permitted by the foregoing sections thereof, it may petition the Board of Mayor and Aldermen within ten (10) days after such determination to review the same, which review shall be taken up by the Board of Mayor and Aldermen in the normal course of business.

SECTION XII: CITY'S RIGHT TO CONSTRUCT.

The City reserves the right to lay, construct, erect, install, use, operate or maintain below surface or above the surface improvements of any type or description in, upon, along, across, under or over the Streets. If the necessary location for such improvements unreasonably interfere with any facility or equipment of the Company, then the Company, at its own cost and expense, shall begin the work of changing the location of all facilities and equipment conflicting or interfering with the improvements to a location in, upon, along, across, under or over the Streets with the location approved by the City Manager. The work shall commence within twenty (20) days after written notice from the City Manager requesting the Company relocate its facilities or equipment, and continue the work to completion with reasonable diligence and at its own cost and expense.

SECTION XIII: ABANDONMENT OF FACILITIES.

Upon abandonment of any of the facilities or equipment of the Company located above or below the surface of the Streets, the Company shall notify the City Manager in writing of such abandonment within a reasonable time thereafter and if such abandoned facilities or equipment will then interfere with the use of the Streets by the City, the City Manager shall give written notice thereof to the Company and the Company shall commence to remove the same within twenty (20) days following the date of the written notice and continue the work to completion with reasonable diligence and at its own cost and expense.

SECTION XIV: CITY RESERVATION OF RIGHTS.

All rights and privileges granted hereby are subject to the lawful exercise of the police power of the City to adopt and enforce local laws, rules and regulations necessary to the health, safety and general welfare of the public. Expressly reserved to the City is the right to adopt such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public. Further the City hereby reserves:

- (1) The right to grade, widen, relocate, sewer, pave, macadamize, lay conduits and pipe and to install manholes, poles or other structures therein, or to alter, repair or otherwise provide for the making of local improvements in the Street;
- (2) The right to make and enforce all such local police, sanitary or other regulations by ordinance in the exercise of its police power;
- (3) The right to make and provide for the making of local improvements by special assessment.

The enumeration herein of specific rights reserved shall not be taken as exclusive, or as limiting the reservation made herein.

SECTION XV: INSURANCE.

The Company hereby agrees, upon official request of the City, to furnish to the City evidence of insurance on such amounts as may be reasonably necessary to protect the City. However, the coverage shall, at a minimum, include Workers' Compensation insurance covering the Company's statutory obligation under the laws of the State of Tennessee and Employer's Liability insurance for all its employees engaged in work under the franchise. Minimum limits of liability for Employer's Liability shall be \$100,000 bodily injury each occurrence; \$500,000 bodily injury by disease (policy limit); and \$100,000 bodily injury by disease (each employee).

SECTION XVI: HAZARDOUS WASTE.

The Company shall not transport, dispose of or release any hazardous waste within the Streets. If utilizing any hazardous material in the ordinary course of its business, the Company shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances or waste. Regardless of the City's acquiescence, the Company shall indemnify and hold City, its officers, agents, employees and volunteers harmless from all costs, claims, damages, causes of action, liabilities, fines or penalties, including reasonable attorney's fees, resulting from the Company's, its agents, assigns, or violation of this paragraph and agrees to reimburse City for all costs and expenses incurred by City in eliminating or remedying such violations, including all remediation and clean up costs. This provision shall survive the expiration, revocation or termination of this franchise.

SECTION XVII: INDEMNIFICATION.

The Company shall at all times defend, indemnify and hold harmless the City and any of the City's representatives from and against all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever resulting from the failure of the Company or its employees to exercise due care and diligence in the construction, operation, and maintenance of its Gas System in the City provided the Company shall have been notified in writing of any claim against the City on account thereof and shall have been given ample opportunity to defend same. The Company shall indemnify, defend and hold harmless the City from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other apparatus that may be used in the performance of any work or activity arising out of the use of any Gas System or the provision of Gas System Service.

The right of indemnification shall include and extend to reasonable attorney fees and trial preparation expenses and other litigation expenses reasonably incurred in defending a claim arising from the operation of the Gas System by the Company, whether or not the claim be proved to be without merit. This provision shall survive the expiration, revocation or termination of this franchise.

SECTION XVIII: FRANCHISE FEE.

The Company and the City acknowledge that the City has the right to establish a franchise fee and require the Company to pay compensation to the City for use of the Streets for construction, maintenance and operation of a Gas System. The City acknowledges that the Company competes with East Tennessee Natural Gas (ETNG) in providing gas to industrial customers and that the City does not impose a franchise fee on ETNG at this time. The City further acknowledges that if a franchise fee is imposed on the Company which must be passed on to all of the Company's customers, the Company will be at an economic disadvantage with respect to its industrial customers. Accordingly, any franchise fee which may be imposed on the Company by the City shall be structured so as to not apply to the Company's industrial customers. Any subsequently imposed franchise fee must be approved by the T.R.A. If the T.R.A. refuses to approve a franchise fee which is not uniformly applied to all of the Company's customers, then the ordinance and/or resolution imposing the fee shall be void and of no force or effect. The City also has the option of imposing a uniform franchise fee applicable to all of the Company's customers, provided all privately owned suppliers of natural gas within the corporate limits of the City, including without limitation ETNG, are required to pay an identical franchise fee. Any such franchise fee shall be based upon a percentage of the Company's gross revenues derived from the retail sale of natural gas within the corporate limits of the City; however, the percentage shall not exceed the highest franchise fee percentage then in effect under any other franchise of the Company in the State of Tennessee.

Any franchise fee subsequently established hereunder may be renegotiated with the Company no earlier than every five (5) years following the date of adoption of such franchise fee. Any franchise fee established by the City will be passed directly to customers of the Company pursuant to state law and shall be reflected as a separate line item on the customers' gas bills.

SECTION XIX: TRANSFER OF ASSETS.

(A) In the event the Company desires to sell or transfer the entire assets of the Gas System which is the subject of this ordinance, then the Company must offer to the City the opportunity to buy those assets located and situated in the City upon the same terms as being offered to some other party. A statutory merger, consolidation, recapitalization or sale or transfer of the common stock of the Company does not constitute a sale or transfer

of assets for purposes of this section. The City will have sixty (60) days to accept the offer and an additional sixty (60) days to close said transaction, in the event the City elects to exercise the option to purchase.

(B) In the event the City chooses not to exercise the option to purchase, the City shall continue to have the right to approve any sale, assignment, or transfer the Company may desire and this franchise cannot be sold, assigned, or transferred unless and until:

(1) The Company shall have duly executed a good and sufficient instrument making such transfer, assignment or lease, and a duplicate original thereof shall have been filed with the City Manager.

(2) An ordinance of the City consenting to such transfer, assignment or lease shall have been duly adopted and become effective, such consent shall not be unreasonably withheld.

(3) The transferee, assignee, or lessee shall have duly executed a good and sufficient instrument accepting such transfer, assignment or lease, and assumes all the obligations of the Company under this franchise, and an original thereof shall have been filed in the office of the City Manager.

(C) By the acceptance of the franchise, the Company agrees that in any proceeding for the purpose of regulating the rates of the Company, no greater value shall be placed upon this franchise than its actual cost and expense of acquisition. In any negotiations between the City and the Company for the purchase of the Company's property by the City, no value shall be placed upon this franchise by anyone in arriving at the purchase price.

SECTION XX: T.R.A. RULES AND REGULATIONS.

(A) The City and the Company hereby agree that this Ordinance is subject to the approval of the T.R.A. and that the Ordinance shall also be subject to the rules and regulations of the State of Tennessee as they may from time to time be changed and that all such rules and regulations become part of this Ordinance to the same extent and with the same effect as if said rules and regulations were herein set out in full. A copy of the current T.R.A. rules and regulations are attached hereto as Exhibit 2.

(B) The Company shall make every reasonable effort to furnish an ample and uninterrupted supply of gas to all customers throughout its entire system within the City and on any enlargements and extensions thereof within the City. The Company shall not unreasonably or arbitrarily refuse to make an extension thereof within the City. At the time each and every annexation ordinance of the City becomes operative the City Planning Department shall provide the Company with a copy of the ordinance and its accompanying

map precisely describing said annexed territory. The Company shall not unreasonably or arbitrarily refuse to make an extension for the purpose of giving Gas Service to the City, the inhabitants, institutions and businesses thereof. The Company shall also file with the City its extension policy and any changes as may from time to time be adopted, as filed with and approved by the T.R.A.

(C) The Company shall at all times keep the City Manager apprised of its current gas rates, charges, and pricing policies charged to City residents and changes to such rates, charges, and pricing policies whether changes are initiated by the Company or by a third party. In the event the Company files a rate change request with the Tennessee regulatory authority, it shall provide the City Manager with a copy of the request at the time of filing.

(D) During such time, if any, as there is no other duly constituted governmental authority having jurisdiction over the tariffs, rates, fixed charges, terms and conditions of service to be rendered by the Company, then the Board of Mayor and Aldermen of the City of Kingsport, Tennessee shall have jurisdiction to prescribe and fix by ordinance tariffs, rates, charges, terms and conditions governing the furnishing of said Gas Service which shall be sufficient to yield to the Company a reasonable return upon the fair value of its property used and useful in rendering said service.

SECTION XXI: ANNUAL REPORT.

The Company shall, upon request by the City, file with the City Manager a duplicate original of the Annual Report of the Company's operations in the City filed with the T.R.A., as now required by the Public Utility Act, or as may be required by any other act of legislature of the State of Tennessee, as soon as practical after one duplicate original of said report has been filed with said authority or its successors.

SECTION XXII: DEFAULT AND CURE.

Both the Company and the City recognize there may be circumstances whereby compliance with the provisions of this Ordinance is impossible or is delayed because of circumstances beyond the Company's control. In this instance, the Company shall use its best efforts to comply in a timely manner and to the extent possible. In the event of a substantial breach by Company of any material provision of this Ordinance, the City, acting by and through its Board of Mayor and Aldermen, may terminate the franchise and rights granted to Company hereunder, provided, however, that such termination shall not be effective unless and until the procedures described below have been followed:

- (1) The City must deliver to Company, by certified or registered mail, a written notice. Such notice must (i) fairly and fully set forth in detail each of the alleged acts or omissions of Company that the City contends constitutes a substantial breach of any material provision

hereof within 30 days of the alleged breach or within 30 days of the City's actual or constructive notice of the alleged breach whichever is later; and (ii) designate which of the terms and conditions hereof the City contends Company breached.

- (2) The City shall permit Company the opportunity to substantially correct and cure all of the breaches hereof set forth in the written notice described in subsection (1) above within thirty (30) days after Company's receipt of such notice before termination may occur.
- (3) If the Company objects and disagrees with the City's determination that a substantial breach of a material provision has occurred, the Company may submit the issue to the Board of Mayor and Aldermen for review within thirty (30) days of receipt of the written notice described in subsection (1) above. Termination of this Ordinance shall be stayed during the course of any such review or subsequent litigation on the issue until the matter is either resolved by agreement between the parties or upon entry of a final order of a court authorizing termination by the City.

In the event the Ordinance is properly terminated pursuant to the terms of this section prior to the expiration of the 20-year period or any renewal period thereafter, the Company shall not be entitled to claim lost profits against the City for the balance of time remaining under the 20-year period or any renewal period thereafter in a sale of assets to the City or any condemnation action. In the event of termination and/or expiration of this Ordinance, the Company may continue to operate on the same terms and conditions pending either a negotiated sale of its assets, negotiation of a new franchise or condemnation, whichever first occurs, with a minimum period of six months and a maximum period of 24 months, absent agreement of the parties.

SECTION XXIII: SEVERABILITY PROVISION.

After adoption of this ordinance, should any section, subsection, sentence, provision, clause or phrase of this ordinance be declared by the Tennessee regulatory authority or by a court competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional, it being the intent in adopting this ordinance that no portion thereof or provision or regulations contained therein shall become inoperative or fail by reason of the unconstitutionality or in validity of any other portion or provision or regulation.

SECTION XXIV: NOTICE.

Any written notice herein required to be given by the City, or any of its officers or agents, to the Company, shall be deemed to have been duly served if delivered in person to any officer of the Company or to its local agent or manager, or if sent by certified mail to the postal address of the Company.

SECTION XXV: PRIOR AGREEMENT.

All ordinances or parts of ordinances establishing a prior franchise agreement for Gas in conflict with the provisions of this ordinance are hereby repealed.

SECTION XXVI: EFFECTIVE DATE.

The franchise shall become effective and all its terms, provisions and conditions binding upon both the City and the Company fifteen (15) days after its final passage, provided the Company shall within said fifteen (15) days endorse on the original ordinance its acceptance of this franchise in the words and figures following:

United Cities Gas Company hereby accepts this franchise this 27TH day
of MARCH, 2000.

UNITED CITIES GAS COMPANY,
A Division of Atmos Energy Corporation



THOMAS BLOSE
President



JEANETTE D. BLAZIER
Mayor


ATTEST:



DEPUTY CITY RECORDER

Ord. 4742
p 16 of 17

ATTEST:

 *C. Searby*
WARREN C. SEARBY
City Clerk Deputy

APPROVED AS TO FORM:

J. Michael Billingsley
J. MICHAEL BILLINGSLEY
City Attorney

PASSED ON 1ST READING 3-7-2000

PASSED ON 2ND READING 3-21-2000



AGENDA ACTION FORM

Amend Time of Impoundment of Vehicles by Police from After 24 Hours' Notice to 48 Hours

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

Action Form No.: AF-26-2020
 Work Session: February 3, 2020
 First Reading: February 4, 2020

Final Adoption: February 18, 2020
 Staff Work By: Capt. Gore
 Presentation By: Chief Quillin

Recommendation:

Approve the Ordinance.

Executive Summary:

Kingsport City Code Sec. 98-533 states that vehicles are subject to impoundment under the conditions in Sec. 98-532 in addition to vehicles that have been abandoned or found parked on a public street, highway or thoroughfare with two or more outstanding or otherwise unsettled parking violation notices. Currently, the aforementioned vehicles are subject to impoundment after notice has been securely attached and conspicuously displayed on the vehicle for 24 hours. Tennessee Code Annotated 55-16-104 permits an impoundment for the same reasons as listed in city code Sec. 98-533, but sets the time limit at 48 hours. The recommended action is to amend the time limit in city code Sec. 98-533 from 24 hours to 48 hours, so as to mirror Tennessee state law.

Attachments:

1. Ordinance

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 98-533 OF THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, PERTAINING TO A LENGTH OF NOTICE FOR CERTAIN IMPOUNDMENTS OF VEHICLES; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT as follows:

SECTION I. That section 98-533 of the Code of Ordinances, City of Kingsport, Tennessee, is hereby amended to read as follows:

Sec. 98-533. - Cause for impoundment after notice.

A vehicle not subject to impoundment under section 98-532 may be impounded after notice of such proposed impoundment has been securely attached to and conspicuously displayed on the vehicle for a period of 48 hours prior to such impoundment, for the following reasons:

- (1) Any unattended motor vehicle found parked at any time upon a public street, highway or thoroughfare within the corporate limits of the city against which there are two or more outstanding or otherwise unsettled parking violation notices shall, either by towing or otherwise, be removed or conveyed to and impounded in any place officially designated as an impound lot or immobilized in such a manner as to prevent its operation by utilization of the Denver boot or similar device. However, no such vehicle shall be immobilized by any means other than by a Denver boot or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place.
- (2) When such vehicle is abandoned as that term is defined in section 98-531.

SECTION II. That the board finds that it is in the best interest of the city that Section 98-533 be amended so as to mirror the notice period set forth in Tenn. Code. Ann. §55-16-104.

SECTION III. That this ordinance shall take effect from and after the date of its passage 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 _____



AGENDA ACTION FORM

Reauthorize an Electronic Citation Fee upon a Plea of Guilty or Nolo Contendere, or a Judgment of Guilty for Violation of Certain Traffic Ordinances of the City of Kingsport

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

Action Form No.: AF-17-2020
 Work Session: January 21, 2020
 First Reading: January 21, 2020

Final Adoption: February 4, 2020
 Staff Work By: Capt. Gore
 Presentation By: Chief Quillin

Recommendation:

Approve the Ordinance.

Executive Summary:

Tennessee Code Annotated 55-10-207 (e) (1-4) provides for an avenue to collect a fee of \$5.00 for every traffic citation that results in a plea of guilty, or nolo contendere, or a judgment of guilty for the purpose of funding the development and operation of an electronic citation system. This code authorizes municipalities to charge and collect the fee through city courts. The fee received must be apportioned as follows: a) \$1.00 will be retained by the court clerk; and b) \$4.00 will be transmitted on a monthly basis by the court clerk to the law enforcement agency that prepared the electronic traffic citation. Any fee imposed shall terminate after 5 years from the date on which the ordinance is adopted.

The Kingsport Police Department has operated an avenue for electronic citations since 2009. Overtime, the technology used needs to be updated/replaced for efficiency. This fee has been collected by the Police Department in the past but we are at the point of needing to reauthorize the fee in accordance with state law.

The breakdown of the \$5.00 fee is as follows: \$1.00 is retained by the court clerk and is used for computer hardware purchases or computer related expenses pertaining to replacement computers and necessary software upgrades, and the remaining \$4.00 is used to obtain new/replacement portable printers, printer paper, batteries and chargers. These items are used in the field by all of the officers to issue both city and misdemeanor citations.

Maintenance of the technology associated with this electronic citation has historically cost approximately \$5,700 annually and the collections from this fee results in approximately \$22,000 annually.

Attachments:

1. Ordinance

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

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 30-29 OF THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, REESTABLISHING THE FEE FOR CITY COURT AUTHORIZED BY TENNESSEE CODE ANNOTATED SECTION 55-10-207 AS COURT COSTS; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT as follows:

SECTION I. That section 30-29 of the Code of Ordinances, City of Kingsport, Tennessee, is hereby amended to read as follows:

Sec. 30-29 Courts costs.

- (a) The court costs for the city court are hereby established as follows: city court costs for the city are \$60.00 per citation, which includes \$1.00 that will be transmitted to the state treasurer, as required by Tennessee Municipal Court Reform Act of 2004, T.C.A. § 16-18-301 et seq., provided however, if an electronic citation was issued, in addition to the \$60.00 court costs, \$5.00 shall be added to the court costs as set out in subsection b. Additionally, the court clerk of the city court is authorized to collect and transmit the state litigation tax or fee or any other tax, fee or cost required to be collected by the state on court citations or cases.
- (b) In addition to the court costs set out in subsection (a) pursuant to Tennessee Code Annotated Section 55-10-207(e), the city court clerk shall charge and collect an electronic citation fee of \$5.00 for each citation, which results in a conviction. Such fee shall be assessable as court costs and paid by the defendant for any offense cited in a traffic citation delivered that results in a plea of guilty or nolo contendere, or a judgment of guilty. This fee shall be in addition to all other fees, taxes and charges. One dollar (\$1.00) of such fee shall be retained by the court clerk. The remaining four dollars (\$4.00) of the fee shall be transmitted monthly by the court clerk to the law enforcement agency that prepared the traffic citation that resulted in a plea of guilty or nolo contendere, or a judgment of guilty. All funds derived from the electronic traffic citation fee that are transmitted to the law enforcement agency that prepared the traffic citation shall be accounted for in a special revenue fund of such law enforcement agency and may only be used for the following purposes:
 - (1) Electronic citation system and program related expenditures; and
 - (2) Related expenditures by such local law enforcement agency for technology, equipment, repairs, replacement and training to maintain electronic citation programs.
 - (3) All funds derived from the electronic citation fee set aside for the court clerk shall be used for computer hardware purchases, usual and necessary computer related expenses, or replacement. Such funds shall be preserved for those purposes and shall not revert to the general fund at the end of a budget year if unexpended.
- (c) As used in this section "electronic citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

SECTION II. That this ordinance shall terminate pursuant to Tennessee Code Annotated Section 55-10-207.

SECTION III. That the board finds that it is in the best interest of the city in order to maintain and improve the operation of the court to modify the court costs as herein set forth.

SECTION IV. That this ordinance shall take effect from and after the date of its passage 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 _____



AGENDA ACTION FORM

Reauthorize an Electronic Citation Fee upon a Plea of Guilty or Nolo Contendere, or a Judgment of Guilty for Violation of Certain Traffic Ordinances of the City of Kingsport

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

Action Form No.: AF-17-2020
 Work Session: January 21, 2020
 First Reading: January 21, 2020

Final Adoption: February 4, 2020
 Staff Work By: Capt. Gore
 Presentation By: Chief Quillin

Recommendation:

Approve the Ordinance.

Executive Summary:

Tennessee Code Annotated 55-10-207 (e) (1-4) provides for an avenue to collect a fee of \$5.00 for every traffic citation that results in a plea of guilty, or nolo contendere, or a judgment of guilty for the purpose of funding the development and operation of an electronic citation system. This code authorizes municipalities to charge and collect the fee through city courts. The fee received must be apportioned as follows: a) \$1.00 will be retained by the court clerk; and b) \$4.00 will be transmitted on a monthly basis by the court clerk to the law enforcement agency that prepared the electronic traffic citation. Any fee imposed shall terminate after 5 years from the date on which the ordinance is adopted.

The Kingsport Police Department has operated an avenue for electronic citations since 2009. Overtime, the technology used needs to be updated/replaced for efficiency. This fee has been collected by the Police Department in the past but we are at the point of needing to reauthorize the fee in accordance with state law.

The breakdown of the \$5.00 fee is as follows: \$1.00 is retained by the court clerk and is used for computer hardware purchases or computer related expenses pertaining to replacement computers and necessary software upgrades, and the remaining \$4.00 is used to obtain new/replacement portable printers, printer paper, batteries and chargers. These items are used in the field by all of the officers to issue both city and misdemeanor citations.

Maintenance of the technology associated with this electronic citation has historically cost approximately \$5,700 annually and the collections from this fee results in approximately \$22,000 annually.

Attachments:

1. Ordinance

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



AGENDA ACTION FORM

Amend the FY 2020 the General Purpose School Fund Budget

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

Action Form No.: AF-24-2020
 Work Session: January 21, 2020
 First Reading: January 21, 2020

Final Adoption: February 4, 2020
 Staff Work By: David Frye
 Presentation By: David Frye

Recommendation:

Approve the Ordinance.

Executive Summary:

The Board of Education approved fiscal year 2020 budget amendment number two at their meeting on January 14, 2020. This amendment increases estimated revenues and appropriations for the General Purpose School Fund by \$190,300. There is a donation from the Batelle Foundation (\$3,250) for Dobyns-Bennett Excel being designated as a STEM school, a donation from the Adams PTA (\$14,600) for playground improvements, donations from Washington Elementary School (\$12,000) and Washington PTA (\$12,000) for security film, and a Fund Balance Appropriation (\$148,450) to fund an upgrade for the KCS student information system.

Attachments:

1. Ordinance
2. BOE Budget Amendment Number Two – FY 2020

Funding source appropriate and funds are available: *JM*

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PURPOSE SCHOOL FUND BUDGET FOR THE FISCAL 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 Purpose School Fund Budget be amended by increasing the estimated revenue for Other Local Revenues by \$41,850; the estimated revenue for Fund Balance Appropriations by \$148,450 and by increasing the appropriation for Dobyns-Bennett Excel-Instructional Supplies and Materials by \$3,250; the appropriation for Technology-Capital Improvements by \$148,450; the appropriation for Other Capital Improvements by \$38,600.

Fund 141: General Purpose School Fund

Revenues:

	\$	\$	\$
141-0000-369-4990 Other Local Revenue	500,000	41,850	541,850
141-0000-392-0100 Fund Balance Appropriations	1,165,861	148,450	1,314,311
Total:	1,665,861	190,300	1,856,161

Expenditures:

141-7158-711-0429 DBE-Instructional Supplies	8,421	3,250	11,671
141-7250-785-0790 Technology Capital Outlay	319,734	148,450	468,184
141-7750-871-0707 Other Capital Outlay	821,269	38,600	859,869
Total:	1,149,424	190,300	1,339,724

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: _____



AGENDA ACTION FORM

Amend the FY 2020 the General Purpose School Fund Budget

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

Action Form No.: AF-24-2020
 Work Session: January 21, 2020
 First Reading: January 21, 2020

Final Adoption: February 4, 2020
 Staff Work By: David Frye
 Presentation By: David Frye

Recommendation:

Approve the Ordinance.

Executive Summary:

The Board of Education approved fiscal year 2020 budget amendment number two at their meeting on January 14, 2020. This amendment increases estimated revenues and appropriations for the General Purpose School Fund by \$190,300. There is a donation from the Batelle Foundation (\$3,250) for Dobyys-Bennett Excel being designated as a STEM school, a donation from the Adams PTA (\$14,600) for playground improvements, donations from Washington Elementary School (\$12,000) and Washington PTA (\$12,000) for security film, and a Fund Balance Appropriation (\$148,450) to fund an upgrade for the KCS student information system.

Attachments:

1. Ordinance
2. BOE Budget Amendment Number Two – FY 2020

Funding source appropriate and funds are available: *JM*

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

January 14, 2020

**KINGSPORT CITY SCHOOLS
FISCAL YEAR 2019-2020
BUDGET AMENDMENT NUMBER TWO**

GENERAL PURPOSE SCHOOL FUND

ITEM ONE: BATTELLE DONATION

Battelle Education has donated \$3,250 to D-B Excel for their designation as a STEM School. These funds were received in June 2019 and were closed into the Unreserved Fund Balance at June 30. It is recommended that the estimated revenue for Fund Balance Appropriations and the appropriation for D-B Excel Instructional Supplies in increased by \$3,250.

ITEM TWO: JOHN ADAMS PTA DONATION

The John Adams PTA has donated \$14,600 to pay for partial pour-in-place surfacing for the John Adams playground. It is recommended that the estimated revenue for Other Local Revenue and that the appropriation for Capital improvements be increased by \$14,600.

ITEM THREE: WASHINGTON ELEMENTARY SECURITY FILM

Washington Elementary School and their PTA would like to install security film on all the windows at that school. This security film has been installed on the entrances at all the other KCS schools. The total cost of the project is \$27,193. The Washington PTA has raised \$12,000 for this project and Washington Elementary will match that donation for a total of \$24,000. An additional \$3,193 will be provided by safe Schools Grant funds to cover the Pre-School area. It is recommended that the estimated revenue for Other Local Revenue and that the appropriation for Capital improvements be increased by \$24,000.

ITEM FOUR: STUDENT INFORMATION SYSTEM

It is recommended that Kingsport City School's replace the student information system that is currently being used. The recommended SIS has an initial cost of \$140,046.75. It is recommended that the estimated revenue for Fund Balance Appropriations and the appropriation for Technology Capital be increased by \$148,450. This includes an additional 6% for contingency funds.



AGENDA ACTION FORM

Amending City Code Authorizing the City Manager, or Designee to Execute All License Agreements with TDOT for Improvements or Maintenance of Licensed Premises

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

Action Form No.: AF-11-2020
 Work Session: January 21, 2020
 First Reading: January 21, 2020

Final Adoption: February 4, 2020
Staff Work By: Tim Elsea
Presentation By: Ryan McReynolds

Recommendation:

Approve the Ordinance.

Executive Summary:

The city often performs work for projects within state highway licensed premises. The work may include, but is not limited to maintenance or installation for the operation of improvements to the licensed premises. TDOT issues License Agreements to the city reflective of use of the licensed premises, which are currently individually processed as agenda items for BMA approval and authorization for the Mayor to execute the documents.

It is requested to amend Kingsport City Code of Ordinances Sec. 2-606 Execution of contracts and purchase orders by adding the following paragraph –

Sec. 2-606 (h) The city manager, or designee is authorized to execute, in a form approved by the city attorney, and attested by the city recorder, all License Agreements with the Tennessee Department of Transportation allowing the city to access and perform work in the licensed premises for the operation of improvements.

Attachments:

1. Ordinance
2. License Agreement (4 pages)

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES,
CITY OF KINGSPORT, TENNESSEE, SECTION 2-606
RELATING TO THE EXECUTION OF CONTRACTS AND
PURCHASE ORDERS; AND TO FIX THE EFFECTIVE DATE OF
THIS ORDINANCE

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

SECTION I. That Section 2-606 of the Code of Ordinances, City of Kingsport, Tennessee,
is hereby amended to add section (h) to read as follows:

Sec. 2-606.

(h) The city manager, or designee, is authorized to execute, in a form approved by the
city attorney, and attested by the city recorder, all License Agreements with the Tennessee
Department of Transportation allowing the city to access and perform work in the licensed
premises for the operation of improvements.

SECTION II. That this ordinance shall take effect from and after the date of its passage
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 _____



AGENDA ACTION FORM

Amending City Code Authorizing the City Manager, or Designee to Execute All License Agreements with TDOT for Improvements or Maintenance of Licensed Premises

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

Action Form No.: AF-11-2020
 Work Session: January 21, 2020
 First Reading: January 21, 2020

Final Adoption: February 4, 2020
 Staff Work By: Tim Elsea
 Presentation By: Ryan McReynolds

Recommendation:

Approve the Ordinance.

Executive Summary:

The city often performs work for projects within state highway licensed premises. The work may include, but is not limited to maintenance or installation for the operation of improvements to the licensed premises. TDOT issues License Agreements to the city reflective of use of the licensed premises, which are currently individually processed as agenda items for BMA approval and authorization for the Mayor to execute the documents.

It is requested to amend Kingsport City Code of Ordinances Sec. 2-606 Execution of contracts and purchase orders by adding the following paragraph –

Sec. 2-606 (h) The city manager, or designee is authorized to execute, in a form approved by the city attorney, and attested by the city recorder, all License Agreements with the Tennessee Department of Transportation allowing the city to access and perform work in the licensed premises for the operation of improvements.

Attachments:

1. Ordinance
2. License Agreement (4 pages)

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

This Instrument prepared by:
State of Tennessee
Department of Transportation
Region 1
P.O. Box 58
Knoxville, Tennessee 37901
(Local Government)

Project No. _____
Tract No. _____
County _____
Request No. _____

LICENSE AGREEMENT

THIS AGREEMENT is made and entered into as of this the ____ day of _____, 20__ by and between THE STATE OF TENNESSEE, acting by and through its Commissioner of Transportation, (hereinafter referred to as "State") and the **CITY OF KINGSPORT, TENNESSEE** (hereinafter referred to as "Licensee").

WHEREAS, Licensee desires to use a portion of the Licensed Premises to _____ being more specifically described in Exhibit A being attached to and made a part of this License; and

WHEREAS, the State is willing to permit said use of the Licensed Premises subject to certain conditions.

NOW, THEREFORE, in consideration of the execution of this License Agreement, it is mutually agreed between the parties hereto as follows:

1. **LICENSE** – Licensee is hereby granted permission to use the Licensed Premises to install and operate _____ (hereinafter referred to as the "Improvements").
2. **USE OF LICENSED PREMISES** - Licensee shall be permitted to use the Licensed Premises for the operation of the Improvements. Licensee shall not be permitted to use the Licensed Premises for any other purpose except by prior written permission of the State. Licensee's use of the Licensed Premises is subject to any easements of record and to the right of any utility owner to operate and maintain any existing utility facilities within the Licensed Premises.
3. **FEE** – Licensee shall pay \$0 per year to the State for the use of the Licensed Premises.
4. **TERM** – The License is a ____ year, renewable license which shall begin on [month/day], [year] and shall end on [month/day], [year].
5. **ACCESS** – The State shall provide Licensee access to the Licensed Premises at all times for the uses authorized herein.
6. **MAINTENANCE** – The costs of any maintenance and operation of the Improvements shall be at the sole expense of Licensee;
7. **TRAFFIC CONTROL** - At no time will work authorized by this license agreement interfere with the normal flow of traffic on roadways adjoining the Licensed Premises. Licensee is responsible for providing traffic control for this work zone in accordance with the requirements of the current *Manual on Uniform Traffic Control Devices*. If proper traffic control is not in place, TDOT may order Licensee to stop work until proper traffic control is put in place.

License Agreement
Request No.

Traffic Control Devices. If proper traffic control is not in place, TDOT may order Licensee to stop work until proper traffic control is put in place.

8. **FIRE HAZARD** - The Property shall not be used for the manufacture or storage of flammable material or for any other purpose deemed by the STATE or the Federal Highway Administration to be a potential fire hazard or other hazard to the highway. The determination as to whether or not a use constitutes such a hazard shall be in the sole discretion of the STATE or the Federal highway Administration. The operation and maintenance of said property will be subject to regulation by the STATE to protect against fire or other hazard which could impair the use, safety or appearance of the highway. LICENSEE shall provide access, at all times, for firefighters and accompanying equipment.
9. **DAMAGE TO STATE PROPERTY** - Licensee shall be liable for any damage to state property resulting from Licensee's use of the Licensed Premises and/or installation and operation of the Improvements, including but not limited to, the roadway, shoulders, guardrail, drainage, landscaping, signs and controlled-access fences. All repair or replacement of such damage shall be made in accordance with the current TDOT Standard Specifications for Road and Bridge Construction, TDOT Standard Drawings and any other applicable design and/or construction standards or guidelines.
10. **LIABILITY** - Licensee shall assume all liability for claims arising out of conduct on the part of the Licensee for which it would be liable under the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101, et seq., up to the limits for which it can be held liable for such conduct under that act, arising from its use of the Licensed Premises. In addition, Licensee shall require that any contractor of Licensee that performs any work on the Licensed Premises, including any installation, maintenance, or operation of the Improvements, shall indemnify and hold harmless the State and all of its officers, agents and employees from all suits, actions or claims of any character arising from the contractor's acts or omissions in the prosecution of the work.
11. **INSURANCE** - The Licensee, its successors and assigns, agrees to maintain adequate public liability insurance, which may include self-insurance, and will provide satisfactory evidence of such insurance to the State. Further, the liability limits of this insurance must not be less than the exposure and limits of the Licensee's liability under the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101, et seq. The insurance policy shall include a provision for the insurance company to notify the State in writing of any cancellation or changes of the policy at least 30 days in advance of the cancellation or change. In addition, Licensee shall require that any contractor of Licensee that performs any work on the Licensed Premises, including any installation, maintenance, or operation of the Improvements, shall provide proof of adequate and appropriate general liability insurance providing liability coverage in an amount not less than \$1 million dollars per occurrence and \$300,000 per claimant, naming the State of Tennessee as an additional insured.
12. **PERMITS** - Licensee is responsible for obtaining and paying the costs of all permits, licenses or other approvals by any regulatory body having jurisdiction over the uses authorized herein. Prior to commencing the work authorized herein, Licensee shall notify Tennessee One Call regarding any excavation(s) and shall ensure that the provisions of TCA 65-31-101 et seq. are met.
13. **COMPLIANCE** - All work on the Licensed Premises shall be performed in compliance with current TDOT Landscape Design Guidelines and TDOT Standard Drawings in addition to applicable federal, state and local laws and regulations. Should Licensee fail or neglect to comply with any term or condition of this License Agreement or to comply with written notice and demand, this

License shall be subject to termination. In the event of such termination, Licensee shall immediately remove any and all of its Improvements from the licensed Premises and surrender all rights and privileges under this License Agreement; otherwise, on written notification by the State, the Improvements will be removed and said Licensed Premises restored to its former condition in a timely manner at the expense of the Licensee.

14. **TITLE VI ASSURANCES** – The Licensee for itself, its successors in interest and assigns, as part of the consideration hereof does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the property described in this License Agreement for a purpose for which the State or a State program or activity is extended or for another purpose involving the provision of similar services or benefits, the Licensee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations shall be amended.
15. **AMERICANS WITH DISABILITIES ACT ASSURANCES** – The Licensee for itself, its successors in interest and assigns, as part of the consideration hereof does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the property described in this License Agreement for a purpose for which the State or a State program or activity is extended or for another purpose involving the provision of similar services or benefits, the Licensee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 28, Code of Federal Regulations, Parts 35 and 36, Nondiscrimination on the Basis of Disability in State and Local Government Services and Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, and as said regulations shall be amended. The Licensee further agrees that if any pedestrian facilities are constructed, maintained, or operated on the property described in this License, the Licensee shall construct, maintain, and operate such facilities in compliance with the Architectural and Transportation Barriers Compliance Board’s “Accessibility Guidelines for Pedestrian Facilities in Public Rights-of-Way” (proposed 36 CFR Part 1190; published in the Federal Register, July 26, 2011).
16. **REVERSION** – In the event that the Licensed Premises is needed for a transportation project, Licensee shall remove any and all of its Improvements from the Licensed Premises and surrender all rights and privileges under this License Agreement within 60 days of receiving written notice from the State. In the event that the Licensed Premises is needed for a highway maintenance project, the use of the Licensed Premises will cease temporarily until the maintenance project is completed. In the event that a utility owner needs to maintain a permitted utility facility, the Licensee’s use of the Licensed Premises may cease or be impaired until the utility maintenance activity is completed.
17. **ADJACENT PROPERTY** – Licensee states and affirms that the Improvements constructed and maintained on the Licensed Premises are not relevant to any adjacent property’s activities, features, or attributes that qualify the adjacent property for protection under Section 4(f) of the Department of Transportation Act of 1966 (Pub. L. 89—670, 80 Stat. 931) now codified at 23 U.S.C. § 138, 49 U.S.C. § 303, and 23 CFR Part 774 (hereinafter referred to as “Section 4(f)”). Therefore, neither the act of reversion nor termination of this Agreement, nor any transportation related activities occurring on the Licensed Premises (including, but not limited to, maintenance activities, construction activities, etc.), would result in a substantial impairment to the activities, features, or attributes that may qualify Licensee’s adjacent or nearby property for protection under Section 4(f).

License Agreement
Request No.

18. **NO PERMANENT OWNERSHIP** – Licensee does not currently possess, nor through this Agreement acquire, permanent ownership or control over the Licensed Premises.
19. **TERMINATION** – The State may terminate this License at will with 60 days written notice to Licensee.
20. **ASSIGNMENT** – The license shall not be transferred, conveyed or assigned to another party without prior written approval from the State.

TO THE LICENSEE:

TO THE STATE:

State of Tennessee
Department of Transportation
Suite 700, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0337

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

LICENSEE:

NAME OF LICENSEE

Name and title
Address of Licensee

DATE: _____

APPROVED AS TO FORM
AND LEGALITY:

Attorney for Licensee

DATE: _____

STATE OF TENNESSEE

John C. Schroer, Commissioner
Tennessee Department of Transportation

DATE: _____

APPROVED AS TO FORM
AND LEGALITY:

John Reinbold, General Counsel
Tennessee Department of Transportation

DATE: _____



AGENDA ACTION FORM

Awarding the Bid for the Purchase of Various Water and Sewer Maintenance Items

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

Action Form No.: AF-34-2020
Work Session: February 3, 2020
First Reading: N/A

Final Adoption: February 4, 2020
Staff Work By: Committee
Presentation By: C. McCartt, R. McReynolds

Recommendation:

Approve the Resolution.

Executive Summary:

Bids were opened on January 14, 2020 for the purchase of various water & sewer maintenance inventory items stocked at the Water & Sewer Department warehouse located @ 1213 Konnarock Road. The bid was issued to secure pricing for a twelve month time frame and included a total of 861 items to be purchased on an as needed basis.

The bid invitation was publicly advertised on December 1, 2019 in the Kingsport Times News and downloadable bid documents were posted on the Purchasing Department's website for a time period of 45 calendar days. Bids were received from 12 vendors and low bids from four of those vendors were in excess of \$50,000.00 for various items. As a result of those four bidders offering pricing on various items in excess of \$50,000.00 BMA approval is required for those bids only. Eleven bidders are to be awarded purchase orders as a result of their replies to this bid.

The bid from Core & Main, Inc. offered low pricing for various items totaling \$358,377.41. The bid from Ferguson Enterprise offered low pricing for various items totaling \$195,280.36. The bid from Consolidated Pipe & Supply, Inc. offered low pricing for various items totaling \$345,677.71. The bid from G & C Supply offered low pricing for various items totaling \$151,633.87.

The City is not required to purchase any of the items from this bid unless and until those items are needed as defined by the requirements of the bid. The City reserves the right to determine the low bidder either on the basis of the individual items or on the basis of all items included in its Invitation to Bid.

Funding is identified in account number 41100001410000.

Attachments:

1. Resolution
2. Bid Opening Minutes available for review @ <https://www.kingsporttn.gov/city-services/purchasing/>
3. Bid Award Summary

Funding source appropriate and funds are available: *[Signature]*

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

RESOLUTION NO. _____

A RESOLUTION AWARDDING THE BID FOR PURCHASE OF VARIOUS WATER AND SEWER MAINTENANCE ITEMS TO CONSOLIDATED PIPE & SUPPLY, INC., FERGUSON ENTERPRISE, CORE & MAIN, INC., AND G&C SUPPLY, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME

WHEREAS, bids were opened January 14, 2020, for the purchase of various water and sewer maintenance inventory items stocked at the water and sewer departments located at 1213 Konnarock Road; and

WHEREAS, upon review of the bids, the board finds that Consolidated Pipe & Supply, Inc., Ferguson Enterprise, Core & Main, Inc. and G&C Supply, Inc. are the lowest responsible compliant bidders meeting specifications for the particular grade or class of material, work or services desired and is in the best interest and advantage to the city, and the City of Kingsport desires to purchase various water and sewer maintenance inventory items as set out in the Water/Sewer Maintenance bid opening minutes, available for review at <https://www.kingsporttn.gov/city-services/purchasing/>, from Consolidated Pipe & Supply, Inc. at an amount up to \$345,677.71, Ferguson Enterprise. at an amount up to \$195,280.36, Core & Main, Inc. at an amount up to \$358,377.41, and G&C Supply, Inc. at an amount up to \$151,633.87; and

WHEREAS, funding is identified in account number 41100001410000;

Now therefore,

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

SECTION I. That the bid for purchase of water and sewer maintenance inventory items as set out in the "Water Sewer Maintenance Items Award Summary Bid Opening Date January 15, 2020" attached hereto as Exhibit A and further detailed in the "Various Water/Sewer Items-Bid Opening date January 14, 2020, available for review at <https://www.kingsporttn.gov/city-services/purchasing/>, for use by the water and sewer department is awarded to Consolidated Pipe & Supply, Inc. at an amount up to \$345,677.71, and the city manager is authorized and directed to execute a purchase order for the same.

SECTION II. That the bid for purchase of water and sewer maintenance inventory items as set out in the "Water Sewer Maintenance Items Award Summary Bid Opening Date January 14, 2020" attached hereto as Exhibit A, and further detailed in the "Various Water/Sewer Items-Bid Opening date January 14, 2020", available for review at <https://www.kingsporttn.gov/city-services/purchasing/>, for use by the water and sewer department is awarded to Ferguson Enterprise, at an amount up to \$195,280.36, and the city manager is authorized and directed to execute a purchase order for the same.

SECTION III. That the bid for purchase of water and sewer maintenance inventory items as set out in the "Water Sewer Maintenance Items Award Summary Bid Opening Date January 14, 2020" attached hereto as Exhibit A and further detailed in the "Various Water/Sewer Items-Bid Opening date January 14, 2020", available for review at <https://www.kingsporttn.gov/city-services/purchasing/>, for use by the water and sewer department is awarded to Core & Main, Inc.

at an amount up to \$358,377.41 and the city manager is authorized and directed to execute a purchase order for the same.

SECTION IV. That the bid for purchase of water and sewer maintenance inventory items as set out in the "Water Sewer Maintenance Items Award Summary Bid Opening Date January 14, 2020" attached hereto as Exhibit A and further detailed in the "Various Water/Sewer Items-Bid Opening date January 14, 2020", available for review at <https://www.kingsporttn.gov/city-services/purchasing/>, for use by the water and sewer department is awarded to G&C Supply, Inc., at an amount up to \$151,633.87, and the city manager is authorized and directed to execute a purchase order for the same.

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

ADOPTED this the 4th day of February, 2020.

PATRICK W. SHULL MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

ATTACHMENT A

Water Sewer Maintenance Items Bid Award Summary

Bid Opening Date – January 14, 2020

Vendor	Purchase Order #	Amount
Core & Main	W01856	\$358,377.41
Ferguson Enterprise	W01857	\$195,280.36
Consolidated Pipe & Supply	W01858	\$345,677.77
G & C Supply	W01859	\$151,633.87
MSC Industrial Supply	W01860	\$28,765.29
Tri-State Complete	W01861	\$2,658.22
Permatile Concrete	W01862	\$15,992.00
Northern Safety	W01863	\$5,583.89
Ford System	W01864	\$365.63
Summers Industrial Supply	W01865	\$8,893.80
General Rubber & Plastics	W01866	\$554.88



AGENDA ACTION FORM

Enter Into a Contractual Agreement with the Tennessee Department of Transportation for Reimbursement of Capital Expenses

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

Action Form No.: AF-27-2020
 Work Session: February 3, 2020
 First Reading: N/A

Final Adoption: February 4, 2020
 Staff Work By: Chris Campbell
 Presentation By: Chris Campbell

Recommendation:

Approve the Resolution.

Executive Summary:

This contractual agreement with the Tennessee Department of Transportation (TDOT) is for reimbursement of TDOT's share of capital expenditures related to the operation of Public Transit. Below are the program category amounts budgeted for capital in the next annual operation cycle:

Federal Transit Administration	\$120,000
Tennessee Dept. of Transportation	\$15,000
City of Kingsport	\$15,000
Total	\$150,000

City's local share was budgeted during FY 18/19.

Attachments:

- Resolution

Funding source appropriate and funds are available: *CM*

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

RESOLUTION NO. _____

A RESOLUTION APPROVING A GRANT CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION, TDOT PROJECT NUMBER 825307-S3-028, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE CONTRACT

WHEREAS, the city would like to enter into an agreement with the Tennessee Department of Transportation (TDOT) for reimbursement of TDOT's share of capital expenditures related to the operation of the Kingsport Area Transit Service (KATS); and

WHEREAS, the total amount of this contract is \$150,000.00, with a local match of \$15,000, which has previously been budgeted and approved.

Now therefore,

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

SECTION I. That a new grant contract with the Tennessee Department of Transportation for TDOT Project Number 825307-S3-028, 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 Tennessee Department of Transportation for TDOT Project Number 825307-S3-028 and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the contract or this resolution, said contract being as follows:

**GRANT CONTRACT BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TRANSPORTATION
AND
CITY OF KINGSFORT**

This grant contract ("Grant Contract"), by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" or the "Grantor State Agency" and Grantee City of Kingsport, hereinafter referred to as the "Grantee," is for the provision of capital assistance, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # 1562

A. SCOPE OF SERVICES AND DELIVERABLES:

A.1. The Grantee shall provide the scope of services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.

A.2. The Grantee shall provide all services and deliverables as described in their 49 U.S.C. § 5307 Program application submitted to and as approved by Federal Transit Administration (FTA).

A.3. The Grantee shall abide by the provisions of 49 U.S.C. § 5307 and FTA Circular C 9030.1E "Urbanized Area Formula Program: Program Guidance and Application Instructions," to receive State funds to urbanized areas for transit capital and operating assistance, and for transportation related planning. Specifically, the funds will be used for capital assistance as detailed in 49 U.S.C. § 5307 and FTA Circular C 9030.1E "Urbanized Area Formula Program: Program Guidance and Application Instructions."

A.4. "Capital Projects" means those projects as defined in FTA Circular C9030.1E, "Urbanized Area Formula Program Guidance and Application Instructions," Chapter IV.

A.5. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Grantee's duties, responsibilities, and performance hereunder, these items shall

govern in order of precedence below.

- a. this Grant Contract document with any attachments or exhibits (excluding the items listed at subsections b. and c., below);
- b. the Grantee's 49 U.S.C. § 5307 Program application submitted to and as approved by the FTA; and
- c. FTA Circular C 9030.1E, "Urbanized Area Formula Program: Program Guidance and Application Instructions", or the most recently FTA approved updated circular.

B. TERM OF GRANT CONTRACT:

This Grant Contract shall be effective for the period beginning on July 1, 2019 ("Effective Date") and ending on June 30, 2021, ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Fifteen Thousand Dollars and No Cents (\$15,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment One, is the maximum amount due the Grantee 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 Grantee.

C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.

C.3. Payment Methodology. The Grantee 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 Grantee shall submit invoices prior to any reimbursement of allowable costs.

C.4. Travel Compensation. Reimbursement to the Grantee 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 shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

Multimodal Transportation Resources Division
James K. Polk Building, Suite 1200
505 Deaderick Street
Nashville, Tennessee 37243
Department of Transportation

a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).

- (1) Invoice/Reference Number (assigned by the Grantee).
- (2) Invoice Date.
- (3) Invoice Period (to which the reimbursement request is applicable).
- (4) Grant Contract Number (assigned by the State).
- (5) Grantor: Department of Transportation, Multimodal Transportation Resources Division.
- (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
- (7) Grantee Name.
- (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
- (9) Grantee Remittance Address.
- (10) Grantee Contact for Invoice Questions (name, phone, or fax).
- (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:

i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).

ii. The amount reimbursed by Grant Budget line-item to date.

iii. The total amount reimbursed under the Grant Contract to date.

iv. The total amount requested (all line-items) for the Invoice Period.

b. The Grantee understands and agrees to all of the following.

(1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant

Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.

(2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.

(3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Budget Line-item: Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may request revisions of Grant Budget line-items by letter, giving full details supporting such request, provided that such revisions do not increase total Grant Budget amount. Grant Budget line-item revisions may not be made without prior, written approval of the State in which the terms of the approved revisions are explicitly set forth. Any increase in the total Grant Budget amount shall require a Grant Contract amendment.

C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date and in form and substance acceptable to the State.

a. The Grant Budget specifies a Grantee Match Requirement and the final grant disbursement reconciliation report shall detail all Grantee expenditures recorded to meet this requirement.

i. No Grantee expenditure shall be recorded and reported toward meeting a Grantee Match Requirement of more than one grant contract with the State.

ii. The final grant disbursement reconciliation report shall specifically detail the exact amount of any Grantee failure to meet a Match Requirement, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the Grant Budget column "Grant Contract," shall be reduced by the amount that the Grantee failed to contribute to the Total Project as budgeted.

b. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract (including any adjustment pursuant to subsection a.ii. above), the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.

c. The State shall not be responsible for the payment of any invoice submitted to the state after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.

d. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the state pursuant to this Grant Contract.

e. The Grantee 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 Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee 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 Grantee 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 Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.

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 Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.

C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State 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 Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.

C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that

are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.

C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.

a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").

b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

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 Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.

D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.

D.5. Subcontracting. The Grantee 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 State. If such subcontracts are approved by the State, 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 Grantee shall remain responsible for all work performed.

D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract 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 Grantee in connection with any work contemplated or performed relative to this Grant Contract.

D.7. Lobbying. The Grantee 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 Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

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

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 State:

John K. Brock, Transportation Program Monitor 2
Tennessee Department of Transportation
Multimodal Transportation Resources Division
James K. Polk Building, Suite 1200
505 Deaderick Street
Nashville, Tennessee 37243
john.k.brock@tn.gov
Telephone # (615) 741-3432
FAX # (615) 253-1482

The Grantee:

Chris Campbell, AICP
Public Transportation Manager
Kingsport Area Transit Service
900 East Main Street
Kingsport, Tennessee 37660
ChrisCampbell@KingsportTn.gov
Telephone # (423) 224-2857
FAX # (423) 224-2615

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 State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures 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 Grantee 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 Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.11. HIPAA Compliance. The State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) 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 this Grant Contract.

a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.

b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State 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 State and the Grantee 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 State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.

D.12. Public Accountability. If the Grantee 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 Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") 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 Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee 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 Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

D.14. Licensure. The Grantee, its employees, and any approved subcontractor 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 Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives. The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) 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, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee 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 Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system. Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as

requested.

D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.

D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law. If the Grantee is subject to an audit under this provision, then the Grantee shall complete Attachment Two.

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.

D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee 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 Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.326 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

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 Grant Contract is not a waiver or relinquishment of any 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.

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.

D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.

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 Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State 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 Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee 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. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.

D.25. Tennessee Department of Revenue Registration. The Grantee 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. State Interest in Equipment or Motor Vehicles. The Grantee 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 State's equitable interest therein, to the extent of its *pro rata* share, based upon the State'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 cost which equals or exceeds five thousand dollars (\$5,000.00). 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 State in the equipment or motor vehicles acquired by the Grantee 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 State in the equipment or motor vehicles acquired by the Grantee pursuant to the provisions of this program's prior year Grant Contracts between the State and the Grantee.

The Grantee grants the State a security interest in all equipment or motor vehicles acquired in whole or in part by the Grantee 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 Grantee hereby grants the State a security interest in said equipment or motor vehicles. The Grantee agrees that the State 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 Grantee agrees to execute and deliver to the State, upon the State's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant Contract in such form as the State may require to perfect a security interest with respect to said equipment or motor vehicles. The Grantee 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 State may reasonably require. Without the prior written consent of the State, the Grantee 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 Grantee'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 State shall have the remedies of a secured party under the Uniform Commercial Code and, at the State's option, may also invoke the remedies herein provided.

The Grantee 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 Grantee 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. Vehicle identification number;
- c. Manufacturer's serial number or other identification number, when applicable;
- 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 Grantee's operations where the equipment or motor vehicles is used;
- h. Condition of the property or disposition date if Grantee no longer has possession;
- i. Depreciation method, if applicable; and
- j. Monthly depreciation amount, if applicable.

The Grantee 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 Grantee shall inventory equipment or motor vehicles annually. The Grantee must compare the results of the inventory with the inventory control report and investigate any differences. The Grantee must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

The Grantee 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 State. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Grantee shall notify the State, 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 Grantee shall be responsible to the State for the *pro rata* amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

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 Grantee shall request written approval from the State 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. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee 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 Grantee acknowledges and agrees that any rights or claims against the State of Tennessee 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. §§ 9-8-101 through 9-8-408.

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 agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, 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 shall not be affected 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.

D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

D.34. Debarment and Suspension. The Grantee 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 Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense 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 this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State 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, or presently fall under any of the prohibitions of sections a-d.

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 be subordinate to the Grant Contract's other terms and conditions.

E.2. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Grant Contract.

E.3. Printing Authorization. The Grantee agrees that no publication coming within the jurisdiction of Tenn. Code Ann. § 12-7-101, *et seq.*, shall be printed pursuant to this Grant Contract unless a printing authorization number has been obtained and affixed as required by Tenn. Code Ann. § 12-7-103(d).

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 Grantee 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 Grantee 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 made part of any subcontract related to this Grant Contract.

E.5. Disclosure of Personally Identifiable Information. The Grantee shall report to the State any instances of unauthorized disclosure of personally identifiable information that come to the attention of the Grantee. Any such report shall be made by the Grantee within twenty-four (24) hours after the instance has come to the attention of the Grantee. The Grantee, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. The Grantee shall bear the cost of notification to individuals having personally identifiable information involved in a potential disclosure event, including individual letters or public notice. The remedies set forth in this section are not exclusive and are in addition to any claims or remedies available to the State under this Grant Contract or otherwise available at law.

E.6. Transfer of Grantee's Obligations.

The Grantee shall not transfer or restructure its operations related to this Grant Contract without the prior written approval of the State. The Grantee shall immediately notify the State in writing of a proposed transfer or restructuring of its operations related to this Grant Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving a proposed transfer or restructuring.

E.7. T.C.A. Section 13-10-107 Compliance.

1) Grantee agrees to proceed expeditiously with and complete the project in accordance with plans approved by the Commissioner of TDOT ("Commissioner");

2) Grantee agrees to commence and continue operation of the project on completion of the project

and not to discontinue operations or dispose of all or part of the project without Commissioner's prior written approval;

3) Grantee agrees to apply for and make reasonable efforts to secure federal assistance for the project, subject to any conditions the Commissioner may require in order to maximize the amounts of such assistance received or to be received for all projects in the State; and

4) Grantee agrees to provide Grantee's share of the cost of the project and comply with T.C.A. § 13-10-107(c)(4).

E.8. Match/Share Requirement. A Grantee Match/Share Requirement is detailed in the Grant Budget, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the "Grant Contract" column in the Grant Budget, shall be reduced by the amount of any Grantee failure to meet the Match/Share Requirement.

E.9. Reimbursements to Reflect Match/Share. Reimbursements to Grantee shall reflect the percentage of Grantee Match/Share detailed in the Grant Budget. Reimbursements are subject to the other provisions of this Grant Contract, including but not limited to, the maximum liability amount in Section C.1.

E.10. The Grantee agrees:

(a) To use the equipment acquired under this Grant only for the purposes and the manner set forth in their application.

(b) At the beginning of each calendar year, the Grantee shall certify that the equipment received under this Grant is still being used in accordance with the terms and provisions of this agreement.

(c) To pay all fees on the equipment acquired through this Grant, including but not limited to, title and registration fees.

(d) To be responsible for all costs and expenses related to the operation, maintenance, and repair of the equipment acquired through this Grant Agreement.

(e) To provide licensed drivers, as required by the Tennessee Department of Safety, for operation of all equipment received under this Grant.

(f) To carry insurance on vehicles, equipment, and facilities to cover the federal interest and state interest in the asset.

a. If the Grantee is governed by the Tennessee Governmental Tort Liability Act (T.C.A. § 29-20-101 et seq.), the following insurance coverage is required:

a) Bodily injury or death of any one person in any one accident, occurrence or act at a minimum of \$300,000.00 per person.

b) Bodily injury or death of all persons in any one accident, occurrence or act at minimum of \$700,000.00 per accident.

c) Injury to or destruction of property of others in any one accident at a minimum of \$100,000.00.

b. If the Grantee is not covered by the Tennessee Governmental Tort Liability Act (T.C.A. § 29-20-101 et seq.), then the following insurance coverage is required:

a) Personal Injury Liability at a minimum of \$300,000.00 per person and \$1,000,000.00 per incident.

b) Property Damage Liability at a minimum of \$300,000.00 per incident.

c) Comprehensive Coverage with a maximum deductible of \$500.00.

d) Collision Coverage with a maximum deductible of \$500.00.

e) Uninsured Motorist Coverage with a minimum of \$50,000.00 per person and \$100,000.00 per incident.

c. Additionally, the Grantee shall comply with provisions of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 USC 4012a(a), with respect to any project activity involving construction or an acquisition having an insurable cost of \$10,000.00 or more.

This insurance shall be in effect at all times while the vehicle is used for public transportation services or service vehicle purposes in operations. The Grantee shall furnish the State with evidence of such insurance at the time the equipment is delivered to the Grantee and annually on the anniversary date of the delivery of the equipment. Upon demand by the State, the Grantee shall provide proof of insurance at any time during the term of useful life of equipment.

(g) That any vehicles received under this Grant will comply with the Motor Vehicle Safety Standards as established by the United States Department of Transportation.

(h) That any vehicles received under this Grant shall be used for not less than the useful life. The useful life of all vehicles purchased under the Grant is as listed in the document filed with the Federal Transit Administration (FTA). Upon reaching the expiration of the useful life of the equipment, the State may ask the Grantee to provide written notice to the State.

E.11. Vehicle Disposal Process. The Grantee shall adhere to disposal process as described in the State Management Plan for FTA Programs of the Tennessee Department of Transportation on file with the Federal Transit Administration (FTA)

E.12. Vehicle Disposal Proceeds. All proceeds from the disposal of the vehicle as described in

the vehicle disposal process shall be accounted for and used for transportation program activity expenses.

No Retainage Allowed. The Grantee may not withhold retainage on progress payments from the prime contractor and the prime contractor may not withhold retainage from their subcontractors
[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 4th day of February, 2020.

PATRICK W. SHULL, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER
APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



AGENDA ACTION FORM

Approving A&E Services for KATS Vehicle Storage and Maintenance Facility Project

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

Action Form No.: AF-28-2020
 Work Session: February 3, 2020
 First Reading: N/A

Final Adoption: February 4, 2020
 Staff Work By: Billingsley, Melton, Campbell
 Presentation By: Chris Campbell

Recommendation:

Approve the Resolution.

Executive Summary:

The recent opening of the new Transit Center completed phase 1 of the comprehensive project. Now phase 2, which includes a vehicle storage and maintenance facility, is ready to be designed. Staff recommends selecting Barge, Inc. to provide Architecture, Engineering, and Construction Management services for this project. Funding for this project was previously budgeted and available.

Attachments:

1. Resolution

Funding source appropriate and funds are available: *[Signature]*

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH BARGE DESIGN SERVICES, INC. FOR ARCHITECTURE, ENGINEERING AND CONSTRUCTION MANAGEMENT OF PHASE 2 OF THE TRANSIT CENTER STORAGE AND MAINTENANCE FACILITY AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, phase 1 of the new transit center has been completed and the city would like to begin phase 2; and

WHEREAS, the city would like to enter into an agreement with Barge Design Services, Inc. to provide architecture, engineering, and construction management services for phase 2 which includes a vehicle storage and maintenance facility; and

WHEREAS, the amount of the agreement is in the amount of \$308,388.00 and funds are available in Project GP1718.

Now therefore,

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

SECTION I. That an agreement with Barge Design Services, Inc. to provide architecture, engineering, and construction management services for phase 2 of the transit center project which includes a vehicle storage and maintenance facility 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 Barge Design Services, Inc. to provide architecture, engineering, and construction management services for phase 2 of the transit center project which includes a vehicle storage and maintenance facility - and all other documents necessary and proper, and to take such acts as necessary, 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 agreement 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 4th day of February, 2020.

PATRICK W. SHULL, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



AGENDA ACTION FORM

Approval of Easements and Rights-of-Way

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

Action Form No.: AF-30-2020
 Work Session: February 3, 2020
 First Reading: N/A

Final Adoption: February 4, 2020
 Staff Work By: R. Trent; P. Gilmer
 Presentation By: R. McReynolds

Recommendation:

Approve the offers.

Executive Summary:

In order to update existing water services in the Millpond Street area, the Public Works Department has requested easements and rights-of-way across affected properties for Phase 5 of the Water System Improvement Project. 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 attached property owners.

This project will be funded under #WA1902.

Attachments:

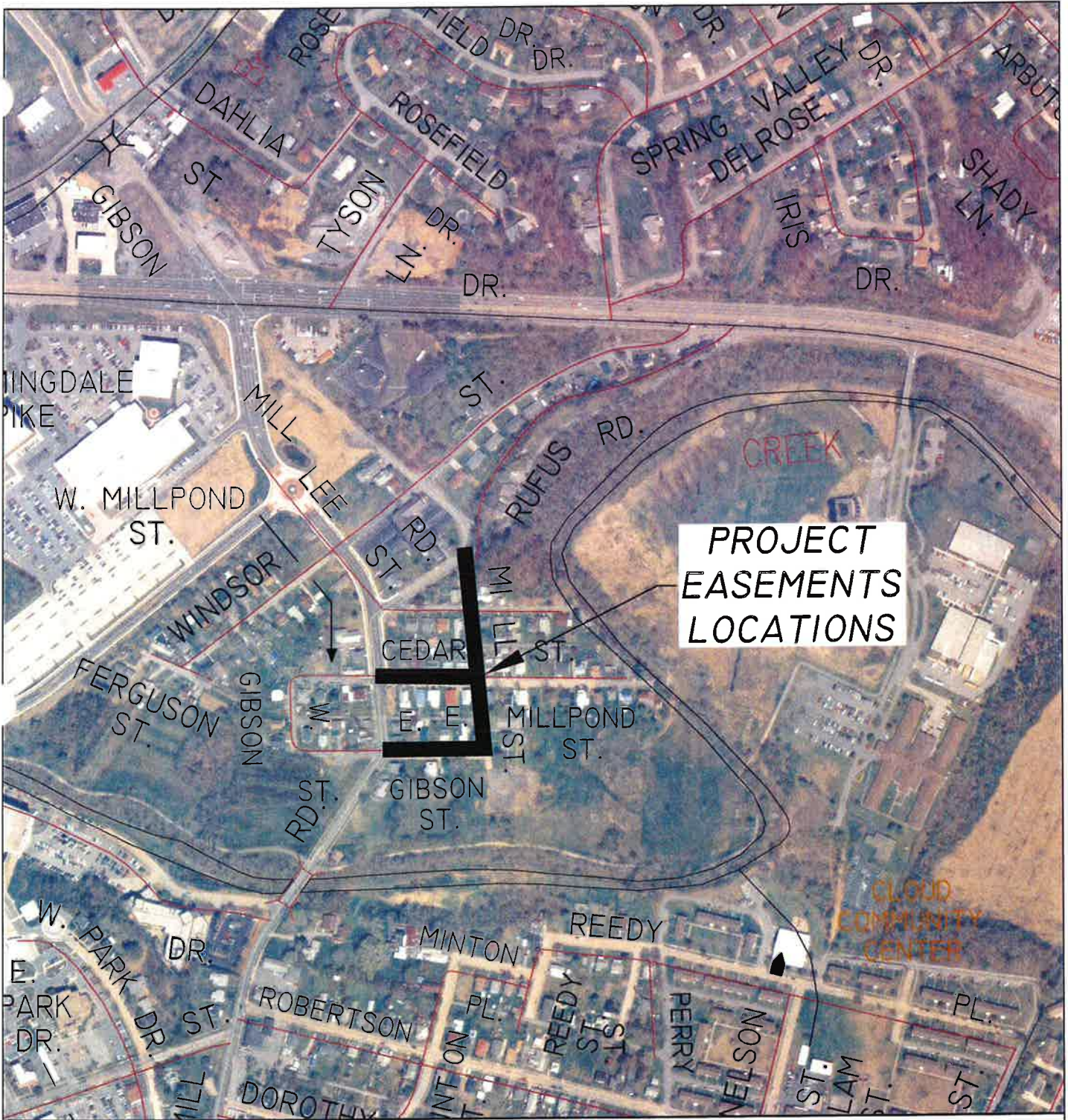
1. Offers
2. Project Location Map

Funding source appropriate and funds are available: *CM*

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

Water System Improvements Project – Phase 5

<u>Tax Map/Parcel</u>	<u>Property Owner/s</u>	<u>Easement Area</u>	<u>Appraised Value</u>
046G; B-001.00	Audrey Juanita Thompson 121 Cedar Street Kingsport, TN 37660	Perm. 505 sq. ft.	\$490.00
046G; B-002.00	Glass Rental, GP 3613 Memorial Boulevard Kingsport, TN 37664	Perm. 721 sq. ft.	\$520.00
046G; B-003.00	Clarence Simpson 3356 Grandview Drive Kingsport, TN 37660	Perm. 501 sq. ft.	\$370.00
046G; B-004.00	Matthew Todd Klepper 105 E. Millpond Street Kingsport, TN 37660	Perm. 536 sq. ft.	\$310.00
046G; B-022.00	Glass Rentals, GP 3613 Memorial Boulevard Kingsport, TN 37664	Perm. 234 sq. ft.	\$190.00
046G; B-023.00	John & Lena Green 112 E. Millpond Street Kingsport, TN 37660	Perm. 252 sq. ft.	\$210.00
046G; B-024.00	Margaret Haynes & Amy Nicole Haynes 110 E. Millpond Street Kingsport, TN 37660	Perm. 249 sq. ft.	\$200.00
046G; C-030.50	Kingsport Power Company 1 Riverside Plaza, 29 th Floor Columbus, OH 43215	Perm. 307 sq. ft.	\$40.00
046G; C-033.00	Matthew Todd Klepper 105 E. Millpond Street Kingsport, TN 37660	Perm. 860 sq. ft.	\$210.00
046G; C-034.00	Justin D. & Bridget Adams 1040 Gibson Mill Road Kingsport, TN 37660	Perm. 297 sq. ft.	\$230.00
046G; B-042.00	Mabel Louise Leeper 1301 Mill Street Kingsport, TN 37660	Perm. 634 sq. ft.	\$510.00



**PHASE 5 WATER SYSTEM
IMPROVEMENTS
EASEMENTS LOCATION MAP 2**

2019-C15



AGENDA ACTION FORM

Purchase the Aspen Student Information System from Follett School Solutions, Inc. Utilizing the State of TN Contract# NC 61797

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

Action Form No.: AF-31-2020
 Work Session: February 3, 2020
 First Reading: N/A

Final Adoption: February 4, 2020
 Staff Work By: Committee
 Presentation By: David Frye

Recommendation:

Approve the Resolution.

Executive Summary:

Kingsport City Schools recently completed an evaluation of State of TN approved Student Information Systems with the intent to replace the current Power School system. The evaluation process included onsite product demonstrations, internal product evaluations completed by select user groups, review of software/hardware requirements, and evaluation of price proposals based on the Vendors State of TN contract and pricing for additional modules required by KCS. The three vendors who provided product information and demonstrations were Skyward, Infinite Campus and Follett School Solutions.

Based on the internal evaluation of the products by user groups and based on the pricing proposals provided, Kingsport City Schools selected the Follett Aspen Student Information System as the product that will best meet the needs of the school system. The Follett Aspen Student Information System (SIS) price quote based on the Follett School Solutions State of TN Contract# NC 61797 includes a one-time implementation cost, system purchase cost, fees for maintenance support and hosting services. Total cost for the Follett Aspen Student Information System will be \$140,049.75.

The Board of Education approved the request to purchase the Follett Aspen Student Information System from Follett School Solutions, Inc. on January 14, 2020. Kingsport City Schools is requesting the Board of Mayor and Aldermen approve the purchase and approve the authorization of contract documents by the Mayor.

Attachments:

1. Resolution
2. Follett School Solutions Inc. Agreement

Funding source appropriate and funds are available: *JM*

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

RESOLUTION NO. _____

A RESOLUTION TO PURCHASE THE FOLLET ASPEN STUDENT INFORMATION SYSTEM FROM FOLLETT SCHOOL SOLUTIONS, INC, UTILIZING THE STATE OF TN CONTRACT# NC 61797 AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, pursuant to TCA § 12-3-1201, Kingsport City Schools would like to purchase the Aspen Follett Student Information System utilizing the State of TN Contract# NC 61797; and

WHEREAS, the total purchase cost is \$140,049.75; and

WHEREAS, funding is identified in account number 141-7250-785.07-90.

Now therefore,

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

SECTION I. That the purchase of the Follett Aspen Student Information System from Follett School Solutions, Inc. utilizing the State of TN Contract # NC 61797 is approved and the mayor is authorized to execute an agreement for same and all documents necessary and proper to effectuate the purpose of the agreement.

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 public.

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

ADOPTED this the 4th day of February, 2020.

PATRICK W. SHULL, MAYOR

ATTEST:

SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



Follett School Solutions, Inc.

1340 Ridgeview Drive

McHenry, Illinois 60050

www.follett.com

Tel: 815-759-1700

Dir: 888-511-5114

Fax: 815-759-9831

January 17, 2020

Michelle Ramey
Asst Procurement Manager
City of Kingsport for Kingsport City Schools
400 Clinchfield Street
Kingsport, TN 37660

Dear Ms. Ramey:

We are pleased to present the enclosed Agreement for the purchase and implementation of our **Aspen Solution**.

In order for us to begin the implementation process, please provide us with the information listed below.

- An authorized representative of your District needs to **sign page 3**.
- Please have an authorized representative of your District Sign and complete the fields as prompted and upload your PO if available.

We look forward to a successful Aspen implementation and we appreciate your decision to partner with Follett School Solutions, Inc.

If you have any questions, please feel free to contact me.

Sincerely,

Emily Gregory
National Aspen Sales Director
Follett School Solutions, Inc.
Phone: 586-337-9337
egregory@follett.com



Aspen Student Information System
Hosted Service
Agreement
 City of Kingsport for Kingsport City Schools
 State of TN Contract # NC 61797
 Customer # 4139052
 Quote # 971710-2
 Kingsport, TN
 January 17, 2020
 Service Date: July 1, 2020

This Aspen Student Information System Agreement, which includes the attached Standard Terms, Statement of Work and schedules (collectively, "Agreement"), governs your purchase and licensing of Follett School Solutions, Inc. Aspen Student Information System™. The Aspen solution provides a student information system that includes the Aspen application software license, data processing and conversion services, system installation, project management support, and training for your District.

Unless otherwise prevented by applicable law, the prices and terms in this Agreement are **confidential**. They will be held open and valid until March 24, 2020.

State Contract NC 61797

<i>Year 1 Services and Costs</i>	List Price	Discount Price
Aspen Software		
▪ Aspen - SAAS - Student Information System for 7,765 student(s)	\$62,120.00	\$38,048.50
▪ Aspen Health - SAAS for 7,765 student(s)	Included	included
▪ Aspen – Online Registration SAAS for 7,765 student(s)	\$19,412.50	\$19,412.50
▪ Hosting Service for 7,765 student(s)	\$15,530.00	\$3,882.50
Annual Subscriptions		
▪ Aspen Hosted Training Environment	\$1,500.00	\$1,500.00
▪ Aspen Online Webinar Subscription for 1 connection(s)	\$2,500.00	\$2,500.00
One-Time Services		
Implementation Services		
▪ Aspen One-Time Production Environment Setup – Hosted for 7,765 student(s)	\$1,941.25	\$1,941.25
▪ Aspen Custom Development - Standard for 150 hour(s)	\$30,000.00	\$22,500.00
▪ Aspen SIS- Onsite- System Configuration (3) days)	\$10,000.00	\$10,000.00
▪ Aspen SIS – Project Management Package	\$15,000.00	\$15,000.00
▪ Aspen Online Registration Standard Implementation Package	\$7,765.00	\$7,765.00
▪ Aspen Health – Project Management Package	\$7,500.00	\$7,500.00
Data Conversion		
▪ Aspen SIS Standard Conversion	\$20,000.00	\$10,000.00
Training		
▪ Aspen SIS – Onsite – Go Live Training for 10 day(s)	\$18,000.00	\$0.00
▪ Aspen Health – Onsite – System Admin Training for 1 day(s)	\$2,000.00	\$0.00

▪ Aspen Health – Onsite – Go Live Training for 1 day(s)	\$1,800.00	\$0.00
Total Year 1 Costs	\$215,068.75	
Discount	(\$75,019.00)	
Customer Price	\$140,049.75	

<i>Year 2 and Ongoing Annual Costs</i>	List Price	Discount Price
Aspen Service		
▪ Aspen - SAAS - Student Information System for 7,765 student(s)	\$62,120.00	\$38,048.50
▪ Aspen Health - SAAS for 7,765 student(s)	Included	Included
▪ Aspen – Online Registration SAAS for 7,765 student(s)	\$19,412.50	\$19,412.50
▪ Hosting Service for «7,765 student(s)	\$15,530.00	\$3,882.50
▪ Support will include the following services:		
○ Telephone support		
○ Email support		
○ Direct remote access		
○ SFTP or HTTP download of files		
○ Issues tracking		
Annual Subscriptions		
▪ Aspen Hosted Training Environment	\$1,500.00	\$1,500.00
▪ Aspen Online Webinar Subscription for 1 connection(s)	\$2,500.00	\$2,500.00
Total Service Costs:	\$101,062.50	\$65,343.50
Customer Service Costs:	\$65,343.50	

Note: You must have paid or pay for all prior years' Annual Costs in order to receive customer support and software updates.

Term: The Term of the agreement shall commence upon complete execution of the Agreement. The initial License Term shall begin as of **the Service Date**.

By signing below, you represent that you have read the terms of this Agreement, including those on the following pages, understand and agree to such terms, and are duly authorized to sign on behalf of the School District.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their authorized representatives as set forth below.

Follett School Solutions, Inc.

City of Kingsport for Kingport City Schools

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Address: 1340 Ridgeview Drive

E-mail Address: _____

McHenry, IL 60050

Address: _____

Date: _____

Date: _____

To ensure your implementation starts when planned and goes smoothly, please provide us with the information listed below:

- An authorized representative of your District needs to **sign above**.

Payment Schedule

Customer agrees to make the following payments related to the purchase outlined in this Aspen Student Information System Agreement.

US Dollars		
Description	Amount	Due Date
Initial Costs	\$140,049.75	Net 30 days after contract signed
Total	\$140,049.75	

1. Total includes purchase price and any applicable interest.
2. All payments should be made to Follett School Solutions, Inc.
3. Please include with your fax the name and mailing address of the person to whom Follett School Solutions, Inc. should return a copy of the fully executed agreement.

Follett School Solutions, Inc. Standard Terms and Conditions

1. Nature of the Transaction. Follett agrees to sell and license to the School District first named in this Agreement ("Customer"), and Customer agrees to purchase and license from Follett the products and services listed in this Agreement (collectively referred to as the "Software").

2. LICENSED SOFTWARE.

2.1 Software. Subject to all terms and conditions in this Agreement and for the duration of the term of the Service, Follett grants to Customer a nonexclusive, nontransferable license to use the Software without modification, solely for Customer's internal business purposes in configuring and managing the school or school district specified in the Quote. Customer agrees to use the Software only on Customer Servers or, subject to Follett's prior written approval, on third party servers solely for Customer's use hereunder. Customer may make a reasonable number of copies of the Software for inactive archival purposes. Access or use of certain additional or special features of Aspen, including but not limited to subscription services, requires that Customer maintains current Follett support services.

2.2 License Control. Customer acknowledges that the Software may contain code or require devices that detect or prevent unauthorized use of, or automatically disable, the Software.

2.3 Third Party Software. The Software may execute in conjunction with software or other technology (**In-Licensed Code**) that is licensed to Follett from, and owned by, third parties (**Third Party Licensors**), including open source software and technology (Please see <http://www.follettsoftware.com/aspen/licenseagreement/AspenMobileOpenSource.pdf> for a list). Customer agrees (a) to use In-Licensed Code in accordance with this Agreement and any other restrictions specified in the applicable license set forth in any documentation provided to Customer by Follett, (b) no Third Party Licensor makes any representation or warranty to Customer under this Agreement concerning the In-Licensed Code or Software and (c) no Third Party Licensor will have any obligation or liability to Customer under this Agreement as a result of this Agreement or Customer's use of the In-Licensed Code.

3.SERVICES.

3.1. Software Implementation Support, Project Management and Software Maintenance and Support purchased under this Agreement are set forth in detail, including Customer's obligations in receiving the services, under the Statement of Work attached to and incorporated into this Agreement as Schedule A (the "SOW"). Customer will receive, at no additional cost, any corrections, enhancements, updates or other modifications to the Software to the extent they are made generally available to Follett's customers, provided Customer has continuously maintained and paid for Support and Maintenance or makes payment to become current on continuous Support and Maintenance.

3.2 Limitations. Support Services do not include the provision of support for the Software other than those identified in the Quote and for which the annual fee or other applicable fees have been paid, nor do the Support Services include support for the Software that has been abused, misused, modified or repaired by or on behalf of Customer, even if such modification is permitted under this agreement. The provision of Support Services hereunder shall not be construed to amend or modify in any respect the scope of any license granted hereunder.

4.DELIVERY.

4.1 Installation. If Customer has not subscribed to Follett's hosting service, Follett will install the Software (as defined below) on a server or other equipment provided and maintained by Customer. The Software will be installed for use during the term of the Service and shall be installed in a manner that will permit its removal upon the termination of the Service.

Software means any Follett computer program and/or subscription services identified on the Follett Agreement and any user guide, help information and other documentation delivered by Follett in paper, digital or electronic form to Customer for use with the Software.

4.2 Operations. Customer is solely responsible for installing, operating, maintaining and securing all Customer Servers, licensing and installing and providing, maintaining and securing its operating environment (including power, virus protection, environmental controls, hardware, software, firewalls, backup services and network and communications facilities). Except as specified in the Agreement, Customer shall also be responsible for licensing, installing, operating, maintaining database software required for the operation of the Software.

5. HOSTED SERVICE.

5.1 Software Access. In the event Customer is obtaining hosting services from Follett, Follett will make the Software (as defined below) available to Customer remotely on Follett Servers. Subject to the terms of this Agreement, the

Software will be available for use at all times during the term of the Service. All access to the Software shall be terminated upon the termination of the Service.

Follett Servers means any appliances, servers or other equipment provided and maintained by Follett or a third party on behalf of Follett.

Customer Servers means any appliances, servers or other equipment provided and maintained by Customer or a third party on behalf of Customer.

Customer may switch to self-hosting (on Customer Servers) at any time, and Follett will work with Customer to transfer the data from Follett Servers to Customer Servers. A nominal fee is invoiced for the ASPEN ONE-TIME LIVE BACKUP RETRIEVAL - HOSTED service to complete the transfer.

5.2 Remote Data Storage. Remote data storage on Follett servers will be provided with access to the Software. Daily backup of customer data will be the responsibility of Follett. There will be an additional cost for services to restore or recover data lost or damaged due to Customer errors.

6. PROPRIETARY RIGHTS.

6.1 Customer. Customer shall own all right, title and interest in and to all school related data and records created by Customer and stored by the Software.

6.2 Restrictions. Except as specifically permitted in this Agreement, Customer shall not directly or indirectly: (a) reverse engineer, decompile, disassemble, or otherwise try to discover any source code or underlying ideas or algorithms of the Software (except and only to the extent that these restrictions are expressly prohibited by applicable statutory law); (b) encumber, sublicense, transfer, assign, loan, distribute or use the Software or any portion thereof to or for the benefit of any third party (e.g., service bureau arrangement); (c) copy, create derivative works of or otherwise modify any Software; (d) permit or allow any Users to use the Software to post materials that may infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right or (e) permit any third party to do so. Any modifications you make to the Software will remain the property of Follett and/or its Licensors.

6.3 No Implied License. Except for the limited rights and licenses expressly granted hereunder, no other license is granted, no other use is permitted and Follett (or its licensors and vendors, as the case may be) shall retain all right, title and interest in and to the Software and In-Licensed Code (including all intellectual property rights therein). Customer agrees not to take any action inconsistent with such ownership.

6.4 Markings. Customer shall not obscure, alter or remove any patent or other proprietary or legal notice affixed to or contained on or in any Software (including without limitation, any on-screen notice).

6.5 Permitted Source Code Modification. Customer may modify the Software source code solely for the purpose of generating customized reports and procedures using the Software's reporting function. Any such modifications and any derivative work created thereby shall automatically become part of the Software and shall be treated as Software for all purposes under this Agreement.

7. THIRD PARTY HARDWARE.

7.1 Additional Hardware and Software Required. This Agreement does not include the cost or purchase of any hardware or third party software required for operating the Software.

7.2 Limited Warranties. Follett warrants, for the benefit of Customer only, that any third party equipment or software purchased under this Agreement will conform in all material respects to the specifications supplied by the manufacturer and shall be free of material defects. Follett's sole obligation and Customer's exclusive remedy for any defect or nonconformity in the equipment will be Follett's cooperation with Customer to provide it with the benefit of any warranty and support commitment of the third-party manufacturers and suppliers of the equipment.

7.3 DISCLAIMER OF WARRANTY. THE LIMITED WARRANTIES REGARDING HARDWARE OR THIRD PARTY SOFTWARE SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED (INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, STATUTORY OR OTHERWISE). CUSTOMER ACKNOWLEDGES THAT FOLLETT IS NOT THE MANUFACTURER OF THE EQUIPMENT AND EXPRESSLY WAIVES ANY CLAIM AGAINST FOLLETT BASED UPON ANY INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT WITH RESPECT TO ANY ITEM(S), ANY DEFECTS OR ANY NONCONFORMANCE OF THE THIRD PARTY EQUIPMENT OR THIRD PARTY SOFTWARE WITH ITS SPECIFICATIONS, OR FOR ANY INDEMNITY AGAINST ANY CLAIM MADE BY ANY THIRD PARTY AGAINST CUSTOMER.

8. CUSTOMER OBLIGATIONS.

8.1 Support Contacts. Customer will identify and provide contact information for that number of persons specified in the Agreement (or such replacements as designated in writing to Follett) as its authorized **Support Contacts**. The Support Contacts will be the sole contacts for the coordination and receipt of the Support Services, and such persons shall be trained and knowledgeable about how the Software is being used and the operating environment in which it is being used. The Support Contacts shall be required to complete a training program provided by Follett regarding the Software within a reasonable time after that training is made available by Follett.

8.2 Cooperation. Customer agrees to provide reasonable supporting data (including written descriptions of problems) as requested by Follett, and to otherwise aid Follett in identifying and isolating reported problems.

8.3 Access. Customer agrees to obtain and maintain all equipment and services necessary for internet access and an internet address for electronic mail communications with Follett so that Follett may provide Support Services remotely for any Software during the term of the Service. If Customer is using Software installed on Customer Servers, Customer will also provide Follett with remote access to Customer Servers, Software and operating environment as reasonably necessary to perform the Support Services. Customer will be solely responsible for backing-up or otherwise protecting all software, data and other information residing on Customer Servers and other equipment and systems prior to any such access.

9. CONFIDENTIALITY.

9.1 Definition. **Confidential Information** means all trade secrets, know-how, software and other financial, business or technical information disclosed by or for a party in relation to this Agreement, but not including any information the receiving party can demonstrate is (a) rightfully furnished to it without restriction by a third party without breach of any obligation to the disclosing party, (b) generally available to the public without breach of this Agreement or (c) independently developed by it without reliance on such information. All Software and, to the extent allowable by applicable law, pricing information is deemed to be Follett's Confidential Information.

9.2 Confidentiality. Except for the specific rights granted by this Agreement, neither party shall use or disclose any of the other's Confidential Information without its written consent, and use reasonable care to protect the other's Confidential Information. Each party shall be responsible for any breach of confidentiality by its employees and contractors. Promptly after any termination of the Service (or at the disclosing party's request at any other time), the receiving party shall return all of the other's tangible Confidential Information, permanently erase all Confidential Information from any storage media and destroy all information, records and materials developed there from. Each party may disclose only the general nature, but not the specific terms, of this Agreement without the prior consent of the other party; provided, either party may provide a copy of this Agreement or otherwise disclose its terms in connection with any financing transaction, due diligence inquiry or governmental audit or inquiry.

10. PAYMENTS.

10.1 Fees. Customer agrees to pay Follett the annual service fee (the **Annual Cost**) and all other fees for services specified in the Agreement, such as installation costs and supplemental training costs and elsewhere, in the amounts and at the times specified therein. Certain costs are based on the number of students serviced by Customer and Follett reserves the right to verify student counts provided by Customer.

10.2 Other Charges. Customer agrees that Follett will have the right to charge in accordance with its then current policies for any services resulting from (a) Software that has been modified or repaired by or on behalf of Customer whether or not such modification is permitted hereunder, (b) Customer's failure to utilize the then current release of the Software, or (c) problems, errors or inquiries relating to hardware or software other than the Software. Follett may provide training materials or services, upon such terms and conditions (including without limitation, price) as the parties may agree in writing.

10.3 Payment Terms. Unless specified otherwise, all amounts due hereunder shall be paid within 30 days after invoice in US dollars at Follett's address (or, at its option, to an account specified by Follett). Any amount not paid within 90 days after invoice shall incur a late payment charge calculated from the invoice date at the rate of 1.5% per month or the maximum amount permitted by law, whichever is less. Customer agrees to reimburse Follett for all reasonable costs (including attorneys' fees) incurred in collecting payments. All payments required by this Agreement are exclusive of federal, state, local and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales taxes, use taxes and value added taxes). Customer is responsible for any taxes due.

11. WARRANTIES AND DISCLAIMERS.

11.1 Software/Service. Follett warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof. Any warranty claim under this Section 11.1 must be made in writing during the 60 day period after performance of the nonconforming Services. Follett warrants that for a period of 1 year from its delivery to your site or your access, the Software will perform in substantial compliance with its

specifications and be free of material defects and will not infringe upon the intellectual property rights of any third party. As your sole and exclusive remedy for this warranty, Follett will either repair or replace the nonconforming Software or refund your prorated annual fee. This limited warranty does not cover any material defect or infringement resulting from any accident, abuse, or misapplication of the Software caused by you, your employees, end users, agents or contractors, or any modification you, your employees, end users, agents or contractors make to the Software, whether or not such modification is authorized by Follett.

11.2 Disclaimers. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE SOFTWARE, DOCUMENTATION AND SUPPORT SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. FOLLETT DOES NOT WARRANT THAT THE SOFTWARE OR THE SUPPORT SERVICES WILL MEET CUSTOMER'S REQUIREMENTS, OR THAT THEIR OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY ERRORS CAN OR WILL BE FIXED. THE LIMITED WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE, FOR THE BENEFIT OF CUSTOMER ONLY AND IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED (INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, STATUTORY OR OTHERWISE). AND ALL WARRANTIES ARISING FROM ANY COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE. CUSTOMER ACKNOWLEDGES THAT FOLLETT IS NOT THE MANUFACTURER OF ANY HARDWARE PROVIDED HEREUNDER AND EXPRESSLY WAIVES ANY CLAIM AGAINST FOLLETT BASED UPON ANY INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT WITH RESPECT TO ANY ITEM(S), ANY DEFECTS OR ANY NONCONFORMANCE OF THE THIRD PARTY EQUIPMENT OR HARDWARE WITH ITS SPECIFICATIONS, OR FOR ANY INDEMNITY AGAINST ANY CLAIM MADE BY ANY THIRD PARTY AGAINST CUSTOMER. A LIST OF THE THIRD PARTY SOURCE CODE USED IN THE PRODUCT AND ITS LICENSING TERMS ARE ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN AND IS PROVIDED BY THIRD PARTY LICENSORS "AS IS," WHO DISCLAIM ANY EXPRESSED OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL ANY SUCH THIRD PARTY LICENSOR OR ITS CONTRIBUTORS OR FOLLETT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO LOSS OF USE OR DATA), HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING OUT OF THE USE OF THE CONTENT, SOFTWARE OR SOURCE CODE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT WILL FOLLETT OR ITS LICENSORS BE LIABLE TO YOU IN ANY AMOUNT EXCEEDING THE TOTAL FEES YOU HAVE PAID TO FOLLETT DURING THE TWELVE MONTHS PRECEDING YOUR CLAIM.

11.3 Communications Limitations. With regards to Hosted Services, if applicable, as with any hosted software application, the availability of the Software is dependent on a complex network of services and devices that are maintained by Follett, customer and third parties. Remote access may be subject to limitations, delays, and other problems inherent in the use of this network. Follett shall take reasonable steps to prevent any such limitations, delays or problems which may result from services and devices controlled by Follett, but Follett shall not be responsible for any delays, delivery failures, or other damage resulting from such problems controlled by Customer or third parties.

12. INDEMNIFICATION.

12.1 Infringement. Except as provided below, Follett agrees to (i) defend Customer against any claim by a third party that Software infringes a valid US patent issued as of the service date, or any copyright or trade secret, of such third party and (ii) indemnify Customer for settlement amounts or damages, liabilities, costs and expenses (including reasonable attorneys' fees) awarded and arising out of such claim; provided, that (a) Customer promptly provides Follett notice thereof and reasonable cooperation, information, and assistance in connection therewith, and (b) Follett shall have sole control and authority to defend, settle or compromise such claim. If any Software becomes or, in Follett's opinion, is likely to become the subject of any injunction preventing its use as contemplated herein, Follett may, at its option (1) obtain for Customer the right to continue using such Software or (2) replace or modify such Software so that it becomes non-infringing without substantially compromising its principal functions. If (1) and (2) are not reasonably available to Follett, then it may (3) terminate the Service upon notice to Customer and, after return of the Software by Customer, refund to Customer the a prorated amount of the Annual Cost.

12.2 Indemnification. Follett agrees to indemnify, defend and hold harmless Customer and its officers, directors, employees, agents, attorneys and assigns, against any third party claims, demands, actions, arbitrations, losses and liabilities resulting from any injury, death or damage to property, caused by Follett's employees or subcontractors in performing the obligations under this Agreement. Follett shall maintain liability insurance sufficient to fulfill its obligations under this Section and shall submit proof of such insurance to Customer upon request. Such insurance may not be changed by Follett in a manner that would lessen the protection provided to Customer during the term of this Agreement without Customer's prior written consent.

12.3 Exclusions. Follett shall have no liability or obligation hereunder with respect to any claim based upon (a) any use on a Software not strictly in accord with this Agreement, or in an application or environment or on a platform or with devices for which it was not designed or contemplated, (b) alterations, combinations or enhancements of the Software not created by or for Follett, (c) Customer's continuing allegedly infringing activity after being notified thereof or its continuing use of any version of the Software after being provided modifications that would have avoided the alleged infringement, (d) any In-Licensed Code or (e) any intellectual property right in which Customer or any of its affiliates has an interest. Customer shall indemnify and hold Follett harmless from all damages, liabilities, losses, costs and expenses (including reasonable attorneys' fees) arising out of any claim excluded above in clauses (a) through (e).

12.4 Entire Liability. The foregoing states the entire liability of Follett, and Customer's exclusive remedy, with respect to any actual or alleged violation of intellectual property rights by any Software, any part thereof or by its use or operation.

13. LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL FOLLETT, ITS AFFILIATES, OR THEIR RESPECTIVE DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS AND REPRESENTATIVES BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, RELIANCE SPECIAL, OR PUNITIVE DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, BUSINESS INTERRUPTIONS, LOSS OR INACCURACY OF DATA, LOSS OR INTERRUPTION OF USE OR COST OF PROCURING SUBSTITUTE TECHNOLOGY, GOODS OR SERVICES, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF THE PRODUCTS OR SERVICES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY, FAILURE OF ESSENTIAL PURPOSE, OR OTHERWISE, AND EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FOLLETT'S TOTAL LIABILITY FOR ANY CLAIMS BROUGHT BY CUSTOMER REGARDING THE PRODUCTS AND SERVICES IS LIMITED TO THE AMOUNT OF ANY PAYMENTS MADE BY CUSTOMER DURING THE TWELVE MONTHS PRECEDING CUSTOMER'S NOTICE OF THE CLAIM TO FOLLETT. LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN.

14. TERM AND TERMINATION.

14.1 Term. The Service shall commence on the Service Date and remain in effect until one year thereafter (the **Initial Term**). Unless terminated earlier as provided herein, the Service will automatically renew for additional term of 1 year (a **Renewal Term**) at the end of the Initial Term and each Renewal Term. Either party may elect not to renew the Service by giving notice to the other party at least 30 days prior to the end of the then current term. In no event will the Software or Support Services be provided after any termination of the Service.

14.2 Termination for Convenience. Customer may terminate the Service at any time for its convenience at least 30 days prior to end of the one-year period then in effect by giving notice to Follett. Such termination shall be effective at the end of the one-year term then in effect.

14.3 Fee Adjustments. Follett may change the fee for Support Services and the terms and conditions of the Support Policy effective at the end of the Initial Term or any Renewal Term by giving Customer at least 90 days prior notice.

14.4 Termination for Cause. Either party may terminate the Service (a) if the other party materially breaches a provision of this Agreement and fails to cure such breach within 60 days (20 days in the case of any non-payment) after receiving notice of such breach from the non-breaching party or (b) immediately upon notice, if the other party makes an assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of any or all of the other party's property, or the other party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding or such a proceeding is instituted against the other party and is not dismissed within 90 days, or the other party becomes insolvent or, without a successor, dissolves, liquidates or otherwise fails to operate in the ordinary course.

14.5 Effects of Termination. Upon termination of the Service for any reason, all rights, obligations and licenses of the parties hereunder, including without limitation, the license and all rights to use the Software, shall cease, except that (a) all obligations that accrued prior to the effective date of termination (including without limitation, payment obligations) and any remedies for breach of this Agreement shall survive any termination and (b) the provisions of Sections 6 (Proprietary Rights), 9 (Confidentiality), 10 (Payments), 11 (Warranties and Disclaimers), 12 (Indemnification), 13 (Limitation of Liability), 16 (General Provisions) and this Section 14 shall also survive. Notwithstanding the foregoing, in the event that Customer terminates the Service for cause, Follett shall refund a prorated amount of the Annual Cost paid by Customer; provided that no other costs paid by customer shall be

refunded and all costs owed to Follett for support services performed by Follett but not included in the Annual Cost shall remain due and payable.

Upon termination of the Service for any reason (including termination for cause), where Hosted Services are provided by Follett, Follett will provide a copy in a machine readable format of all school related data and records created by Customer and stored by the Software.

15. GENERAL PROVISIONS.

15.1 Entire Agreement. This Agreement (including the schedules) constitutes the entire agreement, and supersedes all prior negotiations, understandings or agreements (oral or written), between the parties about the subject matter of this Agreement. Any different or additional terms on any related purchase order, confirmation or similar form, even if signed by the parties hereafter, shall have no effect under this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be an original, but taken together constituting one and the same instrument. Execution of a facsimile copy shall have the same force and effect as execution of an original, and a facsimile signature shall be deemed an original and valid signature. No change or waiver may be made to this Agreement unless in writing and signed by both parties. The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights. Except as specifically provided otherwise, each right and remedy in this Agreement is in addition to any other right or remedy, at law or in equity. If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

15.2 General Learning. Customer agrees that Follett retains the right to reuse, without Customer's consent or any obligation to account, its generalized knowledge, experience, know-how and technologies (including ideas, concepts, processes and techniques) related to the Software or acquired during performance of the Support Services; provided, in no event will Follett use or disclose Customer's Confidential Information in violation of Section 6.1 or 9.

15.3 Force Majeure. Neither party will be liable to the other for any failure or delay caused by any events beyond such party's control such as acts of governmental or military authorities, acts of God, terrorism or network outages.

15.4 Publicity. Customer hereby consents to inclusion of its name in customer listings that may be published as part of Follett's marketing efforts.

15.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The sole jurisdiction and venue for actions related to this Agreement will be the state or federal courts located in Massachusetts having jurisdiction over Follett's principal offices, and both parties consent to the jurisdiction of such courts with respect to any such action. In any action or proceeding in state or federal court to enforce this Agreement, the prevailing party will be entitled to recover from the other party the actual costs and expenses (including reasonable attorneys' fees) that it incurred in connection with such action or proceeding and enforcing any judgment or order obtained.

15.6 Relief. Each party agrees that, in the event of any breach or threatened breach of Section 2, 6, or 9, the non-breaching party will suffer irreparable damage for which it will have no adequate remedy at law. Accordingly, the non-breaching party shall be entitled to injunctive and other equitable remedies to prevent or restrain such breach or threatened breach, without the necessity of posting any bond or surety.

15.7 Notices and Consents. All notices and consents under this Agreement will be in writing, in English and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after being sent, if sent next day delivery by recognized overnight delivery service; or upon receipt, if sent by certified or registered mail, return receipt requested.

15.8 Dispute Resolution. Each party agrees to meet to discuss in good faith and attempt to resolve any controversy or claim arising out of or relating to this Agreement, or the breach thereof, within 5 days of receiving a notice regarding such a claim or controversy. If such meeting and discussion fails to resolve the controversy or claim, such controversy or claim may be settled by arbitration before a single arbitrator administered by the American Arbitration Association under its Commercial Arbitration Rules. The party demanding arbitration shall submit a written claim to the other party, setting out the basis of the claim and proposing the name of the arbitrator. The responding party shall have 15 days after receipt in which to respond to this demand in a written answer. If this response is not timely made, or if the responding party agrees with the person proposed as the arbitrator, then the person named by the demanding party shall serve as the arbitrator. If the responding party submits a timely written answer rejecting the proposed arbitrator, then, unless the parties agree on an arbitrator within an additional period of 15 days, on the request of either party, the American Arbitration Association shall select one arbitrator. Any such arbitration shall be held and conducted exclusively in Massachusetts at a time and place selected by the arbitrator. The parties understand that they are waiving their rights to a jury trial. All decisions of the arbitrator shall be in accordance with

the terms of this Agreement and the arbitrator's award may include injunctive and equitable remedies. Judgment on the award rendered by the arbitrator shall be in writing and may be entered in any court having jurisdiction thereof; provided, that the parties agree that the arbitrator shall have no authority to award punitive or exemplary damages hereunder, and each party expressly waives any right thereto. The parties shall share equally the fees and expenses of the arbitrator, but shall be individually responsible for their own respective costs and expenses.

15.9 Assignment. The rights and obligations hereunder may not be assigned or otherwise transferred by either party without the prior written consent of the other, except that either party (without consent) may assign this Agreement to any successor to all or substantially all of its business that concerns this Agreement (whether by sale of stock or assets, merger, consolidation or otherwise). Any attempted transfer in violation hereof will be void and of no effect. Follett may also subcontract performance of any of its obligations. This Agreement will be binding upon, and inure to the benefit of, the successors, representatives, and permitted assigns of the parties.

15.10 Independent Contractors. The parties shall be independent contractors under this Agreement, and nothing herein will constitute either party as the employer, employee, agent or representative of the other party, or both parties as joint venturers or partners for any purpose.

Schedule A: Statement of Work

1. Overview

1.1. Introduction

This Statement of Work (hereinafter known as the SOW) specifies the implementation services (referred to herein interchangeably as "Services" or the "Project") to be provided under the agreement between Follett and dated January 17, 2020 ("Agreement") beginning on, or as soon as practical, after the Effective Contract Date. Follett will complete the Services according to the schedule below, unless otherwise agreed upon by the parties. Changes to this document will be processed in accordance with the procedures described in Section 3.5 Project Change Control Procedure.

Any ambiguity or inconsistency between or among the terms of this SOW and the Agreement shall be resolved by giving precedence in the following order:

- Statement of Work (SOW)
- Agreement

1.2. Definitions

"Acceptance on Delivery (AOD)" refers to written approval that certain delivery tasks have been completed allowing reasonable use of the system by the District. A copy of the AOD form can be found in Appendix B.

2. Project Scope

The purpose of this SOW is to understand and document in as exclusive terms as possible those factors which govern, limit, and bound the work necessary to deliver the following Aspen Solutions with appropriate services as described in the body of this SOW:

- Aspen Student Information System (SIS)
- Aspen Online Registration
- Aspen Health

2.1. This SOW includes the following services for the Aspen SIS delivery. Services for additional solutions are listed in Section 11.

- Project Management
- Requirements Meeting(s)
- Configuration
- Customization (150 hours)
- Data Conversion and Validation
- State Reports
- Training (15 days)
- Go Live Support

2.2. This SOW does NOT include any services for the following:

- Installation of any hardware or software at the District or schools unless explicitly stated within this SOW.
- Configuration of networking infrastructure.
- Development of any application or interfaces to other applications other than those specifically defined within this SOW.

2.3. Key Assumptions

The following assumptions have been made in support of this Statement of Work and its associated effort estimate. Should any of the assumptions below prove to be invalid, Follett will seek to manage any potential impacts through the Project Change Control Procedure explained in Section 3.5 below.

Project Management:

- District must make available the necessary technical, business, testing and training personnel to support the deployment.
- District will be responsible for ensuring that all discovery, discussion, workshop and training sessions are attended by appropriate District personnel, as scheduled.
- District will assign a primary contact and point of authorization. This single point of contact will be responsible for facilitating all communications between the District and Follett. The timeliness of communication and review will directly affect the ability to meet agreed upon schedule deadlines.

Data Conversion and Validation

- District will be responsible for ensuring that a complete database backup/export is delivered/acquired by the agreed upon date of delivery in the project timeline. Failure to meet this agreed upon date could result in a delay to the project timeline.
- District will be responsible for the overall quality of their legacy data. Identification of any known data quality issues that would impact the conversion results will be reported back to the District. It will then be the responsibility of the District to correct the data.
- District will be responsible for validating that the data in their legacy system is in the expected fields in Aspen upon conversion.
- All data conversion and validation will be performed in the Follett environment and moved out to the District's infrastructure at go live.

3. Project Delivery and Governance

A joint governance structure is to be established with the District and Follett. It is our experience that this approach works to foster team building and a shared ownership of success. The representatives will meet on an appropriate frequency to ensure project status and issues that may impede progress are well understood by both the District and Follett.

3.1. Project Management

Follett will provide project management services in accordance with industry standard techniques. The Follett Project Manager is the District's central point of contact during the implementation of the Aspen solution, to guide and oversee the entire implementation.

Follett Project Manager focuses on the following objectives:

- Facilitating all project planning activities
- Creating a Project Plan that is agreed to in writing by both the District and Follett

- Managing project scope and risk factors to achieve the objectives of the project
- Coordinating all internal resources to ensure that timelines and deadlines are met
- Successful completion of the project as evidenced by the written District Acknowledgement of Delivery (AOD) of Aspen

3.2. Roles and Responsibilities

Follett Project Manager Responsibilities

- Facilitate all project planning activities
- Create and maintain a detailed Project Plan
- Manage to the Project Plan to ensure that deadlines are met, and mitigate whenever plan objectives are at risk
- Manage the Project Change Control procedures
- Maintain project documentation and provide timely status reports and meetings
- Work with District Project Manager to resolve any issues that develop during the project
- Ensure communication between the Follett Implementation Team and District
- Allocate appropriate Follett resources to meet commitments as agreed in the Project Plan
- Control project scope and identify project risks and risk mitigation strategies
- Work within agreed Project Governance processes to organize and prioritize requirements, tasks, issues, risks and changes to scope
- Manage the deliverable review process to ensure the project is delivering the benefits anticipated by the District

District Project Manager Responsibilities:

- Assign a single point of contact to work directly with the Follett Project Manager
- Participate in the Project Planning Meeting and weekly status meetings
- Ensure adequate participation by the appropriate District personnel in conference calls, workshops, training events, and status meetings including attendance by project stakeholders in monthly project reviews.
- Meet commitments as agreed upon in the Project Plan. If deadlines are not met, the overall Project Plan may need to be modified to compensate for changes. Should the District not meet a commitment set forth in the agreed Project Plan, Follett cannot guarantee that the original timelines can be kept. Any changes to the agreed upon Project Plan must be agreed to by both parties.
- Work within agreed Project Governance Processes to organize and prioritize requirements, and tasks as well as identify and communicate issues, risks and changes to scope.
- Provide written verification of the Aspen Solution delivery immediately following the Go live Date. In the event the District fails to approve or reject the Software in writing within fifteen (15) days following delivery of the Product (as evidenced by an Acknowledgement of Delivery ("AOD") form), the Software shall be deemed accepted. The AOD form can be found in Appendix B.

3.3. Project Status Reporting

Project status reporting is the presentation of relevant, factual project data in an objective, understandable format. Reporting provides the District with an objective picture of the project's current status. Status reporting is an inherent part of the management of a project.

When effective project control processes have been implemented, project reports present the District with project transparency and early detection of potential issues. Most problems will have been anticipated and appropriate corrective actions will already be in place. Follett will provide a project status reporting template with basic reporting categories that can be used as is or modified to ensure it is mutually beneficial to both parties.

3.4. Project Reporting Schedule

Follett recommends that project status meetings be held on a regular basis. This helps ensure that all project team members are up to date on the current project status, possible issues and risks, and planned activities in the coming weeks and months. This ensures that issues or risks can be mitigated before becoming a liability of the project. The following describes our recommended project status reporting schedule.

3.4.1. Weekly status report and meeting

The project management team attends this meeting along with various members from both teams who are involved in the current project activities. This meeting generally lasts no longer than one hour and gives an overview of the week's successes and issues. It also discusses strategies and plans for the following week. The meeting is scheduled regularly on the project calendar. We will also prepare and deliver a weekly status report. If required, this would also be accompanied by a risk and issue log, and an updated project plan.

3.4.2. Monthly status report and meeting

One of the weekly project management meetings will be designated as a monthly status review that would include attendance by key project sponsors and/or stakeholders from both the District and Follett. This meeting would summarize project accomplishments for the month as well as updates on project strategies and plans. At this meeting, the Follett Project Manager presents relevant portions of their detailed status report such as:

- Progress report on work performed, describing the status by project phase of each major task in the work plan and the deliverables associated with that task
- Milestones attained and deliverables completed, comparing the planned and actual completion dates
- Problems encountered and corrective action taken, defining the resources required and any ramifications to the project
- Project work plan updates, incorporating agreed changes and defining the implications for resources and schedules
- Objectives targeted for the following month, defining the major tasks, milestones, and deliverables to be started or completed

3.5. Project Change Control Procedures

Anything not addressed in this SOW is out-of-scope and not included in these services. All changes to the SOW, any attachments hereto, or the Project Plan are subject to mutual written agreement. The Project Change Request ("PCR") form can be found in Appendix A.

3.5.1. Change Initiation

If the District requests a change, then the District shall deliver to the Follett Project Manager a written request. This request should describe the purpose of the change and anticipated effect the change will have on the project. Follett will then develop and deliver to the District a written proposed PCR that defines the scope change, schedule impact and any impact on pricing and/or terms of the agreement.

If Follett proposes a change, then Follett will develop and deliver to the District a written proposed PCR. This request will describe the purpose of the change and anticipated effect the change will have on the project as well as any impacts to scope, schedule, pricing and/or terms of the agreement.

3.5.2. Change Validation

Upon receipt of the PCR, the parties will work together in good faith to reach an agreement. Upon agreement, the parties shall sign the PCR.

3.5.3. Approvals and Acceptance

The Project Manager of a party is authorized to discuss and agree to the PCR on behalf of such party except that the final approval must be signed by District's Project Sponsor and authorized signatory of Follett.

No PCR shall amend the original agreement unless and until the PCR is signed by the authorized representatives of both parties.

3.6. Mutual Responsibilities

Below is a typical outline of projects tasks and the roles and responsibilities needed to ensure a successful implementation of the Aspen solution. This will be reviewed along with the project timeline to provide effective resource planning and minimize delays in the project implementation.

Tasks	Responsible Party						
	Follett PM	District PM	District PS	Follett DCL	Follett CS	District SME	District TA
Project Initiation, Planning, and Setup:							
Complete configuration planning documents	C	A	C			R	
Define District Project Team for each major subgroup of tasks e.g. data validation, customizations.	C	R	A			C	
Kick-off meeting (1 day)	A	R	R	I	I	R	R
Aspen Requirements Review Meeting(s)	A	R	I			R	C
Project Monitoring:							
Weekly Status Meetings	R	A	I			C	C
Monthly Project Review	R	A	C	C		C	C
Data Conversion (approximately 3 cycles)							
Initial data extract uploaded to FTP site	C	A	I	I			R
Data Conversion Meetings (1-2 times per week)	C	A	I	R		C	
Aspen SIS Overview and Data Validation Workshop (3 days)	A	R	I	I		R	I
Data Validation & feedback	C	A	I	C		R	I
Customizations							
Review Standard Reports and Screen Templates. Provide District sample reports. Identify customization requirements.	C	A	C		C	R	
Review and approve customizations requirements.	C	A	C		C	R	
Configuration							
System Administrator Training (3 days) and Workshop	C	R	I		A	R	
Define Security Roles	C	A	C		C	R	
Complete Configuration and data clean up	C	A	C		C	R	
Application Training							
Schedule training & determine training logistics	R	A	C			C	
Invite District attendees, reserve and set up room, print manuals	C	A	I			R	

Tasks	Responsible Party						
	Follett PM	District PM	District PS	Follett DCL	Follett CS	District SME	District TA
Go Live Tasks							
Aspen SIS Pre and Post Go Live checklist	C	A	C			R	C
Go / No Go Decision	C	R	A	C	C		
Execute Acknowledgment of Delivery Form	A	R	C				
Post Go Live							
Weekly Status calls (approx 3-6 months)	A	R	I			C	

Follett PM	Follett Project Manager
District PM	District Project Manager
District PS	District Project Sponsor
Follett DCL	Follett Data Conversion Lead
Follett CS	Follett Configuration Specialist
District SME	District Subject Matter Expert(s) covering the following areas: Data Validation, Reports, District Business Processes, State Reporting and Training.
District TA	District Technical Administrator(s)
R - Responsible Party	Owns completing the task.
A - Accountable Party	Has ownership but not direct responsibility to complete the task.
C - Consulted Party	Provides advice or opinion to those responsible or accountable to complete the task.
I - Informed Party	Provided with knowledge about task.

4. Project Initiation

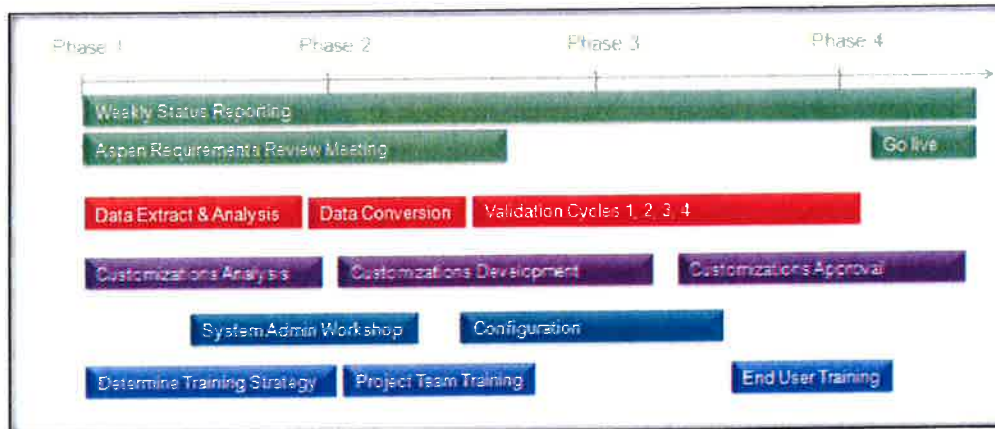
This stage of the project is focused on mobilizing the project delivery teams across all parties, reviewing the objectives of the project and capturing functional requirements for the Aspen SIS solution.

4.1. Planning Meeting

At the beginning of the project, an Aspen Implementation Planning Meeting is held with the District. The goal of this meeting is to ensure the Aspen SIS Implementation Team from Follett and the District fully understands the objectives of the project. This includes reviewing the project timeline (see Table 1 for example), roles and responsibilities of the team members, implementation components and timing and duration of these activities, critical success factors, and procedures that will govern the

management of the project. It is also during this meeting that any known project risks will be discussed and proper mitigation plans developed collaboratively to prevent them from becoming a liability to the project.

Table 1: Sample Project Timing and Duration



4.2. Aspen Requirements Review Meeting(s)

The requirements gathering process is a critical part of a successful implementation of the Aspen solution within the District. In order to control scope and support a successful rollout within the agreed timeframe, it is necessary for Follett and the District to work together to clearly identify requirements of the system at the onset of the project.

The Aspen SIS is a highly configurable and flexible system and the goal of the requirements meeting(s) is to understand functional requirements and how they will be accomplished within the application – either through baseline SIS functionality, or configuration of the Aspen tools (ie Reports, Imports, Exports, Procedures, Workflows, and Templates). Functionality that requires additional work beyond basic system configuration will be deemed customization and will be handled through the customization hours included as part of this contract (see Section 5.4). Customization is defined as work within the Aspen toolset - it does not include product enhancements. Any development work to the core Aspen product will be handled outside of the scope of this SOW via the product enhancement process.

The output of these meetings is a Requirements Planning Report that will consist of an overview of current state business processes for key areas, along with business process recommendations and configuration of the Aspen SIS to meet District needs. The District will be asked to acknowledge the accuracy of the report before system configuration begins. In addition, the District is responsible for ensuring attendance of the District Project Team and Subject Matter Experts (SMEs) for each area analyzed in order to obtain thorough and accurate system requirements. Below is further description of the analysis completed.

Business Process Review

The purpose of this task is to document business procedures and processes of the SIS functional areas most impacted by the new Aspen SIS system. The review will include some or all these processes:

- Define current enrollment/withdrawal processes
- Define current student information requirements and processes
- Define current attendance requirements and processes
- Define current health and immunization requirements and processes
- Define current discipline processes
- Define current grade reporting processes
- Define current academic history/transcripts processes
- Define current test history processes
- Define current special education processes
- Define current other programs processes
- Define current State reporting requirements
- Define current SIS interface requirements
- Document the requirements and processes defined

Reports Review

As part of the migration to the Aspen solution, Follett will complete a review of pre-defined “core” reports and procedures needed by the District. These would include items such as district reports, report cards, progress cards, official school transcripts, student and teacher schedules, absence and conduct letters, student profile reports, honor roll formulas, ineligibility formula, GPA and credit calculation procedures. Modifications to the built-in report formats necessary to meet the District requirements will be documented.

4.3. Training Database Setup (if applicable)

If the District has purchased a training database, the following will occur: Two instances of the Aspen SIS will be created and hosted by Follett at the onset of the project. One database serves as a “sandbox” and will contain generic data for the purpose of allowing the District to become familiar with the application. This is a temporary instance that will be available throughout the implementation.

The second instance of the Aspen SIS will also be hosted by Follett and serve as the development environment where data conversion/validation, configuration and customization will occur. User acceptance testing will be performed in this environment to ensure the Aspen SIS system meets all requirements and is ready for production use. This instance will be “refreshed” after every data validation round and will become the District’s production environment. The permanent training database for the District will be created by replicating this instance after the final round of data validation. In the case of a self-hosted customer, both of these instances will be moved to the customer environment right before go live.

5. System Configuration

During this stage of the project, the District and Follett will work within the Aspen application to complete the key components of the implementation: Configuration, Data Conversion/Validation, Customization and State Reporting.

5.1. System Configuration

As part of the implementation, the District will be assigned a Configuration Specialist to ensure the configuration of the SIS system meets the District's requirements. Configuration of the system will be a joint responsibility between Follett and the District.

The Configuration Specialist focuses on the following objectives:

- Conduct System Administration Training
- Maintain the Aspen SIS configuration documents
- Coordinate internal and District resources to ensure configuration tasks are completed, tested and accepted by the District

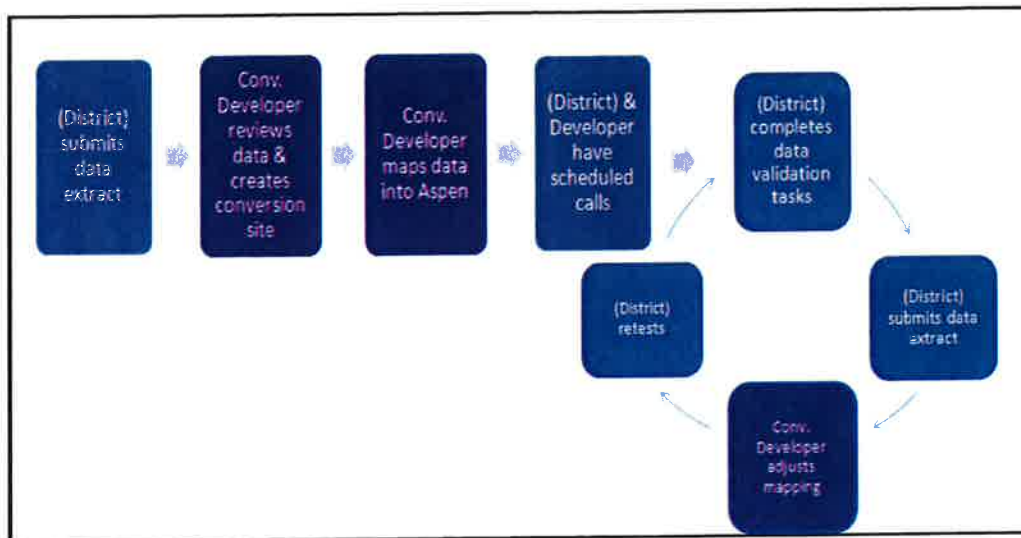
To start the configuration process, a System Administration Training will be conducted with the District. This training is 3 days in duration and is conducted in a workshop format. These sessions will provide the necessary knowledge and skills needed for configuration of the Aspen system and administrative users will learn aspects of administering Aspen. The agenda for the training is as follows:

- Day 1 – District and school preferences setup; User account creation; User role and security tag configuration
- Day 2 – Data Dictionary; Reference Tables; Template modifications
- Day 3 – Grade term and grade scale setup; Transcript Definition configuration; Grade Input setup; Qualification List definition; GPA setup

5.2. Data Conversion and Validation

Below is an overview of the data conversion and validation process. The initial conversion cycle begins with data being exported from the District's Power School system. This is a full export of every table and every row in the entire database. This is to be completed by the District and provided to Follett in the form of an export (database backup).

Table 2: Data Validation and Conversion Process



The next phase is the analysis and mapping of legacy data to the Aspen SIS data model. This mapping is done by interpreting the source data and collaborating with District technical staff to identify each field's analog in the Aspen solution. To facilitate this process, regularly scheduled conference calls/webinars will be established between the Follett Aspen Conversion Developer and the District's technical staff throughout the duration of the conversion portion of the implementation.

Table 3 contains the data that will be converted as part of this SOW. Any additional data will need further analysis and may be subject to additional fees.

Table 3: SIS Data to be Converted
district school year context
schools (schools, classrooms, lockers)
calendars
addresses
staff
student demographics
student enrollment
student contacts
student transportation
student schedule
student fees and fines
student schedule rotation (if applicable)
assessments (up to 5 summary level assessments)
student attendance (daily and by period)
courses (district catalog and school courses)
Transcripts (including Credits and GPS information)
conduct
reference codes

student events & programs
course requests

Data Validation is the next phase and one of the most critical processes in the migration from a District's legacy system to the Aspen SIS. It is during this phase that the District validates that the data from the legacy system is indeed in the expected fields in the Aspen system.

There can be up to 4 rounds or cycles of data validation during a conversion. Typically each validation cycle takes 2 weeks – 1 week for the district to review the data and a week to fix issues identified. After each cycle the data is refreshed before the next validation round is started.

The process is kicked off with a Data Validation Workshop which explains the process and expectations of the Data Validation Team. The District will assign a Data Validation Coordinator who facilitates the validation process within the District – ensuring data is reviewed by the appropriate District personnel and collecting and logging validation results.

The District will be responsible for passing or failing each validation task. For those tasks that the District fails, a detailed explanation along with appropriate screen shots or specific examples must be provided to reduce the number of times the task is passed back and forth between the District and Follett.

Follett Responsibilities

- Data conversion of the data identified above in Table 3. Any additional data will need to be estimated and agreed upon through the Project Change Control Procedures in Section 3.5 above.
- Follett will profile the data at the time of conversion in an attempt to identify data issues and associated implications with loading the data into the Aspen SIS. Those issues identified will be discussed with the District to identify resolution and impact to schedule and price (if applicable).
- Follett will assign a Data Specialist to the project team to serve as the District's point of contact for any data consultations

District Responsibilities

- District will provide Follett with the data in an agreed upon format, along with related materials, in accordance with the timeframe specified in the Project Plan
- District will provide clarification of issues associated with the data work to be completed
- District will provide a single point of contact for data related decisions and communications
- District will log into the Aspen system and validate data in legacy system is in expected fields in Aspen and document results

5.3. State Reporting Development

Working with the District's State Reporting Coordinator, Follett will deliver the reports and exports needed to comply with State requirements. Any reports and exports that the District requests that are not necessary for State compliance, may be subject to additional charges.

Constraints

All programming and design for standard state reporting exports and reports outlined within this SOW will be based solely on the documentation and direction provided by the State's governing authority in this area.

Requirements

The District will create and retain a backup of their Power School SIS database. This should be the same backup produced for the data conversion activities outlined in section 5.2. The District will provide access to this database in their current environment and direct their legacy SIS system's reports to the database to provide a baseline of data results to which the Aspen reports can be validated against. A sample of the corresponding Power School state mandated exports and reports are also required from the District to serve as a baseline for Aspen export and report validation purposes.

Following the second validation of the legacy data conversion process in section 5.2 above, the state standard exports and reports can begin to be executed from Aspen's reporting framework and validated for results in comparison to results achieved utilizing the backup data and the legacy SIS reporting system. If validation efforts reveal the need for modifications in the data conversion, they will be evaluated for utilization of the System Customization hours included in this contract (see Section 5.4).

Maintenance of State Reporting

Identification of mandatory changes by the state's governing authority to the standard state reporting exports and reports outlined within this SOW will be achieved through a combination of the Follett state-assigned systems analyst maintaining regular contact with the state as well as direct communication with the District's State Reporting Coordinator.

Once a change to an existing state standard export or report is communicated and the proper documentation is shared, the Licensor will begin impact analysis to the current configuration and evaluated for inclusion into the solution for this state. Once the change is confirmed to be necessary to maintain core functionality, it will be scheduled as required within the documentation and direction provided by the State's governing authority in this area.

If a new mandated export or report is introduced by the State's governing authority in this area, it will reviewed for data scope and necessity to maintain core functionality and evaluated for inclusion into the solution for this state.

5.4. System Customization

Built into the contract are up to 150 hours to accommodate customization work which is defined as work within the Aspen toolset to meet the District's functional requirements. This may include data interfaces to third party software programs, imports and exports, and changes to workflows. It is the goal to have the majority of customization necessary identified during the Aspen Requirements Review Meeting. Once the requirements are identified, the work effort will be calculated and communicated to the District. Once the customization hours are exhausted, any additional work will need to be accommodated through the Project Change Control Procedures in Section 3.5 above. Product enhancements – any development work to the core Aspen product – are not part of this SOW and will be handled outside of the scope of this SOW via the product enhancement process. All customization requests must be submitted to Follett, including supporting detail, within 90 days of go live date or be forfeited.

6. **Validation / Production System Readiness**

This stage of delivery is focused on ensuring all elements of the agreed functional requirements have been delivered, are functioning correctly and fit for purpose.

6.1. Functional Testing

Follett will facilitate functional testing to demonstrate that the new SIS meets the baseline functionality as approved by the District. This testing occurs throughout the implementation as configuration and customization work is completed.

6.2. Production System Readiness

Follett will work with the District on the following tasks before go live:

- Configuration readiness checklist
- Ensure security management is in place
- Define post implementation escalation processes / handoff to Technical Support

7. **Transition to Production Deployment**

The final stage of the project manages the transition of the Aspen system to the District for production rollout.

7.1. Training Services - SIS Rollout

This section describes the training services included within this SOW to support the initial SIS implementation and rollout. The training topics, led by Follett trainers, are held onsite at the District and class size is limited to 20 participants per session, unless noted otherwise.

The District should schedule and complete each training topic no more than two weeks prior to production use of the Aspen functionality. One day of onsite training constitutes up to seven hours of total training time. The District and Follett Project Manager will work together to create a training schedule that maximizes the trainer's onsite time.

All sessions will cover a minimal amount of Basic Navigation concepts. The System Fundamentals course should be considered a pre-requisite for all courses, with the exception of Teacher Gradebook and Community Page Design.

All training materials will be delivered in electronic form. It is the responsibility of the District to print training materials for training attendees.

REQUIRED Training

The following courses are required:

➤ **System Administration – 3 Days**

These sessions are presented in a workshop format at the beginning of the system configuration stage of the project (see section 5.1). Administrative users will learn aspects of administering Aspen. Aspen Administrators will need to attend all sessions.

Day 1 – District and school preferences setup; User account creation; User role and security tag configuration.

Day 2 – Data Dictionary; Reference Tables; Template modifications.

Day 3 – Grade term and grade scale setup; Transcript Definition configuration; Grade Input setup; Qualification List definition; GPA setup.

Intended Audience: Aspen System Administrators

➤ **System Fundamentals – 2 hours**

This training provides users with an introduction to the Aspen SIS, focusing on the configuration of the system and system navigation. Users learn skills that will be applied in their use of all Aspen modules, including student data access, data filters, query writing, and report generation. This session is a pre-requisite to other end user trainings.

Intended Audience: All Aspen users, except Teachers

End User Training

The District has purchased 10 days of end user training. The following courses can be chosen by the District for their training depending on the functionality of the Aspen system being used. All training days must be scheduled within 90 days of go live date or be forfeited.

Full descriptions of the courses will be provided at the onset of the implementation.

Course Name	Length
Enrollment Management	1.5 hours
Attendance Management	1.5 hours
Conduct Management	1.5 hours
Daily Scheduling	1.5 hours
Teacher Gradebook – Attendance and Grade Posting only	1.5 hours
Full Teacher Gradebook	3 hours
Grade Management	1.5 hours

Pages	2 hours
Advanced Fundamentals	2 hours

One day of onsite training constitutes up to seven hours of total training time. These courses do not have to be delivered consecutively. The courses can be scheduled to match the rollout timing of functionality to the District. Please refer to the table below for recommended courses by end user.

Training Requirements by End User

Teachers	Special Education Teachers
<ul style="list-style-type: none"> ▪ Teacher Gradebook 	<ul style="list-style-type: none"> ▪ System Fundamentals ▪ Special Education View
School System Administrators	School Secretaries/Clerks
<ul style="list-style-type: none"> ▪ System Administration ▪ System Fundamentals ▪ Attendance ▪ Conduct ▪ Grade Management ▪ Enrollment Management 	<ul style="list-style-type: none"> ▪ System Fundamentals ▪ Attendance ▪ Conduct ▪ Enrollment Management
Principals	Assistant Principals
<ul style="list-style-type: none"> ▪ System Fundamentals ▪ Other specific courses as necessary 	<ul style="list-style-type: none"> ▪ System Fundamentals ▪ Conduct ▪ Enrollment Management
School Counselors	Nurses
<ul style="list-style-type: none"> ▪ System Fundamentals ▪ Conduct Training ▪ Enrollment Management ▪ Master Schedule Building ▪ Daily Schedule 	<ul style="list-style-type: none"> ▪ System Fundamentals ▪ Health
District-level Administrators	District IT Staff
<ul style="list-style-type: none"> ▪ System Administration 	<ul style="list-style-type: none"> ▪ System Fundamentals
Parents	
<ul style="list-style-type: none"> ▪ Parent/Student Portal <ul style="list-style-type: none"> ○ Follett will provide "quick guide" training manuals that can be distributed to parents either electronically or in hard copy. 	

7.2. Other Training Services:

Online Training Subscription – Annual Service: This agreement includes (1) connection to every WebEx session Follett offers for the Aspen product during the school year. The Follett training team typically offers at least one session per week and as many as three sessions some weeks. With a wide range of topics from “refreshers” to reviewing features in an upcoming release to learning how to edit reports, everyone in the District can benefit.

7.3. Training Requirements

The District is responsible for the following to facilitate training sessions:

- Training facility with high speed Internet access and a minimum of 20 workstations that meet minimum hardware recommendations and have appropriate software installed or application hosting service URL available
- Adequate audio and visual projection that can be linked to the instructor's workstation
- Mouse attached to the trainee workstation even if using laptops and handling of any trainees' special needs before training begins
- Erasable marker board, or flip chart, large enough to be seen by trainees in the training room with markers
- Access no less than 24 hours prior to the class to the fully functional training room
- Member of the District IT staff who can be on-call in case there are any problems
- Printing of user reference guides / training materials for each trainee

7.4. Training Services Cancellation Policy

- Cancellation and/or reschedule requests must be received by email (aspen-training@follett.com) or by calling Follett's toll free number (888)-244-1366. The District is responsible for ensuring that Follett receives its written or verbal request. Follett will reply with a written acknowledgement, via email, of the changes.
- The District will not be charged if the cancellation request is received more than fifteen business days prior to the training date.
- The District will be invoiced at 50% of the cost if the cancellation request is received six to fourteen business days prior to the training date.
- The District will be invoiced at 100% of the cost if the cancellation request is made five or less business days prior to the training date, or failure to appear for the training.
- Follett reserves the right to reschedule training sessions two weeks prior to the scheduled delivery date(s).
- Substitutions of attendee(s) may be made at any time.

8. Go Live Support

Follett will perform the following services in support of Go Live:

- Aspen SIS Pre and Post Go Live Checklist completed
- Onsite Follett Support Services 2 days during go live
- Introduction to Aspen Support Team and ticket logging process
- Distribute and collect Acknowledgement of Delivery (AOD) form.

In the event the District fails to approve or reject the Software in writing within fifteen (15) days following delivery of the Product (as evidenced by an Acceptance of Delivery ("AOD") form), the Software shall be deemed accepted and the District will be invoiced accordingly.

9. Post Implementation Support

Post go live, the District will have an assigned Configuration Specialist/Relationship Manager for a period of six months to one year. This person will assist the District System Administrator in becoming progressively more independent and proficient in the use of Aspen. This person will also assist the District with their understanding of District support processes including using Technical Support for ticket issues, requesting customizations to Aspen tools, and finding valuable dynamic resources.

Within the first year post go live, once the District's system administrator(s) demonstrate(s) confident use of Aspen, the District will be transitioned to our Community Relationship Managers (CRM). This team will reach out to your District proactively in a variety of ways; newsletters, web pages, conference calls, and email. This team's goal is to continuously empower District in their use of Aspen.

10. Customer Technical Support

Customer Technical Support is included with your Aspen Service Agreement, and features the following services:

- Software updates during the year, as available
- Toll-free telephone technical support
- 24/7 Customer Web Portal, with searchable online knowledge base.

Note: Follett will only provide support to the extent that the applicable Follett product(s) is utilized as licensed. Any use beyond the intended use of the product - as outlined in this Statement of Work -- may result in cancellation of Support. Issues that are the result of changes to configuration, queries, or reports that are not received directly from Follett are beyond the scope of standard support and may result in a separate charge.

Telephone support for issue resolution:

- Your designated District contacts will have access to Follett's staff of product and technical experts via a toll-free number from 6:00 AM to 7:00 PM CST.
- The expectation is that the designated contacts are the point of contact for all end users within the District. Follett will not provide technical support to District staff members that have not been designated by the District.

District Requirements:

Only designated District contacts may contact Follett Technical Support. Site-based staff must contact a designated representative within your District for support.

Customer Web Portal:

Follett has a web-based support portal, available 24/7 to all Districts with a current support Agreement which includes:

- Electronic submission of support tickets

- Keyword searchable knowledge base containing articles written by product and system experts
- User guides and manuals
- User groups/online discussion groups
- Electronic newsletters
- Frequently Asked Questions (FAQs)

11. Additional Aspen Solutions for Implementation

In addition to the Aspen SIS, the District has purchased and/or is implementing the following:

11.1. Health Implementation Services

The following services are included with the implementation of the Aspen Health module:

- Project Management
- Data Conversion and Validation of the following data:

Health Data Elements
Health Conditions
Immunizations definitions
Immunizations series
Immunizations doses
Screenings
Visits (Health Log)
Medications

- State reporting
- Training Services:

Course Name	Student Max	Length
Health System Administration and Configuration	10	Full day
Health End User Training	15	2 hours

12. Ongoing Services As Needed

Various services may be needed to support the Aspen system following implementation as Districts gain experience with the system and business process needs change. In our experience, most Districts require additional services beyond the initial implementation.

A key service following year 1 of implementation, are the Build Workshops which **are mandatory in year 1** to develop the District's schedule for the upcoming year. The cost for these services is listed in the price summary with your agreement. Pricing assumes the District is attending scheduled workshops in Follett's Hingham office. Workshops can be scheduled onsite at the District's location for an additional fee. The workshops follow the same process for scheduling and cancellation policy as the courses under Training Services above.

Prepare to Build Workshop

Prepare to Build Training is the kick-off to your Master Schedule Build. The **2-day training** examines each task that must be completed in preparation to running the schedule build engine that will build the schedule structure and load the student schedules. There are no prerequisites to this training and no required materials, but users are welcome to bring any schedule reference materials they may have, i.e. student course requests, staff schedule requirements, room lists. Users will have access to their own District database during this hands-on training. Each training session has a focus of either high school or middle school. The process of building a high school schedule is generally more complex and uses more Aspen features than the typical method of building a middle school schedule. The middle school curriculum has been streamlined to focus on the features that are necessary to complete a middle school schedule. For new users Prepare to Build Training is a requirement. Although the Prepare to Build process is supplemented with WebEx presentations, the WebEx's are best suited for experienced Aspen schedulers looking for a refresher. Districts wishing to receive WebEx invitations or have access to WebEx recordings must be Aspen WebEx subscribers.

Schedule Build Workshop

The Build Workshop gives school schedule builders an expert-supported environment in which to build the schedule structure and load student schedules. Despite your best planning, there will most likely be schedule conflicts that need to be resolved. Dedicated schedule experts are on hand to help users navigate resolutions and offer best practice advice. The objective of the **3-day workshop** is to have each school leave with completed master, teacher, and student schedules.

Appendix A
Project Change Request (PCR) Form
-- SAMPLE --

General Overview

This Project Change Request form is based upon the Agreement between Follett, a company with an address at 75 Wm Terry Drive, Suite 2204 Hingham, MA 02043 and *<insert District name>* Customer number *<insert Oracle Customer number>*, having its principal place of business at *<insert Customer address>* ("Customer") signed *<insert agreement signing date>*.

Change Identification

The change identification for this request is *<PCR Number>*, *Month day, year*.

Change Description

<Insert details of change being requested>

Project Impact

This PCR will impact the project in the following manner:

- **Scope Impact**
- **Schedule Impact** *<Insert any impact on the schedule. Include the previously agreed scheduled dates as reference when appropriate and use tables appropriately for visual clarity.>*
- **Price Impact** *<Insert any price impact related to the PCR. Be specific and include previously agreed pricing as appropriate.>*
- **Terms and Conditions Impact** *<Insert any terms and conditions impact related to the PCR. Be specific and include previously agreed terms as appropriate>*

Target Approval Date

The Licensor must receive District's approval of this Project Change Request by *<insert date on which the PCR must be signed - this date should be 2 business weeks after delivery.>* Approval delays will require a rework of this Project Change Request.

PCR Approval

<Insert district name> and Follett, as evidenced by the following representatives' signatures, accept this Project Change Request along with the stated impact.

Signature

Signature

<insert District signatory name>

<insert Follett signatory name>

<insert District signatory title>

<insert Follett signatory title>

Date

Date

Appendix B
Aspen Acknowledgement of Delivery (AOD)
And Data Validation Signoff
-- SAMPLE --

District Name: _____
Agreement Date: _____

Delivery

I confirm that the following deliverables described in the original agreement have been successfully delivered:

- ☐ Aspen Software
- ☐ Configuration
- ☐ Data conversion
- ☐ Administration Training

Data Validation

It is the responsibility of the school district to validate converted data within a project timeframe. School district validation efforts are crucial to the accuracy of the conversion. Post-cutover conversion work due to incomplete validation will result in additional costs and may hinder the processes of district staff.

I confirm that the validation of data converted from <<source system>> to Aspen has been adequately performed and confirm that <<district name>> is now live on Aspen. I understand any conversion work required prior to the go live is included in the agreed upon conversion costs.

I also understand that any data conversion costs incurred after the "Go live" will be the responsibility of <<district name>>. Additional conversion work will be resolved in an appropriate timeframe agreed upon by both Follett <<district name>>.

Accepted By: _____ Date: _____

Printed Name: _____

Title: _____

District Address: _____



Kingsport
City Schools

SIS Platform Presentation

KCS BOE Meeting
1/14/20

Purpose of Search for a New SIS Platform

- Core product features
 - Attendance functionality
 - Core product versus add-ons
- State extract functionality
- EdFi capabilities
- Report and data automation
- Customer support
- Fiscal responsibility

Process

1. Utilized procurement protocol to evaluate potential SIS platforms- Skyward, Infinite Campus, and Aspen
2. Development of individual teams and corresponding rubrics
3. Vendor presentations aligned to KCS guidelines and procurement protocol
4. Individual team surveys conducted with results and numeric scores tabulated
5. Final tabulations with equal weighting of each represented group

Participants

Procurement Process Oversight and Management:

Michelle Ramey- Assistant Procurement Manager

Evaluation Team:

Becky Clark- Coordinator of Student Information Services

Sherrie Fields- Student Information Services Technician

Michael Hubbard- Director of Performance Excellence

Survey input from the following team members:

Angela Vogt- Teacher

Karen Bear- Teacher

Yvelle Mull- Teacher

Jana Engle- Teacher

Jackiyn Kenner- Teacher

Leslie Clifton- Teacher

Evie Lafollette- Teacher

Rebecca Reasor- Teacher

Rhonda White- Secondary Scheduling, Secretary

Lisa King- Secondary Scheduling

Michelle Bright- Secretary

LeAnn Franklin- Secretary

Judy Hooker- Secretary

Jimmy Brown- Technology

Matthew Smith- Attendance & Discipline

Nick Roebke- Secondary Scheduling, Attendance & Discipline

Samantha Stidham- Secondary Scheduling, Secretary

Madeline Gosey- Teacher

Marsha Buck- Teacher

Amanda Greer- Teacher

Cort Mills- Teacher

Lynna Bingham- Teacher

Erin Prindle- Teacher

Lora Hopkins- Teacher

Antonia Adinolfi- Teacher

Vicky Livesay- Secondary Scheduling

Kelli Ferguson- Secondary Scheduling

Nikki Bailey- Secretary

Angela Hawkins- Secretary

Tony Robinson- Technology

Matt Clark- Technology

Jim Nash- Attendance & Discipline

Additional Observers:

Brian Tate- Assistant Principal

Todd Fields- Technology

Whitney Shuler- Secretary

Jenny McCloud- Counselor

Ann Eaton- Secretary

Michelle McCloud- Secretary

Cost Summary

	Aspen	Inf. Campus	Skyward
• Initial Investment	74,706.25	55,041.25	131,973.00
• Annual Fees	65,340.50	140,492.25	36,806.00
• Year 1 Total	140,046.75	195,533.50	168,779.00
• Years 2-4 Cost	196,021.50	421,476.75	110,418.00
• Total 4 Year Cost	336,068.25	617,020.25	279,197.00

For reference, KCS is currently paying \$80,373.71 in annual fees to support current student information system.

Overview of Scores

Vendor	Secretaries	Secondary Scheduling	Attendance & Discipline	Teachers	Evaluation Team	Overall Scores
Skyward	40.7	21.3	67.7	52.9	77.0	259.6
Infinite Campus	67.1	40.7	84.3	78.9	89.7	360.7
Aspen	77.7	37.0	98.3	65.8	106.0	384.8

Based on the financial analysis and overall scores, we are recommending Aspen as the new SIS platform.