



## **AGENDA**

### **BOARD OF MAYOR AND ALDERMEN WORK SESSION**

**Monday, May 3, 2021, 4:30 p.m.  
City Hall, 415 Broad Street, Boardroom**

#### **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  
Michael Borders, Assistant City Manager  
J. Michael Billingsley, City Attorney  
Scott Boyd, Fire Chief  
George DeCroes, Human Resources Director  
Adrienne Batara, Public Relations Director  
John Rose, Economic Development Director

Ryan McReynolds, Deputy City Manager  
Jessica Harmon, Assistant to City Manager  
Lisa Winkle, Interim CFO/City Recorder  
Dale Phipps, Police Chief  
Ken Weems, Planning Manager  
John Morris, Budget Director

1. Call to Order
2. Roll Call
3. Riverbend Park Update – Kitty Frazier
4. Fire Station #2 Update – Chief Boyd
5. Review of Items on May 4, 2021 Business Meeting Agenda
6. Adjourn

**Next Work Session May 10: 2pm FY22 Budget**

# City of Kingsport

May 4, 2021

## Project Status in Pictures

### 1 Lynn View Playground

Crews have laid the forms down for the concrete walkways around the playground.

### 3 Stone Drive Sidewalks

Pictured is the retaining wall progress for the sidewalk installation near Advance Auto Parts.

### 2 Planetarium Star Projector

The Bays Mountain Park Planetarium star projector is back and renovations on the planetarium continue.

### 4 Driveway Repaving

Crews are repaving entrances to the businesses along Stone Drive that were altered by the sidewalk installation.



# Status Updates on Active Projects sorted by Cost

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$13,500,000.00	Ryan McReynolds	<b>SR 347 (Rock Springs Road) [State &amp; MTPO funded]</b>	TDOT Managed, joint funded reconstruction of the State portion of Rock Springs Road	12/31/2022	TDOT contract amendment approved by BMA and is routed for signatures. This reduced the local commitment from \$2.0 million to \$1.0 million MPO funds. Updated estimated cost to reflect amendment.
\$10,000,000.00	Michael Thompson	<b>Main Street Rebuild</b>	The reconstruction of Main Street from Sullivan Street to Clay Street. [City & MTPO Funded]	7/1/2024	BMA Approved Additional Services contract with consultant for NEPA
\$5,963,000.00	Niki Ensor	<b>West Kingsport Forcemain and Pump Station Improvements</b>	Rehab of West Kingsport SLS (#119) and installation of new forcemain to the WWTP.	6/14/2021	Satisfactory pressure test completed of the FM from the meter vault to the head works. FM dropped 3psi over 2 hours and the specification was 5 psi over 2 hours
\$3,500,000.00	Michael Thompson	<b>Island Road Improvements from SR-126 to Kingsport City Limits</b>	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 still working to prepare NEPA document.
\$2,500,000.00	Michael Thompson	<b>2021 Main Road Paving (MTPO Funded)</b>	Paving of functionally classified roadways: Meadowview Pkwy, Moreland Dr, Cooks Valley, Fall Creek and Netherland Inn Road	12/31/2021	Waiting on NEPA approval from TDOT
\$2,300,000.00	Ryan McReynolds	<b>Justice Center Renovations</b>	Renovations and expansion of Justice Center that will accommodate court space and county offices currently residing in City Hall.	12/31/2021	Architect is working on plans and having discussions with staff.
\$2,225,522.00	Ryan McReynolds	<b>City Hall Relocation - Phase 2</b>	Renovations of floors 1 & 2 for the consolidation of City offices to one location at 415 Broad Street.	5/17/2021	Interior punch list with architect continues; exterior pavement striping and concrete curb being installed.
\$1,477,741.00	Chad Austin	<b>Phase 5 Water Improvements</b>	Project includes water line replacements in Fort Robinson area, Sherwood Road, Roller Street area, Gibson Mill area, and Waverly Road.	11/30/2021	Contractor installing line on Fort Robinson Drive.
\$1,044,000.00	Kitty Frazier	<b>Kingsport Greenbelt Extension from Rotherwood Drive to Lewis Lane</b>	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	Phase I Cultural Resources Survey Report submitted to TDOT for reviews 1/7/2021. SHPO review period is 30 days & NAC review period is 45 days.
\$746,785.00		<b>2021 Area 35B Paving</b>	Paving portions of Fordtown Road, Tri-City Crossing, Cox Hollow, Snapps Ferry, and Kendrick Creek roads	6/5/2021	Contractor anticipates beginning work the first of May.
\$670,291.15	Michael Thompson	<b>Stone Drive - Phase 1 (SR 1, US 11W) Sidewalk Improvements</b>	Construction of sidewalk along Stone Drive from Stonebrook Place Pvt. Dr. to near Pinebrook Drive where current sidewalk gaps exist. Includes work to make existing driveways ADA accessible. [95% State Funded 5% City]	5/28/2021	Work is underway. Contractor started on Phase 2 end of project.

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$461,607.00	Michael Thompson	<b>Stone Drive - Phase 2 (SR 1, US 11W) Sidewalk Improvements</b>	Construction of sidewalk along Stone Drive from Stonebrook Place Pvt. Dr. to Bloomingdale Pike [95% State Funded 5%]	5/28/2021	Current work includes work on the retaining walls and asphalt paving of driveway crossings.
\$415,000.00	Chad Austin	<b>SR 93- Fall Branch section (TDOT)</b>	TDOT project to improve State Route 93 in the Fall Branch area. Impacted waterlines in this area will be are to be relocated as part of the TDOT project.	8/31/2021	TDOT to begin construction June 1, 2020; project estimated completion dated 8/31/2021
\$369,338.00		<b>Area 31 Contracted Paving</b>	Milling and paving of selected roadways near Tri-Cities Airport with Kingsport City Limits: Harry Steadman Dr, Wallace Alley St, Millenium Dr, Hospitality Pl, Flagship Dr, Jericho Dr, Cracker Barrel Dr	7/31/2021	Contractor plans on beginning work 4/19/2021.
\$352,000.00	Chad Austin	<b>SR 93- Horse Creek/Derby Drive Section (TDOT)</b>	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
		<b>Area 31 Paving (in house)</b>	Paving of selected roadways near Tri-Cities Airport with Kingsport City Limits: Browder Rd, Lynn Rd, Buttermilk rd, Shipley Ferry Rd, Rocky Branch Rd		Work to be done by City crews beginning Spring 2021
	Randy Salyer	<b>Riverfront Park Pedestrian Swinging Bridge Improvements</b>	Structural improvements to the swinging bridge at Riverfront Park.	7/31/2021	Contract documents have been approved by City staff. Project will advertise for bids in the next couple of weeks.

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Revised 5/3/2021



## **AGENDA**

### **BOARD OF MAYOR AND ALDERMEN**

#### **BUSINESS MEETING**

**Tuesday, May 4 2021, 7:00 p.m.  
City Hall, 415 Broad Street, Boardroom**

#### **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**

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Michael Borders, Assistant City Manager  
J. Michael Billingsley, City Attorney  
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George DeCroes, Human Resources Director  
Adrienne Batara, Public Relations Director  
John Rose, Economic Development Director

Ryan McReynolds, Deputy City Manager  
Jessica Harmon, Assistant to City Manager  
Dale Phipps, Police Chief  
Scott Boyd, Fire Chief  
Ken Weems, Planning Manager  
John Morris, Budget Director

#### **I. CALL TO ORDER**

#### **II.A. PLEDGE OF ALLEGIANCE TO THE FLAG – Led by Girl Scout Troop 1083**

#### **II.B. INVOCATION – Pastor Adam Love, Mafair United Methodist Church**

#### **III.A. ROLL CALL**

#### **IV.A. RECOGNITIONS & PRESENTATIONS**

1. Commendation – Lynn Garden Restaurant - The Kerney Family (Alderman Duncan)
2. Proclamation - National Drinking Water Week (Mayor Shull)

#### **IV.B. APPOINTMENTS**

1. Appointment to the Neighborhood Advisory Commission (AF:127-2021) (Mayor Shull)
  - Appointment
2. Appointments to the Regional Planning Commission (AF:126-2021) (Mayor Shull)
  - Appointment

#### **V. APPROVAL OF MINUTES**

1. Work Session – April 19, 2021
2. Business Meeting – April 20, 2021

#### **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. Consideration of a Budget Adjustment Ordinance for the Various Funds in FY21 (AF:147-2021) (Chris McCartt)
  - Ordinance – First Reading

##### **C. BUSINESS MATTERS REQUIRING FINAL ADOPTION**

1. Waterline Easement Abandonment for 2401-2405 S. Wilcox Drive (AF:106-2021) (Savannah Garland)
  - Ordinance – Second Reading and Final Adoption
2. Budget Adjustment for the Gen Project-Special Revenue Fund and General Project Fund in FY21 (AF:120-2021) (Chris McCartt)
  - Ordinance – Second Reading and Final Adoption
3. Amend the FY 2021 General Purpose School Fund Budget (AF:113-2021) (David Frye)
  - Ordinance – Second Reading and Final Adoption

##### **D. OTHER BUSINESS**

1. Accept Art Donation Provided by Girl Scout Troop 1083 (AF:146-2021) (Ryan McReynolds)
  - Resolution
2. Awarding the Bid for Contracted Truck Haul for FY22 (AF:131-2021) (Ryan McReynolds)
  - Resolution

Withdrawn 5/4/21

- ~~3. Renewing the Award for Janitorial & MRO Supplies/Equipment for FY22 (AF:134-2021) (Ryan McReynolds)~~
  - ~~• Resolution~~
4. Awarding the Bid for the Purchase of Asphalt for FY22 (AF:135-2021) (Ryan McReynolds)
  - Resolution
5. Awarding the Bid for the Purchase of Crushed Stone for FY22 (AF:137-2021) (Ryan McReynolds)
  - Resolution
6. Awarding the Bid for the Purchase of Concrete for FY22 (AF:136-2021) (Ryan McReynolds)
  - Resolution
7. Execute a Contract between the City of Kingsport and the Tennessee Department of Transportation for Maintenance Activities Performed on Designated State Highways and for Mowing and Litter on John B. Dennis & I-26 (AF:129-2021) (Ryan McReynolds)
  - Resolution
8. Extending the Bid Award for Tire Recapping Services for FY22 (AF:138-2021) (Ryan McReynolds/Steve Hightower)
  - Resolution
9. Authorizing an Inter-Local Agreement with the Sullivan County Highway Department to Resurface Portions of Childress Ferry Road, Lynn Road, & Shipley Ferry Road (AF:128-2021) (Ryan McReynolds)
  - Resolution
10. Renewal of the Public Library Service Agreement with the Tennessee State Library & Archives for Services via Holston River Regional Library (AF:141-2021) (Michael Borders)
  - Resolution
11. Authorizing the Mayor to Execute All Documents Necessary to Enter Into Contractual Agreement, TDOT Project No: 825307-S3-030 in Order to Utilize Remaining Funds for the KATS Garage Project (AF:145-2021) (Chris McCartt)
  - Resolution
12. Enter into an Agreement with Cain Rash Architects for Architectural Design Services for the John Sevier Middle School Renovation Project and Authorizing the Mayor to Sign all Applicable Documents (AF:139-2021) (David Frye)
  - Resolution

All matters listed under the Consent Agenda are considered in the ordinary course of business by the Board of Mayor and Aldermen and will be enacted on by one motion by a roll call vote. However, if discussion of an item is desired by any member of the board, the item will be removed from the Consent Agenda and considered separately.

## **VII. CONSENT AGENDA**

1. Approve Updated Rental Agreement with Inventor Center (AF:125-2021) (Michael Borders)
  - Resolution
2. Accept a Donation of Real Property from Willis Vicars (AF:142-2021) (Chris McCartt)
  - Resolution
3. Authorizing Certification of Local Government Approval for Family Promise of Greater Kingsport's 2021 Emergency Solutions Grant Application (AF:133-2021) (Jessica McMurray)
  - Resolution
4. Authorizing the Mayor to Execute a Subrecipient Agreement for South Central CDC (AF:143-2021) (Jessica McMurray)
  - Resolution
5. Amending the FY 2020/2021 CDBG Sub-Recipient Agreement with South Central CDC & with the Sons & Daughters of Douglass, Inc. (AF:132-2021) (Jessica McMurray)
  - Resolution
6. Lease Agreement with the Kingsport Convention and Visitors Bureau for Hunter Wright Stadium (AF:144-2021) (Michael Borders)
  - Resolution

## **VIII. COMMUNICATIONS**

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

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

## **IX. ADJOURN**



## AGENDA ACTION FORM

### Appointments to the Neighborhood Advisory Commission

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

Action Form No.: AF-127-2021  
 Work Session: May 3, 2021  
 First Reading: N/A

Final Adoption: May 4, 2021  
 Staff Work By: Mayor Shull  
 Presentation By: Mayor Shull

### Recommendation:

Approve appointments.

### Executive Summary:

It is recommended to reappoint Trey Darnell, Anitra Little and Shannon Morelock to the Neighborhood Advisory Commission and appoint Alanna Leonberg who will replace Al Crymble. If approved by the Board of Mayor and Aldermen the recommended table reflects term dates.

Terms are three years; no more than two consecutive terms. The board is comprised of (12) members who are residents of the City and represent all of Kingsport.

Current Board:			
Member	Term Expires	No. of Terms	Eligibility
Anitra Little	12/31/23	Fulfilling Unexpired Term	Midtown
Shannon Morelock	12/31/23		Green Acres
Trey Darnell	12/31/23		Colonial Heights
Al Crymble	12/31/20	1	Allandale
Ted Fields	12/31/22	2	Fall Creek
Tammy Fannon	12/31/22	1	Lynn Garden
Suzanne Burns	12/31/22	1	Downtown
Jamie Jackson	12/31/22	2	Edinburgh
Deborah Mullins	12/31/21	2	Cooks Valley
Margot Seay	12/31/21	2	Preston Woods
Jessica Slaughter	12/31/21	2	Midtown
Spencer Snook	12/31/21	2	Ridgefields

Recommended Board:			
Member	Term Expires	No. of Terms	Eligibility
Anitra Little	12/31/23	1	Midtown
Shannon Morelock	12/31/23	1	Green Acres
Trey Darnell	12/31/23	1	Colonial Heights
Alanna Leonberg	12/31/23	1	Allandale
Ted Fields	12/31/22	2	Fall Creek
Tammy Fannon	12/31/22	1	Lynn Garden
Suzanne Burns	12/31/22	1	Downtown
Jamie Jackson	12/31/22	2	Edinburgh
Deborah Mullins	12/31/21	2	Cooks Valley
Margot Seay	12/31/21	2	Preston Woods
Jessica Slaughter	12/31/21	2	Midtown
Spencer Snook	12/31/21	2	Ridgefields

### Attachments:

1. Alanna Leonberg Bio

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

## **Alanna Leonberg**

Alanna is a South Carolina native who moved to Kingsport in 2006. As a professional social worker with over 15 years of experience working in non-profits and other human service agencies, she understands the importance of community and family. For the past thirteen years Alanna has been employed with Holston Habitat for Humanity where she currently serves as the Outreach and Homeowner Services Manager. In addition to her professional role with Holston Habitat, Alanna is actively engaged in the Kingsport community. She is the current Chair of the Kingsport Community Advisory Board and has held past leadership positions on the Washington Elementary PTA and Colonial Heights Presbyterian Day School Parent Advisory Board. She is a graduate of LK19 and also participates in the Outreach Committee at St. Dominic's Church, the Kingsport Homeless Coalition and HOPE for Racial Equity. Although a transplant to the region, Alanna is now deeply rooted in Kingsport and enjoys spending time with her husband and children while hiking, kayaking, and exploring all that the region has to offer.





## AGENDA ACTION FORM

### Appointments to the Regional Planning Commission

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

Action Form No.: AF-126-2021  
 Work Session: May 3, 2021  
 First Reading: N/A

Final Adoption: May 4, 2021  
 Staff Work By: Mayor Shull  
 Presentation By: Mayor Shull

### Recommendation:

Approve appointments.

### Executive Summary:

It is recommended to reappoint Sharon Duncan, Pat Breeding and Sam Booher to the Regional Planning Commission and appoint Travis Patterson who will replace Beverley Perdue. If approved by the Board of Mayor and Aldermen the recommended table reflects term dates.

Terms are four years with no term limits. The board is comprised of (9) members; BMA rep. and (8) at-large members with at least one residing within the regional area and outside of the municipal boundary.

Current Board:			
Member	Term Expires	No. of Terms	Eligibility
Alderman James Phillips	Term of Ofc.	N/A	BMA Rep.
Phil Rickman	6/30/23	2	At-large
John Moody	6/30/24	3	At-large
Brad Blackwell	6/30/24	1	At-large
Paula Stauffer	6/30/23	1	County Rep.
Beverley Perdue	6/30/21	1	At-large
Sam Booher	6/30/21	1	At-large
Sharon Duncan	6/30/21	1	At-large
Pat Breeding	6/30/21	1	At-large

Recommended Board:			
Member	Term Expires	No. of Terms	Eligibility
Alderman James Phillips	Term of Ofc.	N/A	BMA Rep.
Phil Rickman	6/30/23	2	At-large
John Moody	6/30/24	3	At-large
Brad Blackwell	6/30/24	1	At-large
Paula Stauffer	6/30/23	1	County Rep.
Travis Patterson	6/30/25	1	At-large
Sam Booher	6/30/25	2	At-large
Sharon Duncan	6/30/25	2	At-large
Pat Breeding	6/30/25	2	At-large

### Attachments:

1. Travis Patterson Bio

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

# Travis Patterson

***Patterson Homes  
1618 Belmeade Drive  
Kingsport, TN 37660***

***Builder/Owner  
travis@pattersonhandcraftedhomes.com  
(423) 963 – 0293***

Travis is our visionary leader who has been involved in the process of homebuilding for more than 25 years. He is from Church Hill, TN and his experiences include 3 years on a carpentry and framing crew, 17 years at Eastman Chemical Company, and 12 years of homebuilding.

Additionally, his hands-on ability and knowledge are paired with extensive business management knowledge attained through his Business Management degree. These skill sets compliment Travis' trustworthy, motivational, and people first personality.

Travis loves the outdoors and spends his free time fishing or spending time with his awesome wife, Amy, and his two beautiful daughters, Brianna and Lauren.

Minutes of the Regular Work Session of the  
Board of Mayor and Aldermen, City of Kingsport, Tennessee  
Monday, April 19, 2021, 4:30 PM  
City Hall, Boardroom, 415 Broad Street

PRESENT: Board of Mayor and Aldermen

Mayor Patrick W. Shull, Presiding  
Vice-Mayor Colette George (*arrived after roll call*)  
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John Morris, Budget Officer  
Ken Weems, Planning Manager  
Jessica Harmon, Assistant to City Manager

1. **CALL TO ORDER:** 4:30 p.m. by Mayor Patrick W. Shull.
2. **ROLL CALL:** Interim City Recorder Winkle.
3. A determination by the board that meeting electronically and limiting the physical presence of the public at the meeting is necessary to protect public health, safety and welfare of all concerned in light of the COVID-19 virus.  
**Mayor Shull made this declaration and each alderman verbally affirmed.**
4. **OPIOID LAWSUIT UPDATE.** Sullivan County District Attorney General Barry Staubus presented this item and answered questions. He asked the board to allow the city to join the lawsuit and thanking staff for their cooperation. He noted the suit has already been filed, pointing out there was not a downside. This is Item VI.D.4 on the agenda.
5. **BAYS MOUNTAIN PARK UPDATE.** Former Mayor Jeanette Blazier and Park Manager Rob Cole gave a presentation on this item, noting this is the 50<sup>th</sup> anniversary for the park and events are planned monthly to celebrate throughout the year. There is merchandise also available to promote this major milestone and board members were encouraged to spread the word.

**Minutes of the Regular Work Session of the Board of Mayor and Aldermen of Kingsport, Tennessee, Monday, April 19, 2021**

**6. ROADS UPDATE.** Deputy City Manager McReynolds presented information on this item noting it has been a while since the last update. There was considerable discussion as he answered questions from the board on the status of various projects.

**7. REVIEW OF AGENDA ITEMS ON THE APRIL 20, 2021 REGULAR BUSINESS MEETING AGENDA.** City Manager McCartt gave a summary for each item on the proposed agenda. The following items were discussed at greater length or received specific questions or concerns.

**VI.D.4 Approve Inclusion of the City in Opioid Litigation Pursuant to Tennessee's Drug Dealer Liability Act Filed by District Attorney General Barry Staubus (AF: 119-2021).** This item was discussed previously when Attorney General Staubus was present.

The city manager stated they would take a group picture before or after the meeting tomorrow night. He also noted the annual report from the fire department was available at their seats.

**8. ADJOURN.** Seeing no other matters presented for discussion at this work session, Mayor Shull adjourned the meeting at 6:06 p.m.

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ANGELA MARSHALL  
Deputy City Recorder

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PATRICK W. SHULL  
Mayor

Minutes of the Regular Business Meeting of the  
Board of Mayor and Aldermen of the City of Kingsport, Tennessee  
Tuesday, April 20, 2021, 7:00 PM  
City Hall, 415 Broad Street, Boardroom

PRESENT: 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  
J. Michael Billingsley, City Attorney  
Lisa Winkle, Treasurer/Deputy City Recorder  
Angie Marshall, City Clerk/Deputy City Recorder

- I. **CALL TO ORDER:** 7:00 p.m., by Mayor Patrick W. Shull.
- II.A. **PLEDGE OF ALLEGIANCE TO THE FLAG:** Savannah Garland.
- II.B. **INVOCATION:** Pastor Chris Brown, Colonial Heights United Methodist.
- III.A. **ROLL CALL:** By Deputy City Recorder Winkle. All Present.
- III.B. A determination by the board that meeting electronically and limiting the physical presence of the public at the meeting is necessary to protect public health, safety and welfare of all concerned in light of the COVID-19 virus.  
**Mayor Shull made this declaration and each alderman verbally affirmed.**
- IV.A. **RECOGNITIONS AND PRESENTATIONS.** None.
- IV.B. **APPOINTMENTS/REAPPOINTMENTS.** None.
- V. **APPROVAL OF MINUTES.**

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

- A. April 5, 2021 Regular Work Session
- B. April 6, 2021 Regular Business Meeting

Approved in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen  
of the City of Kingsport, Tennessee, Tuesday, April 20, 2021**

**VI. COMMUNITY INTEREST ITEMS.**

**A. PUBLIC HEARINGS.**

**1. Waterline Easement Abandonment for 2401-2405 S. Wilcox Drive (AF: 106-2021) (Savannah Garland).**

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

Motion/Second: George/Olterman, to pass:

AN ORDINANCE TO ABANDON A SECTION OF A WATER LINE EASEMENT LOCATED OFF OF SOUTH WILCOX DRIVE SITUATED IN THE CITY OF KINGSFORT, THIRTEENTH CIVIL DISTRICT OF SULLIVAN COUNTY; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on first reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

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

**B. BUSINESS MATTERS REQUIRING FIRST READING.**

**1. Budget Adjustment for FY21 General Project-Special Revenue Fund and General Project Fund (AF: 120-2021) (Chris McCartt).**

Motion/Second: Adler/George, to pass:

AN ORDINANCE TO AMEND THE GENERAL PROJECTS-SPECIAL REVENUE FUND AND GENERAL PROJECT FUND BUDGETS FOR THE YEAR ENDING JUNE 30, 2021; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on first reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

**2. Amend FY21 General Purpose School Fund Budget (AF: 113-2021) (David Frye).**

Motion/Second: Duncan/Cooper, to pass:

AN ORDINANCE TO AMEND THE GENERAL PURPOSE SCHOOL FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2021; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on first reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen  
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**C. BUSINESS MATTERS REQUIRING FINAL ADOPTION.**

1. **Amend Zoning for Flagship Drive Annexation** (AF: 111-2021)  
(Elizabeth Rowe).

Motion/Second: George/Olterman, to pass:

**ORDINANCE NO. 6932**, AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY LOCATED ALONG FLAGSHIP DRIVE FROM COUNTY M-1, LIGHT MANUFACTURING DISTRICT, TO B-3, HIGHWAY ORIENTED BUSINESS DISTRICT IN THE 07<sup>TH</sup> CIVIL DISTRICT OF SULLIVAN COUNTY; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; 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 City Code Chapter 2, Division 5, Section 2-440 Higher Education Advisory Board** (AF: 09-2021) (Chris McCartt).

Motion/Second: Adler/Phillips, to pass:

**ORDINANCE NO. 6933**, AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF KINGSFORT, TENNESSEE, SECTION 2-440 THROUGH 2-445 RELATING TO THE CREATION OF THE HIGHER EDUCATION COMMISSION 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. **Renew Bid Award for Unleaded Gasoline and Ultra-Low Sulfur Diesel** (AF: 114-2021) (Ryan McReynolds, Steve Hightower).

Motion/Second: George/Olterman, to pass:

**Resolution No. 2021-197**, A RESOLUTION RENEWING THE AWARD OF BID FOR PURCHASE OF UNLEADED GASOLINE FOR USE IN CITY EQUIPMENT AND VEHICLES TO MANSFIELD OIL COMPANY OF GAINESVILLE AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

Motion/Second: Duncan/Phillips, to pass:

**Resolution No. 2021-198**, A RESOLUTION RENEWING THE AWARD OF BID FOR PURCHASE OF ULTRA LOW SULFUR DIESEL FUEL FOR USE IN CITY EQUIPMENT AND VEHICLES TO PETROLEUM TRADERS CORPORATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME

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Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull  
voting "aye."

**2. Renew Bid Award for Propane & Propane Conversion Kits**  
(AF: 115-2021) (Ryan McReynolds, Steve Hightower).

Motion/Second: George/Cooper, to pass:

**Resolution No. 2021-199**, A RESOLUTION RENEWING THE AWARD OF BID FOR PURCHASE OF PROPANE AUTO GAS AND PROPANE CONVERSION KITS FOR USE IN CITY EQUIPMENT FOR FISCAL YEAR 2021-2022 TO BLOSSMAN GAS AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull  
voting "aye."

**3. Approve Permit for a Carnival to Operate Temporarily at 4540 University Boulevard** (AF: 118-2021) (Ken Weems).

Motion/Second: George/Olterman, to pass:

**Resolution No. 2021-200**, A RESOLUTION APPROVING A PERMIT TO OPERATE A CARNIVAL

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull  
voting "aye."

**4. Approve Inclusion of the City in Opioid Litigation Pursuant to Tennessee's Drug Dealer Liability Act Filed by District Attorney General Barry Staubus** (AF: 119-2021) (Chris McCartt).

Motion/Second: Adler/Duncan, to pass:

**Resolution No. 2021-201**, A RESOLUTION SUPPORTING THE DRUG DEALER LIABILITY ACT LAWSUIT FILED BY DISTRICT ATTORNEY GENERAL BARRY STAUBUS, APPROVING THE ACTIONS TAKEN IN THE LAWSUIT THUS FAR ON THE CITY'S BEHALF; APPROVING THE CITY AS A NAMED PLAINTIFF IN THE LAWSUIT; RETAINING DISTRICT ATTORNEY GENERAL BARRY STAUBUS AND THE LAW FIRM OF BRANSTETTER, STRANCH AND JENNINGS, PLLC AS COUNSEL; APPROVING THE RETAINER AGREEMENT WITH THE LAW FIRM; AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ANY OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT OR THIS RESOLUTION

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull  
voting "aye."

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**5. Acquire Property for Kingsport City School System  
(AF: 122-2021) (David Frye).**

Motion/Second: Phillips/Olterman, to pass:

**Resolution No. 2021-202**, A RESOLUTION APPROVING AN OFFER FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 1745 PARK STREET; AUTHORIZING THE MAYOR TO MAKE CERTAIN CHANGES TO THE AGREEMENT, IF NECESSARY; AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

**6. Authorize City to Cooperatively Purchase Hardware Upgrades  
for the Kingsport Police and Fire Departments for Use with Upgraded Software  
from CentralSquare Technologies (AF: 121-2021) (Chris McCartt).**

Motion/Second: George/Olterman, to pass:

**Resolution No. 2021-203**, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR PURCHASE OF HARDWARE UPGRADES FOR THE KINGSFORT POLICE AND FIRE DEPARTMENTS FOR USE WITH THE UPGRADED CENTRAL SQUARE TECHNOLOGIES SOFTWARE UPGRADES FROM DELL TECHNOLOGIES

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

**7. Ratify Mayor Shull's Signature on Amendment to Partnership  
Support Grant with the Tennessee Arts Commission (AF: 68-2021) (Michael  
Borders).**

Motion/Second: Duncan/Adler, to pass:

**Resolution No. 2021-204**, A RESOLUTION TO RATIFY THE MAYOR'S SIGNATURE ON ALL DOCUMENTS NECESSARY AND PROPER TO AMEND THE PARTNERSHIP SUPPORT GRANT FROM THE TENNESSEE ARTS COMMISSION

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

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

Motion/Second: George/Cooper, to adopt:

**1. Bays Mountain Park Association to Host 50<sup>th</sup> Anniversary  
Events (AF: 116-2021) (Michael Borders, Rob Cole).**

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Pass:

**Resolution No. 2021-205**, A RESOLUTION APPROVING THE BAYS MOUNTAIN PARK ASSOCIATION TO HOST SPECIAL EVENTS AS PART OF THE 50TH ANNIVERSARY CELEBRATION FOR BAYS MOUNTAIN PARK AND PLANETARIUM; TO ALLOW THE ASSOCIATION TO SET FEES FOR EVENTS HOSTED IN CONJUNCTION WITH THE 50TH ANNIVERSARY CELEBRATION WHICH DIFFER FROM THOSE PREVIOUSLY ESTABLISHED BY THE BOARD OF MAYOR AND ALDERMAN AND TO FIX THE EFFECTIVE DATE OF THIS RESOLUTION

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

**2. Renew Proposal for Concession Food Service Distributor for the Kingsport Aquatic Center to H.T. Hackney Company (AF: 117-2021) (Michael Borders).**

Pass:

**Resolution No. 2021-206**, A RESOLUTION AUTHORIZING THE RENEWAL OF THE KINGSFORT AQUATIC CENTER CONCESSION FOOD SERVICE DISTRIBUTOR CONTRACT WITH H.T. HACKNEY COMPANY

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

**3. Authorize the Mayor to Sign a Contract Amendment with the Tennessee Department of Transportation on Behalf of the Kingsport MTPO for Federal Planning Fund Modifications (AF: 112-2021) (Leslie Phillips).**

Pass:

**Resolution No. 2021-207**, A RESOLUTION APPROVING AN AMENDMENT TO GRANT CONTRACT Z19MPO007 WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE KINGSFORT METROPOLITAN TRANSPORTATION PLANNING ORGANIZATION AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE CONTRACT

Passed in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting "aye."

**VIII. COMMUNICATIONS.**

**A. CITY MANAGER.** None.

**B. MAYOR AND BOARD MEMBERS.** Alderman Duncan commented on the paving update given at the work session yesterday, noting the positive trend, especially since 2016. He mentioned Keep Kingsport Beautiful had already picked up 5.9 tons of trash in the two clean-ups they have already had, noting there were five more scheduled. Lastly he mentioned the Farmers Market would be opening this

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Saturday. Alderman Cooper pointed out the presentations on Bays Mountain and on paving at the work session were very informative. She mentioned the activities scheduled throughout the year at Bays Mountain, pointing out there are lots of activities to do in Kingsport. Alderman Adler also commented on the opening of the Farmers Market as well as the new dog park. Alderman Phillips talked about the Downtown Kingsport Association and encouraged citizens to visit their website. Alderman Olterman encouraged everyone to support their local sports teams. Vice-Mayor George commented on the ribbon cutting at the dog park. She also mentioned the new merchandise for the Bays Mountain anniversary and also noting they needed volunteers at the park to clear trails. Mayor Shull asked the city manager to talk about how information from the city is shared with the public. He mentioned the different methods of posting information, noting the website is the best resource.

**C. VISITORS.** None.

**IX. ADJOURN.** Seeing no other business for consideration at this meeting, Mayor Shull adjourned the meeting at 7:46 p.m.

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ANGELA MARSHALL  
Deputy City Recorder

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PATRICK W. SHULL  
Mayor



## AGENDA ACTION FORM

### Budget Adjustment Ordinance for the Various Funds in FY21

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

Action Form No.: AF-147-2021  
 Work Session: May 3, 2021  
 First Reading: May 4, 2021

Final Adoption: May 18, 2021  
 Staff Work By: John Morris  
 Presentation By: C. McCartt

#### Recommendation:

Approve the Ordinance

#### Executive Summary:

The General Projects-Special Revenue Fund is being amended by transferring \$919 from the General Projects project (NC2100) to the US Census Promo project (NC2019), so we can close NC2019.

The Water Project Fund is being amended by decreasing the funds transferred from the Water Fund operating budget for the Gibson Springs PH 2 project (WA2053) by \$868, so we can close WA2053.

The Sewer Project Fund is being amended by decreasing the funds transferred from the Sewer Fund operating budget for the Gibson Springs PH 2 project (SW2053) by \$1,642, so we can close SW2053.

#### Attachments:

1. Ordinance

Funding source appropriate and funds are available: *CM*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *CM*

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

## ORDINANCE NO.

AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR  
THE YEAR ENDING JUNE 30, 2021; AND, TO FIX THE  
EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Projects-Special Revenue Fund be amended by transferring \$919 from the General Projects project (NC2100) to the US Census Promo project (NC2019). Close NC2019.

SECTION II. That the Water Project Fund be amended by decreasing the funds transferred from the Water Fund operating budget for the Gibson Springs PH 2 project (WA2053) by \$868. Close WA2053.

SECTION III. That the Sewer Project Fund be amended by decreasing the funds transferred from the Sewer Fund operating budget for the Gibson Springs PH 2 project (SW2053) by \$1,642. Close SW2053.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/&lt;Decr&gt;</u>	<u>New Budget</u>
<b><u>Gen Projects-Spec Revenue Fund: 111</u></b>			
<b><u>General Projects (NC2100)</u></b>			
<b><u>Revenues:</u></b>	\$	\$	\$
111-0000-391.01-00 From General Fund	267,147	(919)	266,228
<b><i>Totals:</i></b>	<b>267,147</b>	<b>(919)</b>	<b>266,228</b>
<b><u>Expenditures:</u></b>	\$	\$	\$
111-0000-601.90-03 Improvements	267,147	(919)	266,228
<b><i>Totals:</i></b>	<b>267,147</b>	<b>(919)</b>	<b>266,228</b>
<b><u>US Census Promo (NC2019)</u></b>			
<b><u>Revenues:</u></b>	\$	\$	\$
111-0000-332.69-00 Miscellaneous Other State	10,000	0	10,000
111-0000-391.01-00 From General Fund	10,000	919	10,919
<b><i>Totals:</i></b>	<b>20,000</b>	<b>919</b>	<b>20,919</b>
<b><u>Expenditures:</u></b>	\$	\$	\$
111-0000-601.20-10 Advertising & Publication	20,000	919	20,919
<b><i>Totals:</i></b>	<b>20,000</b>	<b>919</b>	<b>20,919</b>

**Water Project Fund:451****Gibson Springs Phase 2 (WA2053)****Revenues:**

451-0000-391-4500 From the Water Fund

***Totals:*****Expenditures:**

451-0000-605-9003 Improvements

***Totals:***

\$	\$	\$
9,994	(868)	9,126
<b>9,994</b>	<b>(868)</b>	<b>9,126</b>
\$	\$	\$
9,994	(868)	9,126
<b>9,994</b>	<b>(868)</b>	<b>9,126</b>

**Sewer Project Fund:452****Gibson Springs Phase 2 (SW2053)****Revenues:**

452-0000-391-4200 From the Sewer Fund

***Totals:*****Expenditures:**

452-0000-606-9003 Improvements

***Totals:***

\$	\$	\$
18,931	(1,642)	17,289
<b>18,931</b>	<b>(1,642)</b>	<b>17,289</b>
\$	\$	\$
18,931	(1,642)	17,289
<b>18,931</b>	<b>(1,642)</b>	<b>17,289</b>

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

\_\_\_\_\_  
PATRICK W. SHULL, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING:

PASSED ON 2ND READING:



## AGENDA ACTION FORM

### Waterline Easement Abandonment for 2401-2405 S. Wilcox Drive

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

Action Form No.: AF-106-2021  
 Work Session: April 19, 2021  
 First Reading: April 20, 2021

**Final Adoption: May 4, 2021**  
 Staff Work By: Savannah Garland  
 Presentation By: Savannah Garland

### Recommendation:

Approve ordinance abandoning waterline easement located off 2401-2405 S. Wilcox Drive.

### Executive Summary:

This is a request, from the owner of 2401-2405 S. Wilcox Drive, to abandon a waterline easement on the northeasterly property line. The water line easement proposed to be abandoned is approximately 12ft wide. City departments as well as local utility providers have reviewed the request. City staff sees no future use for this water line. During their April 2021 regular meeting, the Kingsport Regional Planning Commission voted unanimously to send a favorable recommendation for the abandonment to the Board of Mayor and Aldermen. The Notice of Public Hearing was published on April 5, 2021.

### Attachments:

1. Ordinance

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

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO ABANDON A SECTION OF A WATER LINE EASEMENT LOCATED OFF OF SOUTH WILCOX DRIVE SITUATED IN THE CITY OF KINGSPORT, THIRTEENTH CIVIL DISTRICT OF SULLIVAN COUNTY; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, after due investigation and careful consideration at a public meeting held on April 15<sup>th</sup>, 2021, the Kingsport Regional Planning Commission has determined that the public interest of the city is best served and warrants abandoning that portion of water line easement described herein, nor can any future use of the same water line easement purposes be reasonably anticipated; and

WHEREAS, as a result of its action at the meeting held on April 15<sup>th</sup>, 2021, the Kingsport Regional Planning Commission recommends to the Board of Mayor and Aldermen to abandon the water line easement described herein; and

WHEREAS, a public hearing before the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, was held on the 20<sup>th</sup> day of April 2021, and notice thereof published in the Kingsport Times-News on the 5th day of April, 2021.

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

SECTION I. The city hereby abandons the water line easement located off 2401 – 2405 S. Wilcox Drive within the City of Kingsport, 13<sup>th</sup> Civil District of Sullivan County, Tennessee, which for purposes of this vacation is further described as follows:

Beginning at a point in the northeasterly sideline of the said 12-ft wide waterline easement, zesaidd point being distant along the same on a course of north 30 degrees 13 minutes 36 seconds west for a distance of 94.63 feet from the intersection of the said northeasterly sideline of the easement with the northerly sideline of South Wilcox Drive; thence running south 59 degrees 46 minutes 24 seconds west for the distance of 12.00 feet; thence along the southwesterly sideline of the 12-ft wide waterline easement, north 30 degrees 13 minutes 36 seconds west for a distance of +/- 174 feet to the northerly terminus of said easement; thence along the northerly terminus north 59 degrees 46 minutes 24 seconds east for a distance of 12.00 feet; thence along the northeasterly sideline of the easement, south 30 degrees 13 minutes 36 seconds east for a distance of +/- 174 feet to the point of beginning, as shown on a survey dated February 19, 2021, by M. Lacey Land Surveying, Whitesburg, Tennessee.

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

\_\_\_\_\_  
PATRICK W. SHULL, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
ANGELA MARSHALL, Deputy City Recorder

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: \_\_\_\_\_

PASSED ON 2ND READING: \_\_\_\_\_



## AGENDA ACTION FORM

### **Budget Adjustment for the Gen Project-Special Revenue Fund and General Project Fund in FY21**

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

Action Form No.: AF-120-2021  
 Work Session: April 19, 2021  
 First Reading: April 20, 2021

**Final Adoption: May 4, 2021**  
 Staff Work By: John Morris  
 Presentation By: C. McCartt

#### **Recommendation:**

Approve the ordinance.

#### **Executive Summary:**

The General Projects-Special Revenue Fund budget is being amended by accepting a \$6,000 grant from the Tennessee Arts Commission to the TAC Creative Partner Grant project (NC2109) to increase annual support from the Tennessee Arts Commission, by accepting a Tennessee Agricultural Enhancement Grant from the Tennessee Department of Agriculture in the amount of \$1,000 to the Farmers Market Advertising project (NC2112) for Farmer's Market advertising, and by accepting a American Dream Literacy Initiative Grant from the American Library Association in the amount of \$5,000 to the Library Literacy Initiative project (NC2113) to expand ESL services at the Library.

The General Project Fund is being amended by accepting a donation from CSX in the account of \$17,651 to the Aesthetic Improvements project (GP2017) for the painting of the railroad bridge over Wilcox.

#### **Attachments:**

1. Ordinance

Funding source appropriate and funds are available: *JM*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *me*

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

## ORDINANCE NO.

PRE-FILED  
CITY RECORDER

AN ORDINANCE TO AMEND THE GEN PROJECTS-SPECIAL REVENUE FUND AND GENERAL PROJECT FUND BUDGETS FOR THE YEAR ENDING JUNE 30, 2021; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Projects-Special Revenue Fund budget be amended by accepting a \$6,000 grant from the Tennessee Arts Commission to the TAC Creative Partner Grant project (NC2109) to increase annual support from the Tennessee Arts Commission, by accepting a Tennessee Agricultural Enhancement Grant from the Tennessee Department of Agriculture in the amount of \$1,000 to the Farmers Market Advertising project (NC2112) for Farmer's Market advertising, and by accepting a American Dream Literacy Initiative Grant from the American Library Association in the amount of \$5,000 to the Library Literacy Initiative project (NC2113) to expand ESL services at the Library.

SECTION II. That the General Project Fund be amended by accepting a donation from CSX in the account of \$17,651 to the Aesthetic Improvements project (GP2017) for the painting of the railroad bridge over Wilcox.

**Fund 111: Gen Projects-Special Revenue Fund****TAC Creative Partner Grant (NC2109)****Revenues:**

111-0000-332.32-00	TN Arts Commission	\$	20,200	\$	6,000	\$	26,200
<b>Totals:</b>			<b>20,200</b>		<b>6,000</b>		<b>26,200</b>

**Expenditures:**

111-0000-601.20-20	Professional/Consultant	\$	20,200	\$	6,000	\$	26,200
<b>Totals:</b>			<b>20,200</b>		<b>6,000</b>		<b>26,200</b>

**Farmers Market Advertising (NC2112)****Revenues:**

111-0000-332.61-00	TN Dept of Agriculture	\$	0	\$	1,000	\$	1,000
<b>Totals:</b>			<b>0</b>		<b>1,000</b>		<b>1,000</b>

**Expenditures:**

111-0000-601.20-10	Advertising & Publication	\$	0	\$	1,000	\$	1,000
<b>Totals:</b>			<b>0</b>		<b>1,000</b>		<b>1,000</b>

**Library Literacy Initiative (NC2113)****Revenues:**

111-0000-364.30-00	From Non-Profit Groups	\$	0	\$	5,000	\$	5,000
<b>Totals:</b>			<b>0</b>		<b>5,000</b>		<b>5,000</b>

**Expenditures:**

111-0000-601.90-05	Library Materials	\$	0	\$	5,000	\$	5,000
<b>Totals:</b>			<b>0</b>		<b>5,000</b>		<b>5,000</b>

**Fund 311: General Project Fund**  
**Library Literacy Initiative (GP2017)**

**Revenues:**

	\$	\$	\$
311-0000-368.99-00 Miscellaneous	0	17,651	17,651
311-0000-391.01-00 From General Fund	313,750	0	313,750
<b><i>Totals:</i></b>	<b>313,750</b>	<b>17,651</b>	<b>331,401</b>

**Expenditures:**

	\$	\$	\$
311-0000-601.90-03 Improvements	313,750	17,651	331,401
<b><i>Totals:</i></b>	<b>313,750</b>	<b>17,651</b>	<b>331,401</b>

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

\_\_\_\_\_  
PATRICK W. SHULL, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, Deputy 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 2021 General Purpose School Fund Budget

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

Action Form No.: AF-113-2021  
 Work Session: April 19, 2021  
 First Reading: April 20, 2021

**Final Adoption: May 4, 2021**  
 Staff Work By: David Frye  
 Presentation By: D. Frye

### Recommendation:

Approve the Ordinance

### Executive Summary:

The Board of Education approved fiscal year 2021 budget amendment number three at their meeting on April 13, 2021. This amendment increases the General Purpose School Fund budget by \$120,000. Funds are being appropriated from the Unreserved Fund Balance to purchase an additional school bus for \$120,000. Unused Dobyns-Bennett band and chorus funds of \$38,000 are being reserved to carry forward to the FY 2022 budget. 5 schools have requested budget transfers.

### Attachments:

1. Ordinance
2. BOE Budget Amendment Number Three – FY 2021

Funding source appropriate and funds are available: *CM*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *CM*

	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, 2021; 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 Unreserved Fund Balance Appropriations \$120,000. The expenditure budget will be amended by increasing the appropriation for Dobnys-Bennett-Instructional Equipment by \$12,000; the appropriation for Adams-Instructional Equipment by \$975; the appropriation for Washington-Instructional Supplies by \$3,000; the appropriation for DB Excel-Instructional Equipment by \$1,400; the appropriation for Transportation Equipment by \$120,000; the appropriation for Dobyns-Bennett-Non-Instructional Equipment by \$22,700; the appropriation for Jackson-Non-Instructional Equipment by \$2,000 and by decreasing the appropriation for Dobyns-Bennett-Student Travel by \$12,000; the appropriation for Dobyns-Bennett-Repair of Books by \$2,800; the appropriation for Dobyns-Bennett-Library Books by \$2,900; the appropriation for Dobyns-Bennett-Audio Visual by \$10,500; the appropriation for Dobyns-Bennett-Periodicals by \$3,800; The appropriation for Washington-Staff Development by \$1,000; the appropriation for DB Excel-Staff Development by \$1,400; the appropriation for Dobyns-Bennett-Principal Travel by \$2,700; the appropriation for Adams-Principal Travel by \$975; the appropriation for Jackson-Principal Travel by \$2,000; the appropriation for Washington-Principal Travel by \$2,000. In addition, a Reserve for Dobyns-Bennett Fine Arts will be established for \$38,000.

**Fund 141: General Purpose School Fund**

**Reserves:**

	\$	\$	\$
141-0000-247-7700 Reserve for D-B Fine Arts	0	38,000	38,000
<b>Totals</b>	<b>0</b>	<b>38,000</b>	<b>38,000</b>

**Revenues:**

	\$	\$	\$
141-0000-392-0100 Unreserved Fund Bal. Appr.	1,126,656	120,000	1,246,656
<b>Totals</b>	<b>1,126,656</b>	<b>120,000</b>	<b>1,246,656</b>

**Expenditures:**

	\$	\$	\$
141-7100-711-0722 DB – Inst Equipment	46,800	12,000	58,800
141-7112-711-0722 Adams - Inst Equipment	8,955	975	9,930
141-7140-711-0429 Washington – Inst Supplies	22,243	3,000	25,243
141-7158-711-0722 DB Excel – Inst. Equipment	8,710	1,400	10,110
141-7200-773-0599 DB – Student Travel	58,000	(12,000)	46,000
141-7200-781-0431 DB – Repair of Books	3,663	(2,800)	863
141-7200-781-0432 DB – Library Books	31,850	(2,900)	28,950
141-7200-781-0433 DB – Audio Visual	29,639	(10,500)	19,139
141-7200-781-0437 DB – Periodicals	10,000	(3,800)	6,200
141-7240-781-0457 Washington – Staff Dev	3,450	(1,000)	2,450
141-7258-781-0457 DBE – Staff Development	2,000	(1,400)	600

141-7200-801-0255	DB – Principal Travel	5,300	(2,700)	2,600
141-7212-801-0355	Adams – Principal Travel	2,000	(975)	1,025
141-7215-801-0355	Jackson – Principal Travel	2,000	(2,000)	0
141-7240-801-0355	Washington – Principal Trav	2,000	(2,000)	0
141-7250-831-0729	Transportation – Equipment	110,298	120,000	230,298
141-7600-871-0790	DB – Non-Inst Equipment	86,303	22,700	109,003
141-7615-871-0570	Jackson Non-Inst Equipment	8,936	2,000	10,936
<b>Totals</b>		<b>442,147</b>	<b>120,000</b>	<b>562,147</b>

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.

\_\_\_\_\_  
PAT SHULL, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Angela Marshall, Deputy City Recorder

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: \_\_\_\_\_

PASSED ON 2ND READING: \_\_\_\_\_

April 13, 2021

KINGSPORT CITY SCHOOLS  
FISCAL YEAR 2020-2021  
BUDGET AMENDMENT NUMBER THREE

**GENERAL PURPOSE SCHOOL FUNDS**

**ITEM ONE: REGULAR EDUCATION BUS**

During the budget process, it was determined that we need to purchase an additional regular education bus. If we start the process now instead of waiting on the new budget, we should have that bus ready to put into service at the beginning of the second semester of the 21-22 school year. It is recommended that the estimated revenue for Fund Balance Appropriations be increased by \$120,000 and that the appropriations for Regular Education Transportation Equipment be increased by \$120,000.

**ITEM TWO: DOBYNS-BENNETT STUDENT TRAVEL**

- Band Travel - There is \$51,000 budgeted for band travel in the current year budget. With all band travel being cancelled for this year, the band is requesting that these funds be carried over to the FY 21-22 budget. These funds will be used to offset the cost of percussion and color guard instructors for one year. It is recommended that a Reserve for Dobyns-Bennett Band be established for \$51,000 and that these funds be appropriated in the FY 2021-22 budget.
- Chorus Travel – There is \$3,000 budgeted for chorus travel in the current year budget. With all chorus travel cancelled for this year, the chorus is requesting that these funds be carried over to the FY 21-22 budget. These funds will be used to offset the cost of a planned trip to Carnegie Hall. It is recommended that a Reserve for Dobyns-Bennett Chorus be established for \$3,000 and that these funds be appropriated in the FY 2021-22 budget.

**ITEM THREE: MISCELLANEOUS TRANSFERS**

- Dobyns-Bennett – Dobyns-Bennett has requested to transfer \$2,700 of their Principal Travel funds and \$20,000 of their Library funds to their Non-instructional Equipment account. This will help fund LED lights for the theater, new graduation chairs, new lights for lobby arts display/gallery, school hallway signage and 1-2 sets of classroom furniture. They would also request to transfer \$2,000 of Orchestra Travel funds and \$10,000 of General Student Travel funds to their Instructional Equipment account. This will help fund new microphones and a new kiln.
- Adams – Adams Elementary has requested to transfer \$975 of their Principal Travel funds to their Instructional Equipment account. These funds will be used to purchase a chromebook cart.
- Jackson – Jackson elementary has requested to transfer their Principal Travel Funds (\$2,000) to their Non-Instructional Equipment account. These funds will be used to

purchase in-house walkie-talkies.

- D-B Excel – D-B Excel has requested to transfer \$1,400 of their Staff Development funds to their Instructional Equipment account.
- Washington - Washington elementary has requested to transfer \$1,000 of their Staff Development and \$2,000 of their Principal Travel fund to their Instructional Supplies and Materials account.



## AGENDA ACTION FORM

### Accept Art Donation Provided by Girl Scout Troop 1083

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

Action Form No.: AF-146-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Sheila Catron  
 Presentation By: R. McReynolds

#### **Recommendation:**

Approve the Resolution

#### **Executive Summary:**

Girl Scout Troop 1083, a very inspiring group of girls, is known for their community service, their friendship, love for each other and the outdoors. The troop was started in the fall of 2017 as the first Girl Scout troop to meet at Roosevelt Elementary. The troop was welcomed with the schools motto "Little School, Big Heart". The girls in Troop 1083 have returned this love to their school by educating their fellow students about the dangers of litter, especially to our oceans and our pollinators. They have cleaned their school several times, and took it a step forward with litter clean up around downtown Kingsport and the Greenbelt.

The artwork was a way to show the fun and creativity of using everyday items, therefore bottle caps were collected as a way of using their resources wisely. Together they earned both their WOW Wonders of Water Journey badges, and It's Your Planet Love It badge set, which is part of TAP (Take Action Project).

Troop 1083 has also planted eight (8) trees and various plants at Roosevelt Elementary earning Bronze Awards for the Roosevelt Pollinator Garden; and are in the process of creating a hands on outdoor Sensory Garden, a connection and open play area to the Pollinator Garden. The gardens are always filled with teachers and students during recess. The gardens will also continue to be maintained by the troop for years to come.

It is requested the art donation from Girl Scout Troop 1083 be accepted, and displayed by Public Works. The art fits in well with National Drinking Water week, and will be displayed as a reminder of their dedication and love for the environment.

#### **Attachments:**

1. Resolution
2. Photos

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ACCEPTING AN ART DONATION FROM GIRL  
SCOUT TROOP 1083 AT ROOSEVELT ELEMENTARY SCHOOL

WHEREAS, Girl Scout Troop 1083, is the first Girl Scout Troop affiliated with Roosevelt Elementary School; and

WHEREAS, Troop 1083 would like to donate their art project to the city's public works department as a reminder of the dangers of litter, especially to our oceans and our pollinators.

Now therefore,

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

SECTION I. That the donation of art project to the city from Girl Scout Troop 1083 that can be displayed as a reminder of their dedication and love for the environment is accepted.

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

ADOPTED this the 4th day of May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

# Girl Scout Troop 1083

## TAKE ACTION PROJECT



### BOTTLE CAP ART

A creative way to show the fun of using everyday items, while protecting our waterways and our pollinators.



Bronze  
Award

## Roosevelt Pollinator Garden

Girl Scout Troop 1083





## AGENDA ACTION FORM

### Awarding the Bid for Contracted Truck Haul for FY22

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

Action Form No.: AF-131-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Committee  
 Presentation By: R. McReynolds

### Recommendation:

Approve the Resolution

### Executive Summary:

Bids were opened on April 20, 2021 for Contracted Truck Hauling for use by the Public Works Department for FY22 on an as needed basis. It is recommended to award the bid to JTB Construction, LLC, West Stone Industries, & Glass Machinery & Excavation at an estimated annual cost of \$60,000 as follows:

Diesel Cost Per Gal	JTB Construction, LLC	West Stone Industries	Glass Machinery & Excavation
\$2.00	\$71.00	\$75.00	\$79.00
\$2.25	\$72.50	\$76.00	\$79.00
\$2.50	\$74.00	\$77.00	\$79.00
\$2.75	\$75.50	\$78.00	\$79.00
\$3.00	\$77.00	\$79.00	\$81.00
\$3.25	\$78.50	\$80.00	\$83.00
\$3.50	\$80.00	\$81.00	\$85.00
\$3.75	\$81.50	\$82.00	\$87.00
\$4.00	\$83.00	\$83.00	\$89.00
\$4.25	\$84.50	\$84.00	\$91.00
\$4.50	\$86.00	\$85.00	\$93.00
\$4.75	\$87.50	\$86.00	\$95.00
\$5.00	\$89.00	\$87.00	\$97.00

Funding is identified in various department accounts.

### Attachments:

1. Resolution
2. Bid Opening Minutes
3. Recommendation Memo

Funding source appropriate and funds are available: *JM*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *JW*

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AWARDDING THE BID FOR PURCHASE OF CONTRACTED TRUCK HAULING FOR FY 2022 TO JTB CONSTRUCTION, LLC, WEST STONE INDUSTRIES, AND GLASS MACHINERY & EXCAVATION, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME

WHEREAS, bids were opened April 20 2021, for the use by the public works department of contracted truck hauling on an as needed basis; and

WHEREAS, upon review of the bids, the board finds JTB Construction, LLC, West Stone Industries, and Glass Machinery & Excavation, are the lowest responsible compliant bidders meeting specifications for the particular grade or class of material, work, or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to purchase contracted truck hauling from JTB Construction, LLC, West Stone Industries, and Glass Machinery & Excavation, at an estimated annual cost of \$60,000.00; and

WHEREAS, the determination of which vendor to use for a particular project will be determined by the city based on geographical considerations as set out in the specifications for the bid; and

WHEREAS, funding is identified in various department accounts;

Now therefore,

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

SECTION I. That the bid for purchase of contracted truck hauling for use by the public works department on an as needed basis is awarded to JTB Construction, LLC, West Stone Industries, & Glass Machinery & Excavation., at an annual estimated cost of \$60,000.00, and the city manager is authorized to execute purchase orders for the same.

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

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

ADOPTED this the 4th day of May 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHAL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

# BID OPENING MINUTES

April 20, 2021

4:00 P.M.

Present: Brent Morelock, Procurement Manager; and Nikisha Eichmann, Assistant Procurement Manager

The Bid Opening was held in the Council Room, City Hall.

The Procurement Manager opened with the following bids:

Contracted Truck Hauling			
Diesel Cost Per Gallon	Vendors		
	JTB Construction, LLC	West Stone Industries	Glass Machinery & Excavation
\$2.00	\$71.00	\$75.00	\$79.00
\$2.25	\$72.50	\$76.00	\$79.00
\$2.50	\$74.00	\$77.00	\$79.00
\$2.75	\$75.50	\$78.00	\$79.00
\$3.00	\$77.00	\$79.00	\$81.00
\$3.25	\$78.50	\$80.00	\$83.00
\$3.50	\$80.00	\$81.00	\$85.00
\$3.75	\$81.50	\$82.00	\$87.00
\$4.00	\$83.00	\$83.00	\$89.00
\$4.25	\$84.50	\$84.00	\$91.00
\$4.50	\$86.00	\$85.00	\$93.00
\$4.75	\$87.50	\$86.00	\$95.00
\$5.00	\$89.00	\$87.00	\$97.00

Price submitted are based on an hourly rate.

The submitted bids will be evaluated and a recommendation made at a later date.

M E M O R A N D U M

April 22, 2021

TO: Nikisha Eichmann, Assistant Procurement Manager

FROM: Tim Elsea, Public Works Manager

SUBJECT: Contracted Truck Hauling Bid Award

---

Greg Willis and I have reviewed the recent bids for Contracted Truck Hauling.

Our recommendation for the Contracted Truck Hauling would be to award the bid to all three bidders (JTB Construction, LLC, Glass Machinery & Excavation, and West Stone Industries). The bids were very close and we would be able to use either one of the companies based on their availability.

If you have any questions please contact me at your convenience at 229-9451.



## AGENDA ACTION FORM

### Awarding the Bid for the Purchase of Asphalt for FY22

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

Action Form No.: AF-135-2021  
Work Session: May 3, 2021  
First Reading: NA

Final Adoption: May 4, 2021  
Staff Work By: Committee  
Presentation By: R. McReynolds

### Recommendation:

Approve the Resolution

### Executive Summary:

Bids were opened on April 21, 2021 for the purchase of asphalt for use by all City Departments for FY22 on an as needed basis. It is recommended to award the bid for the purchase of the items contained therein to Fuller Asphalt Materials, Summers-Taylor, Pavewell Paving Co. Inc., & W-L Construction and Paving Co. Inc. at an estimated annual cost of \$700,000 subject to increase or decrease based upon the monthly Tennessee Department of Transportation Asphalt Cement Index as follows:

Fuller Asphalt Materials	Summers-Taylor	Pavewell Paving	W-L Construction & Paving
411-E: \$72.00 per ton	411-E: \$74.00 per ton	411-E: \$68.87 per ton	411-E: \$67.59 per ton
307-C: \$67.00 per ton	307-C: \$64.75 per ton	307-C: \$62.23 per ton	307-C: \$64.75 per ton
307-B: \$62.00 per ton	307-B: \$63.25 per ton	307-B: \$60.18 per ton	307-B: \$59.85 per ton
411-D: \$78.00 per ton	411-D: \$75.50 per ton	411-D: \$78.00 per ton	411-D: \$76.23 per ton

The specifications included language that allows the City to award this bid to more than one vendor due to geographical considerations and asphalt availability.

Funding is identified in various department accounts.

### Attachments:

1. Resolution
2. Bid Opening Minutes
3. Recommendation Memo

Funding source appropriate and funds are available: gm

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: 2w

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AWARDED THE BID FOR PURCHASE OF ASPHALT TO FULLER ASPHALT MATERIALS, SUMMERS-TAYLOR, PAVE-WELL PAVING COMPANY, INC., AND W-L CONSTRUCTION AND PAVING COMPANY, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME Fuller Asphalt Materials, Summers-Taylor, Pave-well Paving Co. Inc., & W-L Construction and Paving Co. Inc.

WHEREAS, bids were opened April 22 2021, for the purchase of asphalt for use by all city departments on an as needed basis; and

WHEREAS, the specifications for the bid state that the city may award this bid to more than one vendor; and

WHEREAS, upon review of the bids, the board finds Fuller Asphalt Materials, Summers-Taylor, Pave-well Paving Co. Inc., and W-L Construction and Paving Company, Inc. are the lowest responsible compliant bidders meeting specifications for the particular grade or class of material, work, or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to purchase asphalt from Fuller Asphalt Materials, Summers-Taylor, Pave-well Paving Co. Inc., and W-L Construction and Paving Company, Inc. at an estimated annual cost of \$700,000.00; and

WHEREAS, the determination of which vendor to use for a particular project will be determined by the city based on geographical considerations as set out in the specifications for the bid; and

WHEREAS, funding is identified in various department accounts;

Now therefore,

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

SECTION I. That the bid for purchase of various types of asphalt for use by all city departments is awarded to Fuller Asphalt Materials, Summers-Taylor, Pave-well Paving Co. Inc., and W-L Construction and Paving Company, Inc. at an annual estimated cost of \$700,000.00, and the city manager is authorized to execute purchase orders for the same.

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

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

ADOPTED this the 4th day of May 2021.

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PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

MINUTES  
BID OPENING  
April 21, 2021  
4:00 P.M.

Present: Brent Morelock, Procurement Manager; and Nikisha Eichmann, Assistant Procurement Manager

The Bid Opening was held in the Council Room, City Hall.

The Procurement Manager opened with the following bids:

ASPHALT				
Vendor:	Fuller Asphalt Materials	Summers-Taylor	Pavewell Paving	W-L Construction & Paving
Asphalt Topping, Plant Mix (411-E) Per Ton	\$72.00	\$74.00	\$68.87	\$67.59
Asphalt Binder, Plant Mix (307-C) Per Ton	\$67.00	\$64.75	\$62.23	\$64.75
Asphalt Binder, Plant Mix (307-B) Per Ton	\$62.00	\$63.25	\$60.18	\$59.85
Asphalt Surface, Plant Mix (411-D) Per Ton	\$78.00	\$75.50	\$78.00	\$76.23

The submitted bids will be evaluated and a recommendation made at a later date.

## MEMORANDUM

April 22, 2021

TO: Nikisha Eichmann, Assistant Procurement Manager  
FROM: Tim Elsea, Public Works Manager  
SUBJECT: Asphalt, Stone & Concrete Bid Award

---

Greg Willis and I have reviewed the recent bids for Asphalt, Stone and Concrete.

Our recommendation for the Asphalt Bid would be to award the bid to all four bidders (W & L Construction and Paving, Summers-Taylor, Fuller Asphalt Materials and Pavewell Paving). The bids were close and we would be able to use either one of the companies based on their distance from the job sites.

Our recommendation for the Stone bid would be to award to both bidders (Vulcan Materials Company and Glass Machinery & Excavation). We normally get stone on an as needed basis so the proximity and location of the Vulcan quarry for City projects is very convenient. There is value in having Glass Machinery & Excavation as a supplier in the event we have projects where stone can be stockpiled.

Our recommendation for the Concrete bid would be to award the bid to all three bidders (Summers-Taylor, Symrna Ready Mix, and Ready Mix USA). The bids were very close and we would be able to use either one of the companies based on their truck availability.

If you have any questions please contact me at your convenience at 229-9451.



## AGENDA ACTION FORM

### Awarding the Bid for the Purchase of Crushed Stone for FY22

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

Action Form No.: AF-137-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Committee  
 Presentation By: R. McReynolds

### Recommendation:

Approve the Resolution

### Executive Summary:

Bids were opened on April 21, 2021 for the purchase of crushed stone for use by all City Departments on an as needed basis for FY22. This bid was issued as a joint invitation to bid with the City of Church Hill, TN. It is recommended to award the bid for the purchase of the items contained therein to Vulcan Construction Materials, LP & Glass Machinery & Excavation at an estimated annual cost of \$200,000 as follows:

Vulcan Materials	Glass Machinery & Excavation
Crusher Run Stone: \$17.00	Crusher Run Stone: \$10.00
Stone, TN Hwy # 68: \$20.00	Stone, TN Hwy # 68: \$10.50
Stone, TN Hwy # 57: \$20.00	Stone, TN Hwy # 57: \$10.50
Stone, TN Hwy # 8: \$20.00	Stone, TN Hwy # 8: \$10.00
Stone, TN Hwy # 10: \$20.00	Stone, TN Hwy # 10: \$10.50

Cost per Mile for Delivery: \$3.25 per ton first mile \$.25 each additional mile.

Cost per Mile for Delivery: \$4.50 per ton.

Funding is identified in various department accounts.

### Attachments:

1. Resolution
2. Bid Opening Minutes
3. Recommendation Memo

Funding source appropriate and funds are available: *gm*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *zw*

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AWARDDING THE BID FOR PURCHASE OF  
CRUSHED STONE TO VULCAN CONSTRUCTION MATERIALS,  
LP AND GLASS MACHINERY & EXCAVATION AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE BLANKET  
PURCHASE ORDERS FOR THE SAME

WHEREAS, bids were opened April 21, 2021, for the purchase of crushed stone for use by all city departments on an as needed basis and as a joint invitation to bid with the City of Church Hill, Tennessee; and

WHEREAS, upon review of the bids, the board finds Vulcan Construction Materials, LP is the lowest responsible compliant bidder meeting specifications for the particular grade or class of material, work or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to purchase Crusher Run Stone at the cost of \$17.00 per ton, Stone-TN Hwy # 68 at the cost of \$20.00 per ton, Stone-TN Hwy # 57 at the cost of \$20.00 per ton, Stone-TN Hwy # 8 at the cost of \$20.00 per ton, and Stone-TN Hwy # 10 at the cost of \$20.00 per ton, with the cost per mile for delivery \$3.25 for the first mile and \$0.25 for each additional mile from Vulcan Construction Materials, LP; and

WHEREAS, upon review of the bids, the board finds Glass Machinery & Excavation is the lowest responsible compliant bidder meeting specifications for the particular grade or class of material, work or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to purchase Crusher Run Stone at the cost of \$10.00 per ton, Stone-TN Hwy # 68 at the cost of \$10.50 per ton; Stone-TN Hwy # 57 at the cost of \$10.50 per ton, Stone-TN Hwy # 8 at the cost of \$10.00 per ton, and Stone-TN Hwy # 10 at the cost of \$10.50 per ton, the with the cost per mile for delivery \$4.50, from Glass Machinery & Excavation; and

WHEREAS, the determination of which vendor to use for a particular project will be determined by the city based on geographical considerations as set out in the specifications for the bid; and

WHEREAS, funding is identified in various department accounts

Now therefore,

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

SECTION I. That the bid for purchase of various types of crushed stone for use by all city departments is awarded to Vulcan Construction Materials, LP as set out above, and the city manager is authorized to execute blanket purchase orders for the same.

SECTION II. That the bid for purchase of various types of crushed stone for use by all city departments is awarded to Glass Machinery & Excavation as set out above, and the city manager is authorized to execute blanket purchase orders for the same

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

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

ADOPTED this the 4th day of May 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

# MINUTES BID OPENING

April 21, 2021

4:00 P.M.

Present: Brent Morelock, Procurement Manager; and Nikisha Eichmann, Assistant Procurement Manager

The Bid Opening was held in the Council Room, City Hall.

The Procurement Manager opened with the following bids:

STONE		
Vendor⇒	Vulcan Materials	Glass Machinery & Excavation
Crusher Run Stone City of Kingsport	\$17.00	\$10.00
Crusher Run Stone City of Church Hill	\$17.00	\$10.00
Stone, TN Hwy. #68 City of Kingsport	\$20.00	\$10.50
Stone, TN Hwy. #68 City of Church Hill	\$20.00	\$10.50
Stone, TN Hwy. #57 City of Kingsport	\$20.00	\$10.50
Stone, TN Hwy. #57 City of Church Hill	\$20.00	\$10.50
Stone, TN Hwy. #8 City of Kingsport	\$20.00	\$10.00
Stone, TN Hwy. #8 City of Church Hill	\$20.00	\$10.00
Stone, TN Hwy. #10 City of Kingsport	\$20.00	\$10.50
Stone, TN Hwy. #10 City of Church Hill	\$20.00	\$10.50
FOB Point Located at:	400 Deneen Ln., Kingsport	Powell Valley Stone
Cost Per Mile For Delivery City of Kingsport	\$3.25 First Mile/\$.25 Over Add. Mile	\$4.50 Per Mile
Cost Per Mile For Delivery City of Church Hill	\$3.25 First Mile/\$.25 Over Add. Mile	\$5.00 Per Mile
Extension of Bid Price to Developers	No	Yes
Areas Serviced – Both, Southside, Northside	Both	Both

The submitted bids will be evaluated and a recommendation made at a later date.

## MEMORANDUM

April 22, 2021

TO: Nikisha Eichmann, Assistant Procurement Manager  
FROM: Tim Elsea, Public Works Manager  
SUBJECT: Asphalt, Stone & Concrete Bid Award

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Greg Willis and I have reviewed the recent bids for Asphalt, Stone and Concrete.

Our recommendation for the Asphalt Bid would be to award the bid to all four bidders (W & L Construction and Paving, Summers-Taylor, Fuller Asphalt Materials and Pavewell Paving). The bids were close and we would be able to use either one of the companies based on their distance from the job sites.

Our recommendation for the Stone bid would be to award to both bidders (Vulcan Materials Company and Glass Machinery & Excavation). We normally get stone on an as needed basis so the proximity and location of the Vulcan quarry for City projects is very convenient. There is value in having Glass Machinery & Excavation as a supplier in the event we have projects where stone can be stockpiled.

Our recommendation for the Concrete bid would be to award the bid to all three bidders (Summers-Taylor, Symrna Ready Mix, and Ready Mix USA). The bids were very close and we would be able to use either one of the companies based on their truck availability.

If you have any questions please contact me at your convenience at 229-9451.



## AGENDA ACTION FORM

### Awarding the Bid for the Purchase of Concrete for FY22

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

Action Form No.: AF-136-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Committee  
 Presentation By: R. McReynolds

### Recommendation:

Approve the Resolution

### Executive Summary:

Bids were opened on April 21, 2021 for the purchase of concrete for use by all City Departments for FY22 on an as needed basis. It is recommended to award the bid for the purchase of the items contained therein to Smyrna Ready Mix, Summers-Taylor, & Ready Mix USA at an estimated annual cost of \$60,000 as follows:

Smyrna Ready Mix	Summers-Taylor	Ready Mix USA
The following cost is for concrete delivered per cy		
5000 PSI: \$137.00	5000 PSI: \$133.00	5000 PSI: \$135.00
4000 PSI: \$131.00	4000 PSI: \$129.00	4000 PSI: \$130.00
3000 PSI: \$125.00	3000 PSI: \$123.00	3000 PSI: \$125.00
The following cost is for concrete the City picks up per cy		
5000 PSI: N/A	5000 PSI: \$113.00	5000 PSI: N/A
4000 PSI: N/A	4000 PSI: \$109.00	4000 PSI: N/A
3000 PSI: N/A	3000 PSI: \$103.00	3000 PSI: N/A

Funding is identified in various department accounts.

### Attachments:

1. Resolution
2. Bid Opening Minutes
3. Recommendations Memo

Funding source appropriate and funds are available: *AM*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *AM*

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AWARDDING THE BID FOR PURCHASE OF  
CONCRETE TO SMYRNA READY MIX, SUMMERS-TAYLOR,  
AND READY MIX USA AND AUTHORIZING THE CITY MANAGER  
TO EXECUTE PURCHASE ORDERS FOR THE SAME

WHEREAS, bids were opened April 21, 2021, for the purchase of concrete for use by all city departments on an as needed basis; and

WHEREAS, the specifications for the bid state that the city may award this bid to more than one vendor; and

WHEREAS, upon review of the bids, the board finds Smyrna Ready Mix, Summers-Taylor, and Ready Mix USA are the lowest responsible compliant bidders meeting specifications for the particular grade or class of material, work or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to purchase concrete from Smyrna Ready Mix, Summers-Taylor, and Ready Mix USA; and

WHEREAS, the determination of which vendor to use for a particular project will be determined by the city based on geographical considerations as set out in the specifications for the bid; and

WHEREAS, the annual estimated cost of concrete is \$60,000.00; and

WHEREAS, funding is identified in various department accounts;

Now therefore,

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

SECTION I. That the bid for purchase of various types of concrete all as set out above, for use by all city departments is awarded to Smyrna Ready Mix, Summers-Taylor, and Ready Mix USA and the city manager is authorized to execute blanket purchase orders for the same.

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

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

ADOPTED this the 4th day of May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

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J. MICHAEL BILLINGSLEY, CITY ATTORNEY

MINUTES  
BID OPENING  
April 21, 2021  
4:00 P.M.

Present: Brent Morelock, Procurement Manager; and Nikisha Eichmann, Assistant Procurement Manager

The Bid Opening was held in the Council Room, City Hall.

The Procurement Manager opened with the following bids:

CONCRETE			
Vendor:⇨	Smyrna Ready Mix	Summers-Taylor	Ready Mix USA
5000 PSI – Delivered Cost	\$137.00	\$133.00	\$135.00
4000 PSI – Delivered Cost	\$131.00	\$129.00	\$130.00
3000 PSI – Delivered Cost	\$125.00	\$123.00	\$125.00
5000 PSI – Cost if City Picks Up	N/A	\$113.00	N/A
4000 PSI – Cost if City Picks Up	N/A	\$109.00	N/A
3000 PSI – Cost if City Picks Up	N/A	\$103.00	N/A
Minimum Amount Delivered/CY	6	3	4
Cost/Mile for Delivery to Site	N/A	\$50 for less than 3 yards.	N/A
Extended Prices to Developers	No	No	No
Delivery Within How Many Hours Notification	N/A	N/A	N/A

The submitted bids will be evaluated and a recommendation made at a later date.

# MEMORANDUM

April 22, 2021

TO: Nikisha Eichmann, Assistant Procurement Manager  
FROM: Tim Elsea, Public Works Manager  
SUBJECT: Asphalt, Stone & Concrete Bid Award

---

Greg Willis and I have reviewed the recent bids for Asphalt, Stone and Concrete.

Our recommendation for the Asphalt Bid would be to award the bid to all four bidders (W & L Construction and Paving, Summers-Taylor, Fuller Asphalt Materials and Pavewell Paving). The bids were close and we would be able to use either one of the companies based on their distance from the job sites.

Our recommendation for the Stone bid would be to award to both bidders (Vulcan Materials Company and Glass Machinery & Excavation). We normally get stone on an as needed basis so the proximity and location of the Vulcan quarry for City projects is very convenient. There is value in having Glass Machinery & Excavation as a supplier in the event we have projects where stone can be stockpiled.

Our recommendation for the Concrete bid would be to award the bid to all three bidders (Summers-Taylor, Symrna Ready Mix, and Ready Mix USA). The bids were very close and we would be able to use either one of the companies based on their truck availability.

If you have any questions please contact me at your convenience at 229-9451.



## AGENDA ACTION FORM

### **Execute a Contract between the City of Kingsport and the Tennessee Department of Transportation for Maintenance Activities Performed on Designated State Highways and for Mowing and Litter on John B. Dennis and I-26**

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

Action Form No.: AF-129-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Staff  
 Presentation By: R. McReynolds

#### **Recommendation:**

Approve a Resolution

#### **Executive Summary:**

Each year the City of Kingsport enters into agreements with the State for reimbursement of maintenance performed on state routes. The main agreement includes Stone Drive, Center Street, Fort Henry Drive, Lynn Garden Drive, Industry Drive, Wilcox Drive, Memorial Boulevard and limited portions of Rock Springs Road, Rock Springs Drive and Poplar Grove. Maintenance activities for this agreement include: shoulder work, snow removal, spot patching, ditch work, crack sealing, painting and striping, sweeping, mowing and litter control. A separate agreement covers John B. Dennis and a limited portion of I-26. Activities on these two roads include litter and mowing. Tracked on a monthly basis, these activities are performed by Traffic Engineering, Street Maintenance and Right-of-Way Maintenance. Reimbursement is requested no more than monthly based on the terms of the contract. Most costs are reimbursed at \$0.15 per square yard. Reimbursement is limited to 12 litter control cycles and 6 mowing cycles annually. The limiting amount of the contract is \$255,426.15 for FY 2022. Total roadway surface equals 1,592,301 square yards. Mowing acreage totals 201 at \$45 per acre, and litter control covers 150.72 miles at \$50 per mile. Mowing and litter control for John B. Dennis and I-26 includes 138.47 acres of mowing and 24.57 miles of litter control for a total amount of \$52,137.00.

#### **Attachments:**

1. Resolution
2. Agreement

Funding source appropriate and funds are available: *JM*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *JW*

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR FISCAL YEAR 2022 WITH THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR REIMBURSEMENT OF MAINTENANCE ACTIVITIES PERFORMED ON DESIGNATED STATE HIGHWAY ROUTES LOCATED IN THE KINGSPORT CITY LIMITS; EXECUTE A CONTRACT WITH THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR MOWING AND LITTER CONTROL ON JOHN B. DENNIS; AND EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENTS

WHEREAS, the city desires to enter into a contract for fiscal year 2022 with the State of Tennessee Department of Transportation for reimbursement of maintenance activities performed on designated state highway routes located in the Kingsport city limits; and

WHEREAS, the routes included in the contract are Stone Drive, Center Street, Fort Henry Drive, Lynn Garden Drive, Industry Drive, Wilcox Drive, Memorial Boulevard, portions of John B. Dennis Highway, and, also this year, limited portions of I-26; and

WHEREAS, the maintenance activities include shoulder work, snow removal, spot patching, ditch work, crack sealing, paint and striping, sweeping, mowing and litter control; and

WHEREAS, the maximum amount of the contract is \$255,426.15 for fiscal year 2022; and

WHEREAS, the contract for mowing and litter control for John B. Dennis includes 138.47 acres of mowing and 25.57 miles of litter control for a total contract amount of \$52,137.00.

Now therefore,

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

SECTION I. That an agreement with the State of Tennessee Department of Transportation for reimbursement of maintenance activities performed on designated state highway routes located in the Kingsport city limits 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, an agreement with the State of Tennessee Department of Transportation for reimbursement of maintenance activities performed on designated state highway routes located in the Kingsport city limits and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution, said agreement being as follows:

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

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and the city of Kingsport, hereinafter referred to as the "Contractor," is for the provision of the routine maintenance of state routes, as further defined in the "SCOPE OF SERVICES."

Contractor Edison Registration ID# 0000001562

Contract#: CMA 2214

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.

A.2. Tenn. Code Ann. § 54-5-201 provides that the State is authorized to enter into contracts with municipalities regarding the improvement and maintenance of streets over which traffic on state highways is routed.

A.3. Tenn. Code Ann. § 54-5-202 provides that streets constructed, reconstructed, improved and maintained by the State shall be of a width and type that the State deems proper, but the width so constructed, reconstructed, improved and maintained shall not be less than eighteen feet (18'); and, in the case of resurfacing and maintenance, from curb to curb where curbs exist, or the full width of the roadway where no curbs exist.

A.4. Tenn. Code Ann. § 54-5-203 provides that the State is authorized to enter into contracts with municipalities that are organized to care for streets to reimburse, subject to the approval of the State, for improvements and maintenance.

A.5. Tenn. Code Ann. § 54-16-106 provides that the highway authorities of the state, counties, cities, and town are authorized to enter into agreements with each other respecting the improvement and maintenance of controlled-access facilities, defined by Tenn. Code Ann. § 54-16-101 as a highway or street specially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement of access from abutting properties.

A.6. Tenn. Code Ann. § 54-5-139 provides that the State may enter into a contract with a qualified county to perform maintenance activities upon the rights-of-way of state highways located outside of municipalities and metropolitan governments; and, that the reimbursement shall be on an actual cost basis.

A.7. The State is hereby contracting with the Contractor for the improvements and maintenance specified in Attachment "Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities," attached and incorporated hereto as part of this Contract.

B. TERM OF CONTRACT:

This Contract shall be effective on July 1, 2021 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed two hundred fifty-five thousand four hundred twenty-six dollars and fifteen cents (\$255,426.15). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.

b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)
"Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities"	See Exhibit A
"Exhibit B" containing the maximum allowable labor and equipment rates.	See Exhibit B

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Brian Ramsey  
3213 North Roan St.  
Johnson City, TN 37601

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

- (1) Invoice Number (assigned by the Contractor)
- (2) Invoice Date
- (3) Contract Number (assigned by the State)
- (4) Customer Account Name: Tennessee Department of Transportation
- (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
- (6) Contractor Name
- (7) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
- (9) Contractor Remittance Address
- (10) Description of Delivered Service
- (11) Complete Itemization of Charges, which shall detail the following:
  - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
  - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
  - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
  - iv. Amount Due by Service
  - v. Total Amount Due for the invoice period

b. The Contractor understands and agrees that an invoice under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) only be submitted for completed service and shall not include any charge for future work;
- (3) not include sales tax or shipping charges; and
- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. 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 invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.

a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any

other contract the Contractor has with the State of Tennessee, may be made by ACH; and

b. The Contractor 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 Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said 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 Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said 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 Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

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

D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this 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 Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

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

D.7. Nondiscrimination. The Contractor 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 Contract or in the employment practices of the Contractor 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 Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.9. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*

D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as

requested.

D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.

D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.

D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.

D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.

D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor 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 Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this 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. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Brian Ramsey  
District 17 Operations Supervisor  
State of Tennessee Department of Transportation  
3213 North Roan St.  
Johnson City, TN 37601  
Brian.Ramsey@tn.gov  
Telephone# (423) 282-0651  
FAX# (423) 854-5310  
The Contractor:

Ryan McReynolds  
Public Works Director  
225 West Center Street  
Kingsport, TN 37660-4237  
[RyanMcReynolds@KingsportTN.gov](mailto:RyanMcReynolds@KingsportTN.gov)  
Telephone# (423) 229-9398  
Fax# (423) 229-9473

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor 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.

E.4. MUTCD. In accordance with Tenn. Code Ann. 54-5-108, the Contractor shall conform to and act in accordance with the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by rules of the State. Particularly, the Contractor shall sign work-zones associated with this Contract in accordance with the aforesaid MUTCD.

E. 5. Maintenance. Nothing contained in this Contract shall change the maintenance obligations governed by the laws of the State of Tennessee, it being the intent of this Contract not to enlarge the present maintenance obligations of the State.

[Acknowledgements and Exhibits 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 an agreement with State of Tennessee Department of Transportation for mowing and litter on John B. Dennis is approved.

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

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

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and the city of Kingsport, hereinafter referred to as the "Contractor," is for the provision of a special agreement for mowing and litter, as further defined in the "SCOPE OF SERVICES."

Contractor Edison Registration ID# 0000001562 Contract#: CMA 2215

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.

A.2. Tenn. Code Ann. § 54-5-201 provides that the State is authorized to enter into contracts with municipalities regarding the improvement and maintenance of streets over which traffic on state highways is routed.

A.3. Tenn. Code Ann. § 54-5-202 provides that streets constructed, reconstructed, improved and

maintained by the State shall be of a width and type that the State deems proper, but the width so constructed, reconstructed, improved and maintained shall not be less than eighteen feet (18'); and, in the case of resurfacing and maintenance, from curb to curb where curbs exist, or the full width of the roadway where no curbs exist.

A.4. Tenn. Code Ann. § 54-5-203 provides that the State is authorized to enter into contracts with municipalities that are organized to care for streets to reimburse, subject to the approval of the State, for improvements and maintenance.

A.5. Tenn. Code Ann. § 54-16-106 provides that the highway authorities of the state, counties, cities, and town are authorized to enter into agreements with each other respecting the improvement and maintenance of controlled-access facilities, defined by Tenn. Code Ann. § 54-16-101 as a highway or street specially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement of access from abutting properties.

A.6. Tenn. Code Ann. § 54-5-139 provides that the State may enter into a contract with a qualified county to perform maintenance activities upon the rights-of-way of state highways located outside of municipalities and metropolitan governments; and, that the reimbursement shall be on an actual cost basis.

A.7. The State is hereby contracting with the Contractor for the improvements and maintenance specified in Attachment Either "Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities," attached and incorporated hereto as part of this Contract.

**B. TERM OF CONTRACT:**

This Contract shall be effective on July 1, 2021 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

**C. PAYMENT TERMS AND CONDITIONS:**

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed fifty-two thousand one hundred thirty-seven dollars and zero cents (\$52,137.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.

b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

<b>Service Description</b>	<b>Amount (per compensable increment)</b>
"Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities"	See Exhibit A

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Brian Ramsey  
3213 North Roan St.

Johnson City, TN 37601

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

- (1) Invoice Number (assigned by the Contractor)
- (2) Invoice Date
- (3) Contract Number (assigned by the State)
- (4) Customer Account Name: Tennessee Department of Transportation
- (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
- Contractor Name
- (6) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
- (7) Contractor Contact for Invoice Questions (name, phone, and/or fax)
- (8) Contractor Remittance Address
- (9) Description of Delivered Service
- (10) Complete Itemization of Charges, which shall detail the following:
  - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
  - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
  - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
  - iv. Amount Due by Service
  - v. Total Amount Due for the invoice period

b. The Contractor understands and agrees that an invoice under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) only be submitted for completed service and shall not include any charge for future work;
- (3) not include sales tax or shipping charges; and
- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. 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 invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.

a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and

b. The Contractor 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 Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said 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 Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said 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 Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

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

D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this 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 Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

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

D.7. Nondiscrimination. The Contractor 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 Contract or in the employment practices of the Contractor 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 Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.9. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in Tennessee Code Annotated, Section 12-4-401 et seq..

D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101 et seq., for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable.

because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.

D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.

D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.

D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.

D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor 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 Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this 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. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Brian Ramsey  
District 17 Operations Supervisor  
State of Tennessee Department of Transportation  
3213 North Roan St.  
Johnson City, TN 37601 [Brian.Ramsey@tn.gov](mailto:Brian.Ramsey@tn.gov)  
Telephone# (423) 282-0651

The Contractor:

Ryan McReynolds  
Public Works Director  
225 West Center Street  
Kingsport, TN 37660-4237  
[RyanMcReynolds@KingsportTN.gov](mailto:RyanMcReynolds@KingsportTN.gov)  
Telephone# (423) 229-9398  
Fax# (423) 229-9473

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor 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.

E.4. MUTCD. In accordance with Tenn. Code Ann. 54-5-108, the Contractor shall conform to and

act in accordance with the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by rules of the State. Particularly, the Contractor shall sign work-zones associated with this Contract in accordance with the aforesaid MUTCD.

E. 5. Maintenance. Nothing contained in this Contract shall change the maintenance obligations governed by the laws of the State of Tennessee, it being the intent of this Contract not to enlarge the present maintenance obligations of the State.

[Acknowledgements and Exhibits Deleted for Inclusion in this Resolution]

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

ADOPTED this the 4th day of May, 2021.

ATTEST:

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

**“EXHIBIT B”**  
**CITY OF KINGSPORT**  
**MAXIMUM ALLOWABLE EQUIPMENT RATES**  
**2021-2022 FISCAL YEAR**

**LABOR RATES**                      **Beginning July 1, 2021 and ending June 30, 2022**

<b>Job Title Classification</b>	<b>Low Rate</b>	<b>High Rate</b>
<b>Maintenance Helper</b>	<b>\$10.94</b>	<b>\$15.77</b>
<b>Maintenance Worker</b>	<b>11.78</b>	<b>16.96</b>
<b>Refuse/Dump Truck Driver</b>	<b>12.69</b>	<b>18.29</b>
<b>Traffic Maintenance Technician</b>	<b>13.66</b>	<b>19.69</b>
<b>Equipment Operator</b>	<b>13.66</b>	<b>19.69</b>
<b>Traffic Control Technician</b>	<b>14.71</b>	<b>21.21</b>
<b>Heavy Equipment Operator</b>	<b>14.71</b>	<b>21.21</b>
<b>Crew Leader</b>	<b>17.49</b>	<b>25.21</b>
<b>Foreman</b>	<b>18.83</b>	<b>27.15</b>
<b>Streets Supervisor</b>	<b>20.79</b>	<b>29.97</b>

- 1. NOTE: WHERE EMPLOYEES MIGHT BE REQUIRED TO WORK IN AN OVERTIME STATUS, REIMBURSEMENT WILL BE MADE AT TIME AND ONE-HALF (1.5 TIMES EMPLOYEE'S BASE RATE OF PAY).**
- 2. NOTE: A FEE OF 30% FRINGE BENEFITS WILL BE CHARGED TO THE ABOVE LABOR PERFORMANCE RATES.**

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

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the 'State' and the city of Kingsport, hereinafter referred to as the "Contractor," is for the provision of the routine maintenance of state routes, as further defined in the "SCOPE OF SERVICES."

Contractor Edison Registration ID # 0000001562  
Contract #: CMA 2214

**A. SCOPE OF SERVICES:**

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2. Tenn. Code Ann. § 54-5-201 provides that the State is authorized to enter into contracts with municipalities regarding the improvement and maintenance of streets over which traffic on state highways is routed.
- A.3. Tenn. Code Ann. § 54-5-202 provides that streets constructed, reconstructed, improved and maintained by the State shall be of a width and type that the State deems proper, but the width so constructed, reconstructed, improved and maintained shall not be less than eighteen feet (18'); and, in the case of resurfacing and maintenance, from curb to curb where curbs exist, or the full width of the roadway where no curbs exist.
- A.4. Tenn. Code Ann. § 54-5-203 provides that the State is authorized to enter into contracts with municipalities that are organized to care for streets to reimburse, subject to the approval of the State, for improvements and maintenance.
- A.5. Tenn. Code Ann. § 54-16-106 provides that the highway authorities of the state, counties, cities, and town are authorized to enter into agreements with each other respecting the improvement and maintenance of controlled-access facilities, defined by Tenn. Code Ann. § 54-16-101 as a highway or street specially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement of access from abutting properties.
- A.6. Tenn. Code Ann. § 54-5-139 provides that the State may enter into a contract with a qualified county to perform maintenance activities upon the rights-of-way of state highways located outside of municipalities and metropolitan governments; and, that the reimbursement shall be on an actual cost basis.
- A.7. The State is hereby contracting with the Contractor for the improvements and maintenance specified in Attachment "Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities," attached and incorporated hereto as part of this Contract.

**B. TERM OF CONTRACT:**

This Contract shall be effective on July 1, 2021 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed two hundred fifty-five thousand four hundred twenty-six dollars and fifteen cents (\$255,426.15). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. **Compensation Firm.** The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
  - b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

<b>Service Description</b>	<b>Amount</b> (per compensable increment)
"Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities"	See Exhibit A
"Exhibit B" containing the maximum allowable labor and equipment rates.	See Exhibit B

- C.4. **Travel Compensation.** The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. **Invoice Requirements.** The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Brian Ramsey  
3213 North Roan St.  
Johnson City, TN 37601

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
  - (1) Invoice Number (assigned by the Contractor)
  - (2) Invoice Date

- (3) Contract Number (assigned by the State)
- (4) Customer Account Name: Tennessee Department of Transportation
- (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
- (6) Contractor Name
- (7) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
- (9) Contractor Remittance Address
- (10) Description of Delivered Service
- (11) Complete Itemization of Charges, which shall detail the following:

- i. Service or Milestone Description (including name & title as applicable) of each service invoiced
- ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
- iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
- iv. Amount Due by Service
- v. Total Amount Due for the invoice period

b. The Contractor understands and agrees that an invoice under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) only be submitted for completed service and shall not include any charge for future work;
- (3) not include sales tax or shipping charges; and
- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. 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 invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor 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

Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said 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 Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said 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 Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this 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 Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total 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 Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor 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 Contract or in the employment practices of the Contractor 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 Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon

reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.9. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create a employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.

- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor 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 Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this 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. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Brian Ramsey  
District 17 Operations Supervisor  
State of Tennessee Department of Transportation  
3213 North Roan St.  
Johnson City, TN 37601  
Brian.Ramsey@tn.gov  
Telephone # (423) 282-0651  
FAX # (423) 854-5310

The Contractor:

Ryan McReynolds  
Public Works Director  
225 West Center Street Kingsport, TN 37660-4237  
[RyanMcReynolds@KingsportTN.gov](mailto:RyanMcReynolds@KingsportTN.gov)  
Telephone # (423) 229-9398  
Fax # (423) 229-9473

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor 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.
- E.4. MUTCD. In accordance with Tenn. Code Ann. 54-5-108, the Contractor shall conform to and act in accordance with the current edition of the Manual on Uniform Traffic Control Devices (MUTCD)

as adopted by rules of the State. Particularly, the Contractor shall sign work-zones associated with this Contract in accordance with the aforesaid MUTCD.

- E. 5. Maintenance. Nothing contained in this Contract shall change the maintenance obligations governed by the laws of the State of Tennessee, it being the intent of this Contract not to enlarge the present maintenance obligations of the State.

**IN WITNESS WHEREOF,**

**THE CITY OF KINGSPORT:**

---

**CONTRACTOR SIGNATURE**

**DATE**

---

**PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**

**APPROVED AS TO FORM AND LEGALITY**

---

**CONTRACTOR ATTORNEY SIGNATURE**

**DATE**

---

**PRINTED NAME AND TITLE OF CONTRACTOR ATTORNEY SIGNATORY (above)**

**STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION:**

---

**CLAY BRIGHT, COMMISSIONER**

**DATE**

**APPROVED AS TO FORM AND LEGALITY**

---

**JOHN REINBOLD, GENERAL COUNSEL**

**DATE**

GUIDELINES COVERING MAINTENANCE  
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following items where applicable are eligible for reimbursement by the State to the Contractor under the Standard Maintenance Agreement:

Activity	Maintenance Work Type	Unit Of Measure
401	Manual Spot Patching	Tons
402	Crack Repair	Pounds
404	Mechanical Continuous Patching	Tons
405	Milling	Square Yards
406	Surface Replacement	Tons
411	Concrete Pavement Repair	Cubic Yards
412	Concrete Joint Repair	Linear Feet
425	Grading Unpaved Surface (Shoulder)**	Linear Miles
427	Patching Unpaved Surface (Shoulder)**	Tons
435	Machine Mowing**	Acres
438	Debris Removal**	Man Hours
441	Litter Removal**	Roadway Miles
446	Mechanical Sweeping and Street Flushing	Miles
447	Manual Roadway Sweeping	Man Hours
460	Plowing Snow	Lane Miles
461	De-icing Salt and/or Sand for Snow & Ice Removal	Tons
463	Anti-icing (Salt Brine)	Gallons
470	Pavement Markings	Line Miles
471	Specialty Markings	Each

\*\* Work must be inside the area eligible for reimbursements as detailed in "CITY MAINTENANCE ROADWAY TYPICAL SECTIONS".

The following items are the responsibility of the Contractor and are not eligible for reimbursement by the State:

1. Mowing right-of-way back of curbs or beyond edge of paved surface on roadway segments which are not access controlled.
2. Litter from right-of-way back of curbs or beyond edge of paved surface on roadway segments which are not access controlled.
3. Storm drainage
4. Traffic control signs and signals and any other traffic control or monitoring devices.
5. Street lighting
6. Street name signs
7. Tree removal and vegetation control on right-of-way back of curbs or beyond edge of paved surface on roadway segments which are not access controlled.
8. Sidewalks

NOTE:

1. Major resurfacing when generally required will be performed by the State as a construction project, in accordance with a program developed after consultation with the Contractor.
2. The State will furnish and maintain route markers through the Municipalities.

ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE  
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the current roadway surface area to the nearest whole square yard which will be routinely maintained, swept, or flushed by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for street maintenance, excluding machine mowing and litter removal, not to exceed the calculated maximum reimbursement below.

Approved Maximum Reimbursement Per Square Yard:	\$ 0.15
Total Roadway Surface Area (YD^2):	1592301
Calculated Maximum Reimbursement (Roadway Surface):	\$238,845.15

Roadway Surface Inventory Worksheet												
Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR001	West Stone Drive	BEGIN	Kaywood Avenue	1G	No	39.84	40.9	5596.8	102	16	5210	58220.40
SR001	West Stone Drive	CHANGE	Netherland Inn Rd.	1G	No	40.9	41.3	2112	97	22	2976	19786.67
SR001	West Stone Drive	CHANGE	Hawkins/Sullivan County Line	1G	No	0	1.33	7022.4	98	20	9823	66643.13
SR001	West Stone Drive	CHANGE	Afton Street	1F	No	1.33	1.65	1689.6	86	16	2667	13478.07
SR001	East Stone Drive	CHANGE	End of I-26 W Ramp towards	1D	No	1.97	7.42	28776	102	11	2020	324108.00
SR001	East Stone Drive	CHANGE	Beechnut Drive	1G	No	6.46	8.44	10454.4	99	27	11992	103006.40
SR001	East Stone Drive	END	Ollis Bowers Hill	1G	No	8.44	11.56	16473.6	98	30	51678	127701.20
SR036	Kingsport Highway	BEGIN	Regency Drive	1C	No	2.271	2.703	2280.96	24	0	0	6082.56
SR036	Kingsport Highway	CHANGE	I-81 Ramps	1C	No	2.703	3	1568.16	75	20	344	12724.00
SR036	Kingsport Highway	CHANGE	Colonial Heights	1C	No	3	4.37	7233.6	70	18	2080	54181.33
SR036	Fort Henry Drive	CHANGE	Overhead CSX Railroad	1G	No	4.37	5.36	5227.2	74	32	6902	36077.20
SR036	Fort Henry Drive	CHANGE	Kenridge Street	1D	No	5.36	6.47	5860.8	76	9	500	48991.20
SR036	Fort Henry Drive	CHANGE	SR 93	1D	No	6.47	7.819	7122.72	65	13	1294	50147.87
SR036	Fort Henry Drive	CHANGE	Indian Ct	1F	No	7.819	8.38	2962.08	66	19	4227	17494.92
SR036	West Center Street	CHANGE	Prospect Drive	1D	No	8.38	10.54	11404.8	60	0	0	76032.00
SR036	West Center Street	END	90 Degree Right Turn	1D	No	10.54	13.56	15945.6	44	9	1157	76799.27
SR093	Sullivan Gardens	BEGIN	Sullivan Gardens Drive	1D	No	4.48	5.01	2798.4	82	0	0	25496.53
SR093	Sullivan Gardens	CHANGE	Galemont Drive	1D	No	5.01	6.2	6283.2	65	21	1330	44048.67
SR093	John B. Dennis	CHANGE	End Crossover	1D	No	6.2	7.15	5016	98	22	5082	49536.67
SR093	John B. Dennis	END	Brookside Drive	1G	No	11.92	13.71	9451.2	98	16	13958	88955.07

SR126	South Wilcox Drive	BEGIN	SR 93	1F	No	0	0.445	2349.6	67	11	2284	15207.47
SR126	South Wilcox Drive	SHIFT	90 Degree Right Turn	1D	No	0.445	1.006	2962.08	78	0	0	25671.36
SR126	South Wilcox Drive	CHANGE	Haga Road	1D	No	1.006	1.23	1182.72	62	0	0	8147.63
SR126	South Wilcox Drive	CHANGE	Ward Place	1D	No	1.23	1.9	3537.6	78	0	0	30659.20
SR126	South Wilcox Drive	CHANGE	Overhead CSX Railroad	1D	No	1.9	2.18	1478.4	75	0	0	12320.00
SR126	South Wilcox Drive	CHANGE	Industry Drive	1F	No	2.18	2.52	1795.2	66	0	0	13164.80
SR126	North Wilcox Drive	CHANGE	Lincoln Street	1F	No	2.52	3.11	3115.2	44	21	4848	10381.87
SR126	Memorial Blvd.	CHANGE	East Center Street	1F	No	3.11	3.32	1108.8	88	13	938	9903.60
SR126	Memorial Blvd.	CHANGE	Kenmore Drive	1F	No	3.32	4.41	5755.2	60	15	3375	34993.00
SR126	Memorial Blvd.	CHANGE	Light at End of Control Access	1A	No	4.41	4.55	739.2	85	26	678	6303.33
SR126	Memorial Blvd.	CHANGE	Stratford Road	1A	No	4.55	4.895	1821.6	38	12	226	7465.20
SR 126	Memorial Blvd.	END	Old Stage Rd.	1A	No	4.895	5.81	4831.2	36	0	0	19324.80
SR346	West Carter Valley Rd	BEGIN	Mcconnell Rd.	1A	No	0.7	1.92	6441.6	22	0	0	15746.13
SR347	Poplar Grove Rd	BEGIN	Oak Forest Pl.	1A	No	8.5	10.62	11193.6	20	0	0	24874.67
SR355	Industrial Drive	BEGIN	SR 126	1B	No	0	2.1	11088	36	0	0	44352.00
SR355	Industrial Drive	CHANGE	Ft. Robinson Drive	1C	No	2.1	2.35	1320	60	11	1002	7798.00
SR355	Industrial Drive	END	Lynn Garden Drive	1C	No	2.35	2.58	1214.4	48	0	0	6476.80
Total Length (mi.):								41.139	Total Roadway Surface:		1592301	

INVENTORY OF ELIGIBLE MACHINE MOWING FOR THE MAINTENANCE  
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the eligible mowing area in acres which will be maintained by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for machine mowing, not to exceed the number of cycles and the price per acre as detailed below.

Approved Mowing Reimbursement Per Acre:	\$ 45.00
Calculated Maximum Reimbursement (Mowing):	\$9,045.00

Mowing Inventory Worksheet								
Route Number	Roadway Type	Begin Termini (LM)	End Termini(LM)	Median Area (acres)	Controlled Access Area (acres)	Segment Total Area (acres)	Number of Mowing Cycles	Contract Segment Total Area (acres)
SR001(Ha	1G	39.88	41.36	1.755		1.755	6	10.53
SR001(Su	1G	6.83	11.48	13.172		13.172	6	79.032
SR036	1G	4.37 / 7.75	5.36 / 8.38	3.01		3.01	6	18.06
SR093	1G	6.08	7.16	1.995		1.995	6	11.97
SR093	1G	11.90	13.80	10.9		10.9	6	65.4
SR126	1F	0.0 / 2.09	0.26 / 4.47	2.55		2.55	6	15.3
SR355	1F	2.05	2.21	0.08		0.08	6	0.48
Total Contract Area (acres):								201

INVENTORY OF ELIGIBLE LITTER REMOVAL FOR THE MAINTENANCE  
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the eligible length of litter removal in linear miles which will be maintained by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for litter removal, not to exceed the number of cycles and the price per linear mile as detailed below.

Approved Litter Reimbursement Per Mile:	\$ 50.00
Calculated Maximum Reimbursement (Litter):	\$ 7,536.00

Litter Inventory Worksheet										
Route Number	Roadway Type	Beginning Termini (LM)	Ending Termini (LM)	Segment Length (mi.)	Litter Pass Miles Per Segment	Segment Total Litter (mi.)	Price per Litter Mile	Number of Litter Cycles	Contract Segment Total Litter (mi.)	Contract Segment Total Litter (\$)
SR001	1G	39.84 / 6.83	2.31 / 11.44	6.81	1	6.81	\$ 50.00	12	81.72	4086
SR036	1G	4.37 / 7.75	5.36 / 8.38	1.33	1	1.33	\$ 50.00	12	15.96	798
SR093	1G	6.08	7.19	1.11	1	1.11	\$ 50.00	12	13.32	666
SR093	1G	11.9	13.8	1.9	1	1.9	\$ 50.00	12	22.8	1140
SR126	1F	0.0 / 2.09	0.26 / 4.47	1.31	1	1.31	\$ 50.00	12	15.72	786
SR355	1F	2.047	2.211	0.1	1	0.1	\$ 50.00	12	1.2	60
<b>Total Contract Litter (mi.):</b>									<b>150.72</b>	<b>\$7,536.00</b>

# CITY MAINTENANCE ROADWAY TYPICAL SECTIONS

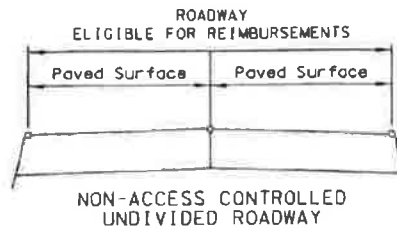


FIGURE 1A

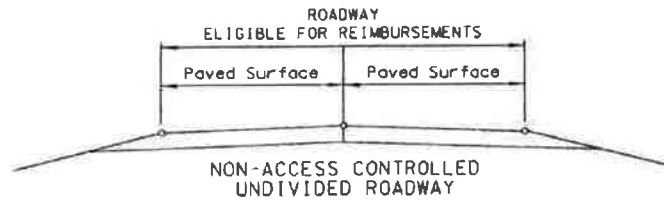


FIGURE 1B

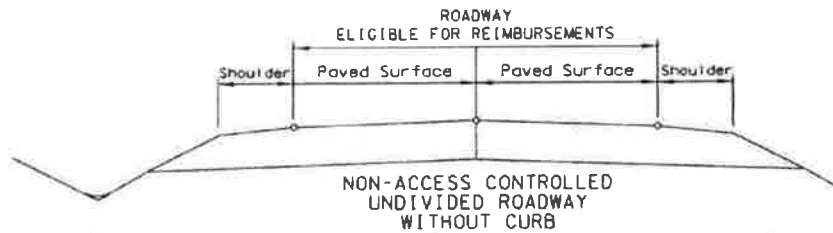


FIGURE 1C

NOTE: IN FIGURES 1A, 1B, AND 1C FOR NON-CONTROLLED ROUTES THE PAVED SURFACE WILL INCLUDE PAVED SHOULDERS.

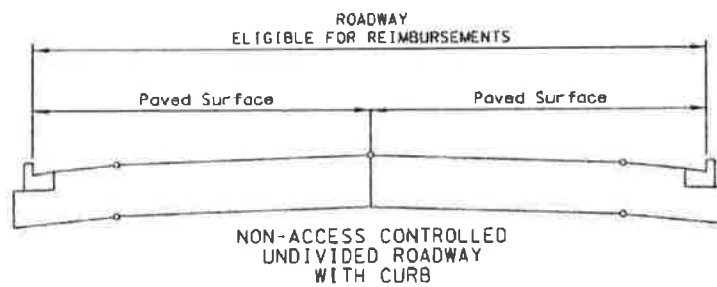


FIGURE 1D

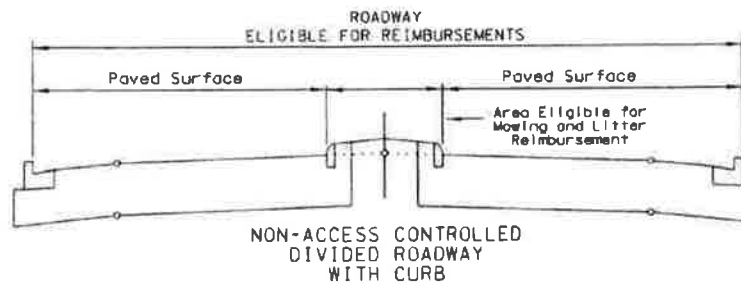


FIGURE 1E

CITY MAINTENANCE  
ROADWAY TYPICAL SECTIONS

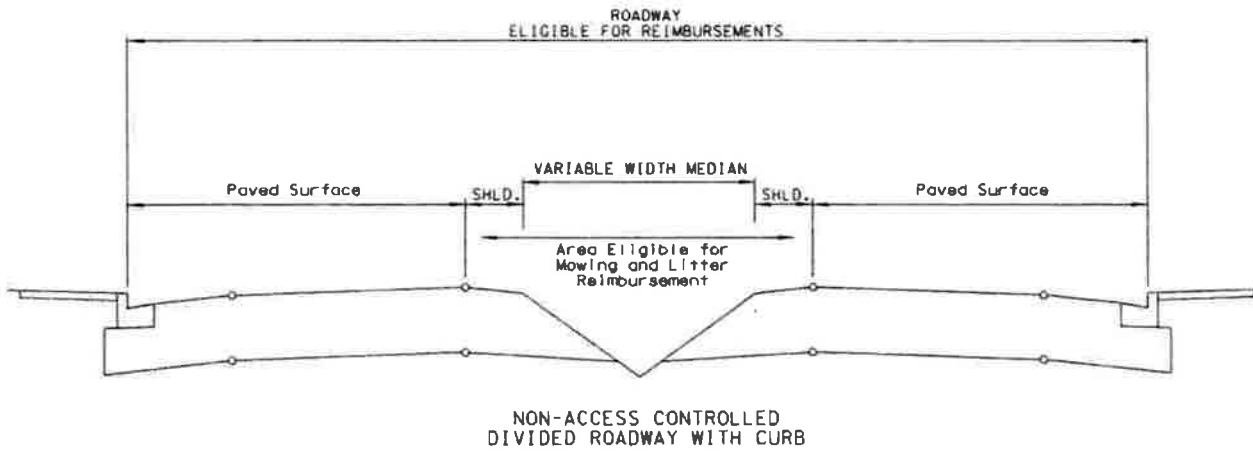


FIGURE 1F

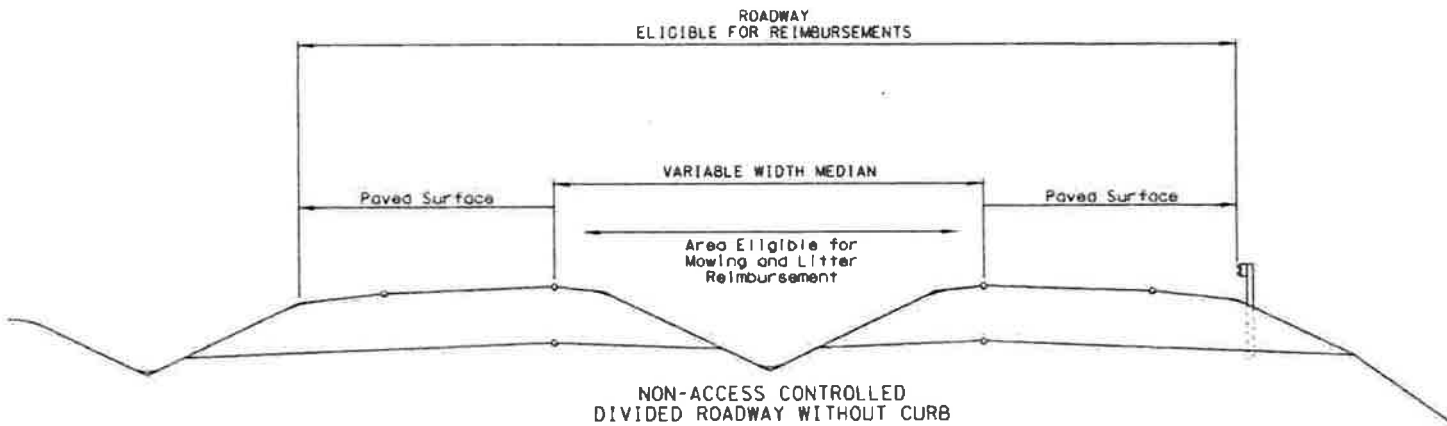


FIGURE 1G

NOTE:  
IF FIGURES 1F AND 1G FOR NON-ACCESS CONTROLLED ROUTES  
THE PAVED SURFACE WILL INCLUDE PAVED SHOULDERS.

CITY MAINTENANCE  
ROADWAY TYPICAL SECTIONS

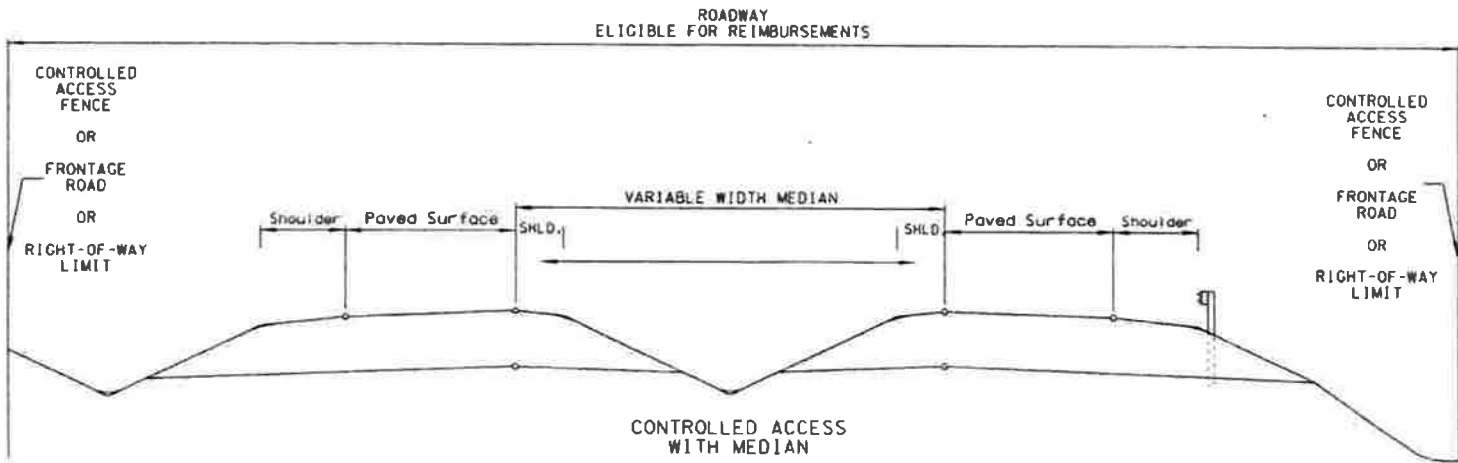


FIGURE 2A

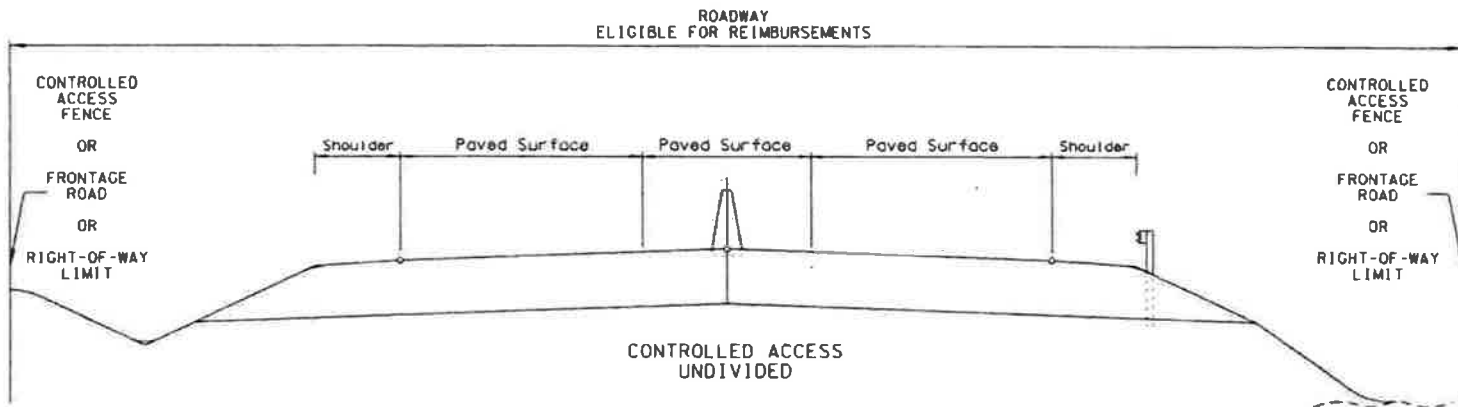


FIGURE 2B

**"EXHIBIT B"**  
**MAXIMUM ALLOWABLE EQUIPMENT RATES**  
**2021-2022 FISCAL YEAR**

ITEM NO.	DESCRIPTION OF EQUIPMENT	RATE	UNIT
1	SEDAN, POLICE OR FULL SIZE	12.00	HR
2	TRUCK, PICKUP	11.00	HR
3	TRUCK, ¾ TO 1 TON LIGHT DUTY	12.00	HR
4	TRUCK, ¾ TO 1 TON 4X4	13.00	HR
5	TRUCK, UTILITY/SERVICE BODY	14.00	HR
6	TRUCK, DUMP UP TO 15,000 GVWR	24.65	HR
7	TRUCK, DUMP OVER 15,000 UP TO 20,000 GVWR	28.12	HR
8	TRUCK, DUMP OVER 20,000 UP TO 40,000 GVWR	42.35	HR
9	TRUCK, DUMP TANDEM AXLE OVER 40,000 GVWR	68.00	HR
10	TRUCK, STAKE OR FLATBED UP TO 10,000 GVWR	17.45	HR
11	TRUCK, STAKE OR FLATBED OVER 10,000 UP TO 20,000 GVWR	26.10	HR
12	TRUCK, STAKE OR FLATBED OVER 20,000	42.00	HR
13	TRUCK, FLATBED OVER 32,500 GVWR	54.00	HR
14	TRUCK, TRACTOR SINGLE AXLE	37.00	HR
15	TRUCK, TRACTOR TANDEM AXLE	40.15	HR
16	TRUCK, SEWER/CULVERT/CATCH BASIN/ CLEANER (VAC-ALL)	82.20	HR
17	SWEEPER, TRUCK MOUNTED	55.89	HR
18	SWEEPER, SELF-PROPELLED	43.71	HR
19	TRUCK, W/STREET FLUSHER	70.16	HR
20	TRUCK, CRANE	28.28	HR
21	TRUCK, EXCAVATOR	64.73	HR
22	TRUCK, REFUSE COLLECTION	30.50	HR
23	TRACTOR, W/SWEEPER	32.68	HR
24	TRACTOR, W/DITCHER	62.12	HR
25	TRACTOR, WHEEL	48.22	HR
26	CHIPPER, BRUSH	36.81	HR
27	TRAILER, TILT	8.04	HR
28	TRAILER, PLATFORM OR GENERAL	10.12	HR
29	TRAILER, LOW BOY TANDEM	20.78	HR
30	JOINT & CRACK SEALING MACHINE	28.55	HR
31	ASPHALT RECLAIMER/RECYCLER MACHINE	135.78	HR
32	PAVER, ASPHALT SELF-PROPELLED	154.53	HR
33	PAVER, ASPHALT PULL TYPE	7.45	HR
34	DISTRIBUTOR, ASPHALT, PULL TYPE	27.37	HR
35	CHIP SPREADER MACHINE	57.42	HR
36	EXCAVATOR, TRACK TYPE (TRACKHOE)	87.31	HR

**"EXHIBIT B"**  
**MAXIMUM ALLOWABLE EQUIPMENT RATES**  
**2021-2022 FISCAL YEAR**

	DESCRIPTION OF EQUIPMENT	RATE	UNIT
37	DRAGLINES AND CRANES	75.99	HR
38	TRACTOR, CRAWLER (DOZER)	98.18	HR
39	MOTOR GRADER	65.30	HR
40	BACKHOE	37.90	HR
41	LOADER, FT END RUBBER TIRED (ARTICULATED) UP TO 1 CU. YD.	32.13	HR
42	LOADER, FT END RUBBER TIRED (ARTICULATED) OVER 1 UP TO 1.5 CY	47.50	HR
43	LOADER, FT END RUBBER TIRED (ARTICULATED) OVER 1.5 CU. YD.	59.71	HR
44	LOADER, FRONT END TRACK TYPE	71.50	HR
45	LOADER, SKID-STEER	58.46	HR
46	PROFILER, MILLING MACHINE	305.76	HR
47	ROLLER, WALK BEHIND	4.27	HR
48	ROLLER, STEEL WHEEL, 1 TO 5 TONS	88.84	HR
49	ROLLER, STEEL WHEEL, OVER 5 TONS	41.93	HR
50	GENERATOR, PORTABLE	8.30	HR
51	AIR COMPRESSOR, PORTABLE OR PULL TYPE	36.40	HR
52	WELDER, PORTABLE OR PULL TYPE	5.76	HR
53	CONCRETE MIXER, PORTABLE OR PULL TYPE	32.07	HR
54	CURBING MACHINE	65.74	HR
55	PAINT MACHINE, WALK BEHIND	31.57	HR
56	PAINT MACHINE, TRUCK MOUNTED (LARGE)	84.61	HR
57	THERMOPLASTIC MARKING MACHINE, WALK BEHIND	23.24	HR
58	TRAFFIC LINE REMOVER (WATER BLASTER)	43.68	HR
59	ARROW BOARD, TRAILER OR TRUCK MOUNTED	4.15	HR
60	MESSAGE SIGN, TRAILER MOUNTED	1.14	HR
61	LIGHT TOWER, TRAILER MOUNTED	24.18	HR
62	TRUCK MOUNTED ATTENUATOR	10.00	HR

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

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the 'State' and the city of Kingsport, hereinafter referred to as the "Contractor," is for the provision of a special agreement for mowing and litter, as further defined in the "SCOPE OF SERVICES."

Contractor Edison Registration ID # 0000001562  
Contract #: CMA 2215

**A. SCOPE OF SERVICES:**

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2. Tenn. Code Ann. § 54-5-201 provides that the State is authorized to enter into contracts with municipalities regarding the improvement and maintenance of streets over which traffic on state highways is routed.
- A.3. Tenn. Code Ann. § 54-5-202 provides that streets constructed, reconstructed, improved and maintained by the State shall be of a width and type that the State deems proper, but the width so constructed, reconstructed, improved and maintained shall not be less than eighteen feet (18'); and, in the case of resurfacing and maintenance, from curb to curb where curbs exist, or the full width of the roadway where no curbs exist.
- A.4. Tenn. Code Ann. § 54-5-203 provides that the State is authorized to enter into contracts with municipalities that are organized to care for streets to reimburse, subject to the approval of the State, for improvements and maintenance.
- A.5. Tenn. Code Ann. § 54-16-106 provides that the highway authorities of the state, counties, cities, and town are authorized to enter into agreements with each other respecting the improvement and maintenance of controlled-access facilities, defined by Tenn. Code Ann. § 54-16-101 as a highway or street specially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement of access from abutting properties.
- A.6. Tenn. Code Ann. § 54-5-139 provides that the State may enter into a contract with a qualified county to perform maintenance activities upon the rights-of-way of state highways located outside of municipalities and metropolitan governments; and, that the reimbursement shall be on an actual cost basis.
- A.7. The State is hereby contracting with the Contractor for the improvements and maintenance specified in Attachment Either "Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities," attached and incorporated hereto as part of this Contract.

**B. TERM OF CONTRACT:**

This Contract shall be effective on July 1, 2021 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed fifty-two thousand one hundred thirty-seven dollars and zero cents (\$52,137.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. **Compensation Firm.** The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
  - b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

<b>Service Description</b>	<b>Amount</b> (per compensable increment)
"Exhibit A" titled "Guidelines Covering Maintenance of State Highways through Municipalities"	See Exhibit A

- C.4. **Travel Compensation.** The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. **Invoice Requirements.** The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Brian Ramsey  
3213 North Roan St.  
Johnson City, TN 37601

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
  - (1) Invoice Number (assigned by the Contractor)
  - (2) Invoice Date
  - (3) Contract Number (assigned by the State)
  - (4) Customer Account Name: Tennessee Department of Transportation
  - (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)

- (6) Contractor Name
- (7) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
- (9) Contractor Remittance Address
- (10) Description of Delivered Service
- (11) Complete Itemization of Charges, which shall detail the following:

- i. Service or Milestone Description (including name & title as applicable) of each service invoiced
- ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
- iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
- iv. Amount Due by Service
- v. Total Amount Due for the invoice period

b. The Contractor understands and agrees that an invoice under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) only be submitted for completed service and shall not include any charge for future work;
- (3) not include sales tax or shipping charges; and
- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. 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 invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor 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 Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said 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 Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said 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 Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this 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 Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total 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 Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor 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 Contract or in the employment practices of the Contractor 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 Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.9. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create a employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.

- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor 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 Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall

remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this 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. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Brian Ramsey  
District 17 Operations Supervisor  
State of Tennessee Department of Transportation  
3213 North Roan St.  
Johnson City, TN 37601  
[Brian.Ramsey@tn.gov](mailto:Brian.Ramsey@tn.gov)  
Telephone # (423) 282-0651

The Contractor:

Ryan McReynolds  
Public Works Director  
225 West Center Street Kingsport, TN 37660-4237  
[RyanMcReynolds@KingsportTN.gov](mailto:RyanMcReynolds@KingsportTN.gov)  
Telephone # (423) 229-9398  
Fax # (423) 229-9473

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor 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.
- E.4. MUTCD. In accordance with Tenn. Code Ann. 54-5-108, the Contractor shall conform to and act in accordance with the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by rules of the State. Particularly, the Contractor shall sign work-zones associated with this Contract in accordance with the aforesaid MUTCD.

E. 5. Maintenance. Nothing contained in this Contract shall change the maintenance obligations governed by the laws of the State of Tennessee, it being the intent of this Contract not to enlarge the present maintenance obligations of the State.

IN WITNESS WHEREOF,

THE CITY OF KINGSPORT:

---

CONTRACTOR SIGNATURE

DATE

---

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

APPROVED AS TO FORM AND LEGALITY

---

CONTRACTOR ATTORNEY SIGNATURE

DATE

---

PRINTED NAME AND TITLE OF CONTRACTOR ATTORNEY SIGNATORY (above)

STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION:

---

CLAY BRIGHT, COMMISSIONER

DATE

APPROVED AS TO FORM AND LEGALITY

---

JOHN REINBOLD, GENERAL COUNSEL

DATE

**"EXHIBIT A"**  
**GUIDELINES COVERING MAINTENANCE**  
**OF STATE HIGHWAYS THROUGH MUNICIPALITIES**

The following items where applicable are eligible for reimbursement by the State to the Contractor under the Special Maintenance Agreement:

<b>Activity</b>	<b>Maintenance Work Type</b>	<b>Unit Of Measure</b>
435	Machine Mowing**	Acres
441	Litter Removal**	Roadway Miles

\*\* Work must be inside the area eligible for reimbursements as detailed in "CITY MAINTENANCE ROADWAY TYPICAL SECTIONS".

Machine Mowing work shall consist of cutting or trimming vegetation primarily consisting of, but not limited to, grasses and invasive weeds on State rights-of-way as detailed below to provide a consistent and aesthetically pleasing standing vegetation height as directed by the State.

Litter Removal Work shall consist of removal of litter from the entire highway rights-of-way where accessible (fence to fence where applicable), including shoulders and excluding the travel lanes on interstate and state routes as detailed below.

INVENTORY OF ELIGIBLE MACHINE MOWING FOR THE MAINTENANCE  
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the eligible mowing area in acres which will be maintained by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for machine mowing, not to exceed the number of cycles and the price per acre as detailed below.

Approved Mowing Reimbursement Per Acre:	\$ 45.00
Calculated Maximum Reimbursement (Mowing):	\$37,395.00

Mowing Inventory Worksheet								
Route Number	Roadway Type	Begin Termini (LM)	End Termini(LM)	Median Area (acres)	Controlled Access Area (acres)	Segment Total Area (acres)	Number of Mowing Cycles	Contract Segment Total Area (acres)
I-26	2A	3.1	6.55		86.2	86.2	6	517.20
SR93	2A	7.16	11.9		52.27	52.27	6	313.62
Total Contract Area (acres):								831

INVENTORY OF ELIGIBLE LITTER REMOVAL FOR THE MAINTENANCE  
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the eligible length of litter removal in linear miles which will be maintained by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for litter removal, not to exceed the number of cycles and the price per linear mile as detailed below.

Approved Litter Reimbursement Per Mile:	\$ 50.00
Calculated Maximum Reimbursement (Litter):	\$ 14,742.00

Litter Inventory Worksheet										
Route Number	Roadway Type	Beginning Termini (LM)	Ending Termini (LM)	Segment Length (mi.)	Litter Pass Miles Per Segment	Segment Total Litter (mi.)	Price per Litter Mile	Number of Litter Cycles	Contract Segment Total Litter (mi.)	Contract Segment Total Litter (\$)
I-26		3.1	6.55	3.45	3	10.35	\$ 50.00	12	124.2	\$ 6,210.00
SR93	2A	7.16	11.9	4.74	3	14.22	\$ 50.00	12	170.64	\$ 8,532.00
Total Contract Litter (mi.):									294.84	\$14,742.00

# CITY MAINTENANCE ROADWAY TYPICAL SECTIONS

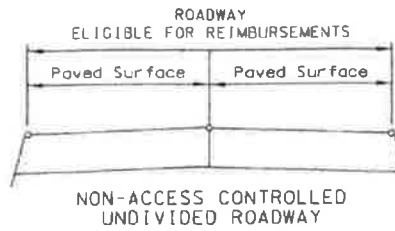


FIGURE 1A

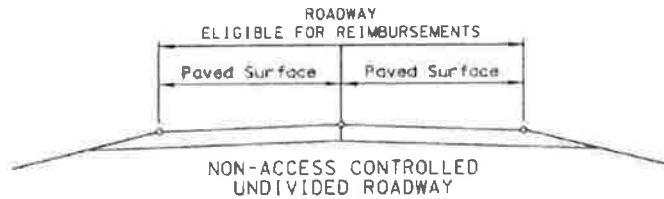


FIGURE 1B

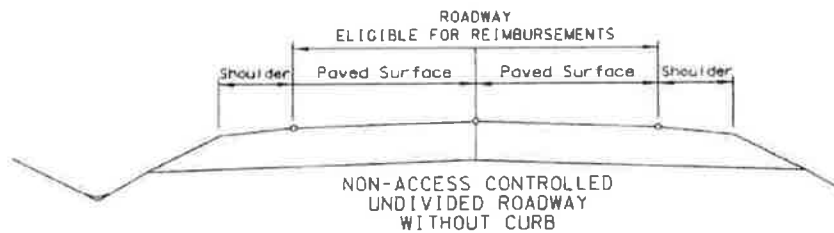


FIGURE 1C

NOTE: IN FIGURES 1A, 1B, AND 1C FOR NON-CONTROLLED ROUTES THE PAVED SURFACE WILL INCLUDE PAVED SHOULDERS.

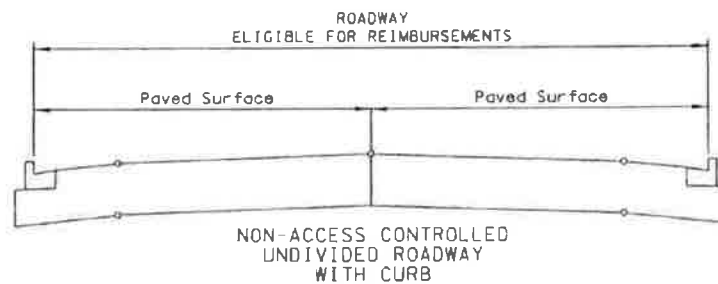


FIGURE 1D

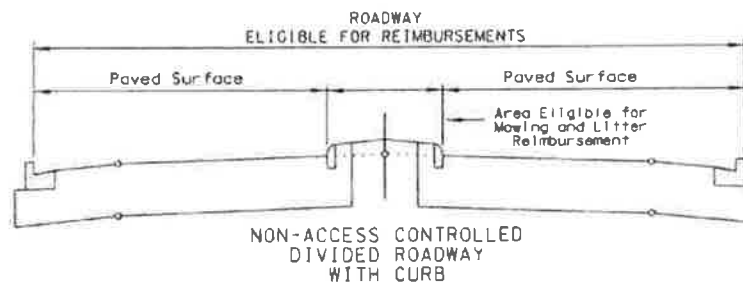


FIGURE 1E

CITY MAINTENANCE  
ROADWAY TYPICAL SECTIONS

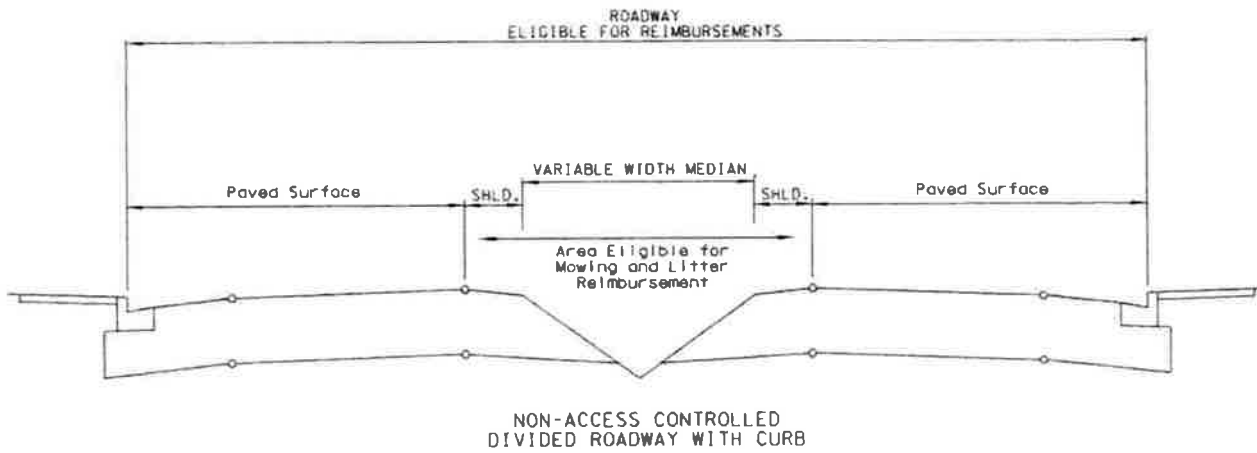


FIGURE 1F

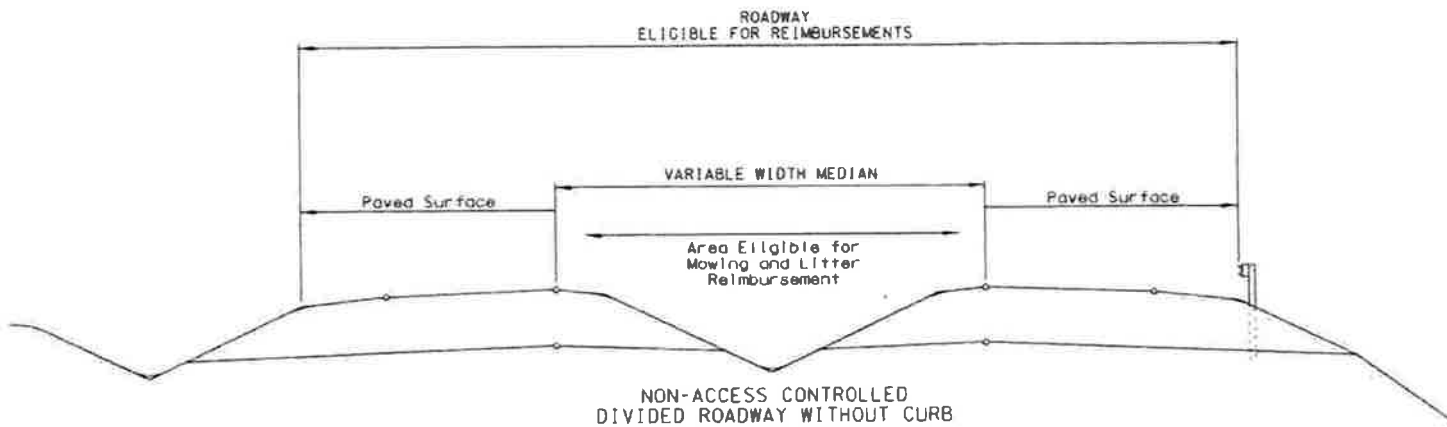


FIGURE 1G

NOTE:  
IF FIGURES 1F AND 1G FOR NON-ACCESS CONTROLLED ROUTES  
THE PAVED SURFACE WILL INCLUDE PAVED SHOULDERS.

CITY MAINTENANCE  
ROADWAY TYPICAL SECTIONS

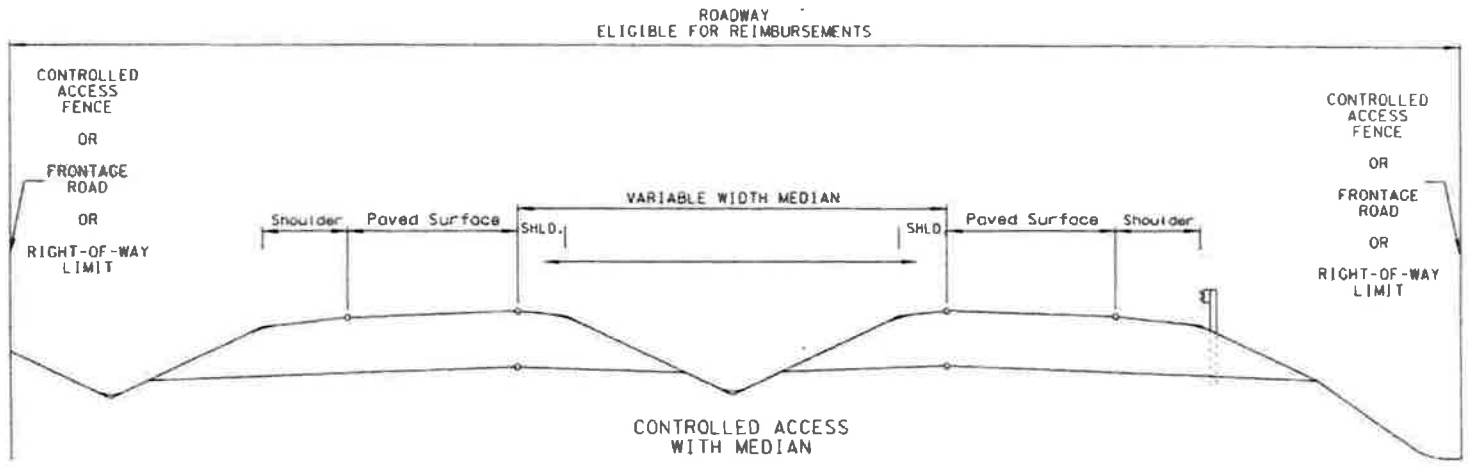


FIGURE 2A

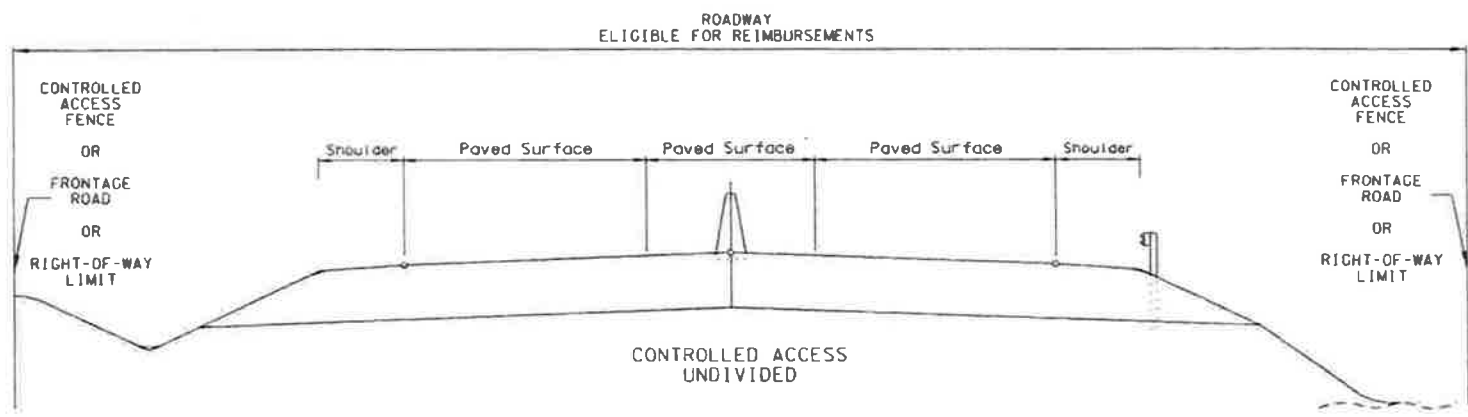


FIGURE 2B



## AGENDA ACTION FORM

### Extending the Bid Award for Tire Recapping Services for FY22

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

Action Form No.: AF-138-2021  
Work Session: May 3, 2021  
First Reading: NA

Final Adoption: May 4, 2021  
Staff Work By: Committee  
Presentation By: R. McReynolds/ S. Hightower

#### Recommendation:

Approve the Resolution

#### Executive Summary:

Bids were opened on June 14, 2017 for the purchase of Tire Recapping Services for use by the Fleet Maintenance Department for FY18. The Invitation to Bid contained a renewal option clause and it is recommended to extend the bid award for FY22 to the apparent low bidder The Goodyear Tire & Rubber Company @ an estimated annual cost of \$67,500.00. Please see their attached memo for pricing and recommendation for renewal.

Funding is identified in various department accounts.

#### Attachments:

1. Resolution
2. Bid Opening Minutes
3. Recommendation Memo & Vendor Letter

Funding source appropriate and funds are available: *gm*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *2w*

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION RENEWING THE CONTRACT FOR PURCHASE  
OF TIRE RECAPPING SERVICES FOR FLEET MAINTENANCE  
FOR FISCAL YEAR 2022 TO THE GOODYEAR TIRE AND  
RUBBER COMPANY AND AUTHORIZING THE CITY MANAGER  
TO EXECUTE PURCHASE ORDERS FOR THE SAME

WHEREAS, bids were opened June 14, 2017, for the tire recapping services for use by the fleet maintenance; and

WHEREAS, the bid documents included an option to renew the agreement, provided pricing and quality of services are acceptable to the city; and

WHEREAS, the city would like to renew the contract with Goodyear Tire and Rubber Company for the purchase of tire recapping services on an as needed basis for use by fleet maintenance from Goodyear Tire and Rubber Company for the period of July 1, 2021, through June 30, 2022, at an annual estimated cost of \$67,500.00; and

WHEREAS, funding will be provided in account # 51100001410000 Fleet Inventory Stock.

Now therefore,

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

SECTION I: That the renewal of the contract for tire recapping services for the period of July 1, 2021 through June 30, 2022, at an estimated annual cost of \$67,500.00 with Goodyear Tire and Rubber Company is approved and the city manager is authorized to execute purchase orders for the same.

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 May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

MINUTES  
BID OPENING  
June 14, 2017  
4:00 P.M.

Present: Brent Morelock, Assistant Procurement Manager; and Michelle Ramey, Assistant Procurement Manager, Schools

The Bid Opening was held in the Council Room, City Hall.

The Assistant Procurement Manager opened with the following bids:

TIRE RECAPPING SERVICE				
Description of Items:	Est. Qty.:	*Goodyear:	Best One Tire:	Tire Centers, LLC:
Tire Cap Cold MS – 12R22.5 – Gripper 22/32"	20	\$120.00	\$120.00	\$ 2.00
Tire Cap Cold MS – 10R22.5 – Gripper 22/32"	20	\$135.00	\$110.00	\$129.88
Tire Cap Cold MS – 11R22.5 – Gripper 22/32"	70	\$115.00	\$112.00	\$139.88
Tire Cap Cold MS Lug – 425/65R22.5 – 26/32"	10	\$200.00	\$225.00	\$ 2.00
Tire Recap All Position – 315/80R22.5 – Wide Base Rib 16/32"	20	\$145.00	\$120.00	\$ 2.00
Tire Recap All Position – 275/80R22.5 – Highway 18/32"	6	\$111.56	\$115.00	\$119.88
Tire Recap Mud and Snow – 255/70R22.5 – Gripper 22/32"	6	\$105.00	\$103.00	\$119.88
Tire Recap Mud & Snow – 12R22.5 – XDUS Refuse Tread 32/32"	100	\$178.00	\$230.00	\$259.00
Tire Recap Mud & Snow – 11R22.5 – XDUS Refuse Tread 32/32"	120	\$165.00	\$215.00	\$249.00
Tire Recap Mud & Snow – 315/80R22.5 – XDUS Refuse Tread 32/32"	50	\$210.00	\$250.00	\$269.00

\*Taken exception to Terms and Conditions regarding patents.

The submitted bids will be evaluated and a recommendation made at a later date.

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# MEMO

**To:** Nikisha Eichmann, Assistant Procurement Manager  
**From:** Steve Hightower, Fleet Manager  
Mike Creasman, Fleet Stores Clerk  
**Date:** April 22, 2021  
**Re:** Annual Tire Purchase Agreement Recommendation

---

This Memo will serve as our confirmation and review of the Annual Tire Purchase Agreement of Goodyear Commercial Tire & Service Centers, Akron, Ohio.

Six of the ten tires quoted, with a 2% increase, are within the expected year's pricing for the tire sizes reflected. The three tire types reflecting a 6% increase are also within market expectations. The price increase adjustments quoted for the tires utilized is below the predicted 8% increase that many of the tire manufacturers have predicted for 2021. Our average amount of increase falls at only 3%. Since the pricing is within expectations I am recommending we renew our current agreement.

Goodyear's tire and tread options are with compliance of the City of Kingsport's current specifications and their past years' service has been satisfactory.

Should you have any questions on this recommendation, please do not hesitate to contact us.

Thank you.



April 23, 2021

City of Kingsport

225 West Center St

Kingsport, TN 37660

ATTN: Nikisha Eichmann

SUBJECT: upcoming renewal for the City of Kingsport

Good Day:

Below is the increase for the upcoming renewal for the City of Kingsport.

Product	Current Price	Countered Price	Increase
254087932 12R225 PC RDA 22 UVC	\$120.00	\$122.40	2%
254085911 10R225 PC UNIGRIP UMC 22DX	\$135.00	\$135.00	-
254375072 425/65R225 PC G177 MOD 2015T 27	\$200.00	\$204.00	2%
254096351 315/80R22.5 PC G686 23/32	\$145.00	\$147.90	2%
254330199 275/80R22.5 PC ALL POSITION 18 18/32	\$111.50	\$113.73	2%
254086702 11R225 PC G167 22	\$115.00	\$117.30	2%
254886702 255/70R225 PC G167 STP 22	\$105.00	\$107.10	2%
254086184 11R22.5 PC G292 WHD 32/32	\$165.00	\$174.90	6%
254087184 12R22.5 PC G292 WHD 32/32	\$178.00	\$188.68	6%
254096184 315/80R225 PC G292 WHD 32/32	\$210.00	\$222.60	6%

Please contact Roger Morgan (828-665-1873) should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald F. Payne". The signature is written in a cursive, flowing style.

Gerald F Payne

Director Sales & Operations

Goodyear CT&SC



## AGENDA ACTION FORM

### Authorizing an Inter-Local Agreement with the Sullivan County Highway Department to Resurface Portions of Childress Ferry Road, Lynn Road, & Shipley Ferry Road

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

Action Form No.: AF-128-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Staff  
 Presentation By: R. McReynolds

#### Recommendation:

Approve the Resolution

#### Executive Summary:

In an effort to provide a quality road surface in an efficient manner for Sullivan County and Kingsport citizens the Sullivan County Highway Department and City of Kingsport Public Works have been using work estimates to accomplish joint paving efforts. This process has been beneficial and in the best interest of both parties. Paving efforts at this time will include portions of Childress Ferry Road, Lynn Road and Shipley Ferry Road that lie both in Sullivan County and the City of Kingsport. The PCI for the respective sections of roadway are as follows: Childress Ferry is a 36, Lynn Road is a 50 and Shipley Ferry is a 35 & 45. The cost for both of these is estimated at \$63,771.00

Funding will be taken from GP2100.

#### Attachments:

1. Resolution
2. Work Estimates

Funding source appropriate and funds are available: *gm*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *zw*

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING A WORK ESTIMATE FROM THE SULLIVAN COUNTY HIGHWAY DEPARTMENT FOR THE RESURFACING PORTIONS OF CHILDRESS FERRY ROAD, LYNN ROAD, AND SHIPLEY FERRY ROAD AND AUTHORIZING THE MAYOR TO EXECUTE THE WORK ESTIMATE AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, the Sullivan County Highway Department and the city have determined that Childress Ferry Road, Lynn Road and Shipley Ferry Road that lie both in Sullivan County and the city need resurfacing, preferably this summer; and

WHEREAS, because the Sullivan County Highway Department is paving Childress Ferry Road, Lynn Road, and Shipley Ferry Road and these roads go in and out of the city limits the city would like to execute a work estimate from the Sullivan County Highway Department to repave the portion of Childress Ferry Road, Lynn Road, and Shipley Ferry Road that lie in the City of Kingsport and the cost for paving these roads in the city limits is estimated at \$63,771.00; and

WHEREAS, funding is available in GP2100.

Now therefore,

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

SECTION I. That a work estimate from the Sullivan County Highway Department for the re-paving of Childress Ferry Road, Lynn Road, and Shipley Ferry Road in the city limits is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a work estimate from the Sullivan County Highway Department to resurface the portion of Childress Ferry Road, Lynn Road and Shipley Ferry Road that are in the city limits of the city, when the Sullivan County Highway Department resurfaces the portion of the road in the unincorporated area of and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of this resolution said work estimate being as follows:

**SULLIVAN COUNTY HIGHWAY DEPARTMENT INTERDEPARTMENTAL  
WORK ESTIMATE**

Project I.D. -Childress Ferry Rd  
Sub Division -Resurface from County Line/ Kingsport City Limits on Childress Ferry Rd to  
County Line/ Kingsport City Limits at Culvert just beyond Warrior Falls Subdivision.

ITEM	DESCRIPTION	UNITS	RATE/UNIT	EXTENSION
1	1 ½" of Topping Mix for resurfacing	192Tons	\$69.00 per Ton	\$13,248.00
	<b>This is the total cost for the Department to produce, transport, and place the Asphalt for a roadway overlaid.</b>			

				\$13,248.00
<b>TOTAL</b>				<b>\$13,248.00</b>

Project I.D. -Lynn Rd Project  
Sub Division -Resurface from County Line / Kingsport City Limits at Lynn Rd to County Line/  
Kingsport City Limits of Shipley Ferry Rd

ITEM	DESCRIPTION	UNITS	RATE/UNIT	EXTENSION
1	1 ½" of C- Mix for resurfacing	356 Tons	\$69.00 per Ton	\$24,564.00
2	1 ½" of Topping Mix for resurfacing	356 Tons	\$69.00 per Ton	\$24,564.00
3	Striping Replacement	6,556 Feet	\$13.70 per Foot	\$478.54
4	Snow Plowable Pavement Markers installed	28 Markers	\$32.75 per Marker	\$917.00
	<b>This is the total cost for the Department to produce, transport, and place the Asphalt for a roadway overlay, stripe and install snow plowable pavement markers.</b>			
				\$50,523.54
<b>TOTAL</b>				<b>\$50,523.54</b>

[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 that do not substantially alter the material provisions of the work estimate, 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 May, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Project I.D. –Childress Ferry Rd  
Sub Division –Resurface from County Line / Kingsport City Limits on Childress Ferry Rd to County Line / Kingsport City Limits at Culvert just beyond Warrior Falls Subdivision.

[illegible]

**Estimate To: City of Kingsport – Public Works Manager**  
**Attention: Tim Elsea**

Accepted By: \_\_\_\_\_

**4/19/2021**

**Project I.D. --Lynn Rd Project**  
**Sub Division --Resurface from County Line / Kingsport City Limits at Lynn Rd to County Line / Kingsport**  
**City Limits of Shipley Ferry Rd**

<b>TOTAL</b>	<b>\$50,523.54</b>
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Accepted By: \_\_\_\_\_

**4/19/2021**



## AGENDA ACTION FORM

### **Renewal of the Public Library Service Agreement with the Tennessee State Library & Archives for Services via Holston River Regional Library**

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

Action Form No.: AF-141-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Chris Markley  
 Presentation By: M. Borders

#### **Recommendation:**

Approve the Resolution

#### **Executive Summary:**

This is an annual agreement which makes the Library eligible to receive, from the State Library through the Holston River Regional Library (a Multi-county regional system):

- Professional and technical assistance to library staff and boards valued at \$30,000.00
- Annual funds, which over the past 20 years have purchased approximately 27% of our total print collection
- Downloadable ebook, eAudio, magazines and streaming movies available through Overdrive purchased with State/Regional funds and online reference resources/databases valued at \$1,700,000.00
- Statewide courier service valued at \$10,000.00
- Access to direct library grants, received \$2,895.00 CARES Grant and \$4,533.00 LSTA Technology Grant FY 20-21
- Access to State Construction Grant

#### **Attachments:**

1. Resolution
2. Service Agreement

Funding source appropriate and funds are available: *jm*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *jm*

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE ANNUAL RENEWAL OF THE PUBLIC LIBRARY SERVICE AGREEMENT WITH THE TENNESSEE STATE LIBRARY AND ARCHIVES TO RECEIVE FUNDING FOR BOOKS, TRAINING, AND SERVICES THROUGH THE HOLSTON RIVER REGIONAL LIBRARY SYSTEM FOR FISCAL YEAR 2021-2022

WHEREAS, the city is eligible to receive fiscal year 2021-2022 Tennessee State Library and Archives funding for books, online resources and professional training, use of the courier service, the automation system, and internet service through the Holston River Regional Library System; and

WHEREAS, receipt of the funding and services requires execution of a renewal of the Public Library Service Agreement with the Tennessee State Library and Archives.

Now therefore,

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

SECTION I. That a Public Library Service Agreement with the Tennessee State Library and Archives to receive funding for books, online resources and professional training, and allow use of courier service, the automation system, and internet service through the Holston River Regional Library System for fiscal year 2021-2022 is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a Public Library Service Agreement with the Tennessee State Library and Archives to receive funding for books, online resources and professional training, and allow use of courier service, the automation system and internet service through the Holston River Regional Library System for fiscal year 2021-2022, and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution, said agreement being as follows:

**PUBLIC LIBRARY SERVICE AGREEMENT**

**Holston River Sullivan County**

**FY 2021 – 2022**

**Charles A. Sherrill**

*State Librarian and Archivist*

*The Public Library Board of Trustees will:*

1. Confirm and provide proof (upon request) that the library has been legally established in accordance with Tennessee Code Annotated 10-3-101.
2. Furnish annual documents for participation in the Tennessee State Library and Archives Regional System, including, but not limited to:
  - The Public Library Maintenance of Effort Agreement
  - The Public Library Service Agreement
  - The Official Public Library Service Area Population Agreement
  - Official Library Board Appointment form
  - The Public Library Statistics Survey (Data Collection)
  - Tennessee Non-Metropolitan Public Library Standards Survey
  - Board of Trustees minutes and other reports made to the County and/or City governing body
  - A Long-range Plan for Library Services and Technology
3. Support the allocation of locally appropriated public funds at a level not less than the amount

appropriated in the last fiscal year, as well as the expenditure of locally appropriated funds at a level not less than the total amount expended in the last fiscal year. This is referred to as "Maintenance of Effort" (MOE) in various documents and also applies to library operating hours as detailed in item 5 of this document. (T.C.A. 10-3-102)

4. Ensure compliance with the Public Library Maintenance of Effort agreement and this Public Library Service Agreement.

5. Maintain a schedule of service hours which best meets the needs of the residents and which will not fall below the level set in the preceding year. (T.C.A. 10-3-102) Note: Unduplicated branch hours are included in the service hours provided system-wide.

6. Follow all local, state and federal laws and regulations, including, but not limited to, display, provision and transmission of the mail-in or online Application for Voter Registration within the library facilities. (See National Voter Registration Act of 1993) Display posters and provide written material, provided by the Tennessee Division of Elections, educating the public regarding election law changes such as photo identification requirements.

7. Provide basic library services free to the inhabitants of the city or county. Extend the privileges and facilities of the library to persons residing outside the County or City upon such terms as it may deem proper. (T.C.A. 10-3-107)

8. Adopt written board bylaws and library usage policies and provide copies to the Regional Library. Bylaws should be reviewed/revised every 3 years and usage policies every other year. (*Tennessee Standards for Public Libraries 2018: Governance 3-8*)

9. Follow Open Meetings Law, including adequate public notices (T.C.A. 8-44-103), minutes properly recorded and distributed (T.C.A. 8-44-104). All meetings, including committee meetings, must be open to the public.

10. Include Regional Director, or regional designee, in all board meetings as a non-voting participant and provide information related to the meetings in a timely manner, including but not limited to library and board official acts.

11. Participate in trustee continuing education and training provided by the Regional Library and the Tennessee State Library and Archives, including but not limited to Trustee Workshops and the Tennessee Trustee Certification Program.

12. Require participation of library staff in and reporting of a minimum number of hours of annual training. Training may include a combination of face-to-face and online training.

a. Administrative staff: Library directors and administration will receive a minimum of 25 contact hours of library related training annually, of which at least 20 hours will be regionally or state sponsored.

b. Paid staff working 20 hours or more: Staff working 20 hours or more per week will receive a minimum of 10 contact hours of library related training annually, of which at least 5 hours are regionally or state sponsored.

c. Paid staff working 19 hours or less per week will receive a minimum of 5 hours of library related training annually, of which at least 2 hours are regionally or state sponsored.

13. Provide complete and correct MARC records compatible with the statewide catalog database (ShareIT), which facilitates the statewide interlibrary loan program.

*The following resources, available upon request, will be helpful to public libraries in meeting these responsibilities:*

- Tennessee Code Annotated, Title 10
- Tennessee Standards for Public Libraries, 2018

#### **Responsibilities of the State Library and Its Regional Libraries**

*Subject to availability of resources, the State will:* Provide assistance to County and City officials and library board(s) in developing a unified system of public library service for all residents of the county.

1. Provide professional library consultant services to local public library boards and staff, which may include, but not be limited to:

- Planning and Development
- Personnel Management
- Policy Development
- Recruitment and Hiring of Library Directors
- Collection Management
- Grant Preparation Guidance
- Automation Guidance
- Facilities Management and Construction Guidance

2. Upon request, furnish technical and technology assistance to local public library boards and staff, which may include, but not be limited to:

- Materials Acquisitions
- Original Cataloging

- Data Collection and Analysis
  - Computer Hardware/Software Problem Resolutions
  - Shared ILS Problem Resolutions
3. Allocate and monitor State funds for a collection of library materials on indefinite loan.
  4. Facilitate access to R.E.A.D.S. (Regional eBook and Audiobook Download System) and/or other digital resources provided by the regional library system.
  5. Provide an annual summer reading program workshop and selected library participant materials for promotion and implementation.
  6. Purchase and maintain a collection of print and online professional materials to support the improvement of library and management skills of local public library boards and staff.
  7. Supply statistical information and data pertaining to the operation and use of the library.
  8. Offer training specific to public library trustees, including, but not limited to, the annual Tennessee Trustee Workshops and the Tennessee Trustee Certification program.
  9. Offer a minimum of 30 contact hours of workshops and training for library boards and staff. Training may include in-services, workshops, roundtables, or online training.
- [Acknowledgements Deleted for Inclusion in this Resolution]

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

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

ADOPTED this the 4th day of May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

# State of Tennessee



## Department of State

Tennessee State Library and Archives  
403 Seventh Avenue North  
Nashville, Tennessee 37243-0312  
(615) 741-7996

### PUBLIC LIBRARY SERVICE AGREEMENT

Holston River

Sullivan County

FY 2021 – 2022

**Responsibilities of the following Public Library(ies):** *Please list libraries below in this box.*

Kingsport Public Library & Archives

*The Public Library Board of Trustees will:*

1. Confirm and provide proof (upon request) that the library has been legally established in accordance with Tennessee Code Annotated 10-3-101.
2. Furnish annual documents for participation in the Tennessee State Library and Archives Regional System, including, but not limited to:
  - The Public Library Maintenance of Effort Agreement
  - The Public Library Service Agreement
  - The Official Public Library Service Area Population Agreement
  - Official Library Board Appointment form
  - The Public Library Statistics Survey (Data Collection)
  - Tennessee Non-Metropolitan Public Library Standards Survey
  - Board of Trustees minutes and other reports made to the County and/or City governing body
  - A Long-range Plan for Library Services and Technology
3. Support the allocation of locally appropriated public funds at a level not less than the amount appropriated in the last fiscal year, as well as the expenditure of locally appropriated funds at a level not less than the total amount expended in the last fiscal year. This is referred to as "Maintenance of Effort" (MOE) in various documents and also applies to library operating hours as detailed in item 5 of this document. (T.C.A. 10-3-102)

4. Ensure compliance with the Public Library Maintenance of Effort agreement and this Public Library Service Agreement.
5. Maintain a schedule of service hours which best meets the needs of the residents and which will not fall below the level set in the preceding year. (T.C.A. 10-3-102) Note: Unduplicated branch hours are included in the service hours provided system-wide.
6. Follow all local, state and federal laws and regulations, including, but not limited to, display, provision and transmission of the mail-in or online Application for Voter Registration within the library facilities. (See National Voter Registration Act of 1993) Display posters and provide written material, provided by the Tennessee Division of Elections, educating the public regarding election law changes such as photo identification requirements.
7. Provide basic library services free to the inhabitants of the city or county. Extend the privileges and facilities of the library to persons residing outside the County or City upon such terms as it may deem proper. (T.C.A. 10-3-107)
8. Adopt written board bylaws and library usage policies and provide copies to the Regional Library. Bylaws should be reviewed/revised every 3 years and usage policies every other year. (*Tennessee Standards for Public Libraries 2018: Governance 3-8*)
9. Follow Open Meetings Law, including adequate public notices (T.C.A. 8-44-103), minutes properly recorded and distributed (T.C.A. 8-44-104). All meetings, including committee meetings, must be open to the public.
10. Include Regional Director, or regional designee, in all board meetings as a non-voting participant and provide information related to the meetings in a timely manner, including but not limited to library and board official acts.
11. Participate in trustee continuing education and training provided by the Regional Library and the Tennessee State Library and Archives, including but not limited to Trustee Workshops and the Tennessee Trustee Certification Program.
12. Require participation of library staff in and reporting of a minimum number of hours of annual training. Training may include a combination of face-to-face and online training.
  - a. Administrative staff: Library directors and administration will receive a minimum of 25 contact hours of library related training annually, of which at least 20 hours will be regionally or state sponsored.
  - b. Paid staff working 20 hours or more: Staff working 20 hours or more per week will receive a minimum of 10 contact hours of library related training annually, of which at least 5 hours are regionally or state sponsored.
  - c. Paid staff working 19 hours or less per week will receive a minimum of 5 hours of library related training annually, of which at least 2 hours are regionally or state sponsored.
13. Provide complete and correct MARC records compatible with the statewide catalog database (ShareIT), which facilitates the statewide interlibrary loan program.

*The following resources, available upon request, will be helpful to public libraries in meeting these responsibilities:*

- Tennessee Code Annotated, Title 10
- Tennessee Standards for Public Libraries, 2018

## **Responsibilities of the State Library and Its Regional Libraries**

*Subject to availability of resources, the State will:*

1. Provide assistance to County and City officials and library board(s) in developing a unified system of public library service for all residents of the county.
2. Provide professional library consultant services to local public library boards and staff, which may include, but not be limited to:
  - Planning and Development
  - Personnel Management
  - Policy Development
  - Recruitment and Hiring of Library Directors
  - Collection Management
  - Grant Preparation Guidance
  - Automation Guidance
  - Facilities Management and Construction Guidance
3. Upon request, furnish technical and technology assistance to local public library boards and staff, which may include, but not be limited to:
  - Materials Acquisitions
  - Original Cataloging
  - Data Collection and Analysis
  - Computer Hardware/Software Problem Resolutions
  - Shared ILS Problem Resolutions
4. Allocate and monitor State funds for a collection of library materials on indefinite loan.
5. Facilitate access to R.E.A.D.S. (Regional eBook and Audiobook Download System) and/or other digital resources provided by the regional library system.
6. Provide an annual summer reading program workshop and selected library participant materials for promotion and implementation.
7. Purchase and maintain a collection of print and online professional materials to support the improvement of library and management skills of local public library boards and staff.
8. Supply statistical information and data pertaining to the operation and use of the library.

*Due to Holston River Regional Library by Thursday, June 17, 2021.*

9. Offer training specific to public library trustees, including, but not limited to, the annual Tennessee Trustee Workshops and the Tennessee Trustee Certification program.
10. Offer a minimum of 30 contact hours of workshops and training for library boards and staff. Training may include in-services, workshops, roundtables, or online training.

\_\_\_\_\_  
Date  
Signature, Chair, Kingsport Public Library & Archives Board

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date  
Bessie Davis, Director of Regional Libraries

References:

*Tennessee Code Annotated, Title 10*

*Tennessee Standards for Public Libraries, 2018*

*Revised form: 4/27/2020*



## AGENDA ACTION FORM

### Enter Into Contractual Agreement, TDOT Project No: 825307-S3-030 in order to Utilize Remaining Funds for the KATS Garage Project

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

Action Form No.: AF-145-2021 *cm*  
Work Session: May 3, 2021  
First Reading: NA

Final Adoption: May 4, 2021  
Staff Work By: Candace Sherer  
Presentation By: C. McCartt

#### Recommendation:

Approve the Resolution

#### Executive Summary:

KATS is in the process of designing a new vehicle storage facility. The previous agreement with TDOT for this project contractually ended in 12/31/2020. In order to utilize the remaining TDOT funds, a new contract is needed. TDOT has \$12,287.62 remaining as the matching balance. The local matching funding for this project was budgeted in prior years and is currently available in GP1718.

TDOT PROJECT NO: 825307-S3-030  
5307

(80%) Federal; (10%) Local; (10%) State

	Local	State	Federal	Total
TOTAL CAPITAL	12,287.62	12,287.62	98,300.96	\$122,876.20

#### Attachments:

1. Resolution
2. Contract

Funding source appropriate and funds are available: *gm*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *aw*

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR TDOT PROJECT NO. 825307-S3-030 FOR THE KINGSPORT AREA TRANSIT SERVICE GARAGE PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the Kingsport Area Transit Service (KATS) has been working to build a new vehicle storage facility, and had an agreement with TDOT which has ended in December, 2020; and

WHEREAS, the total amount of the funds available for the project from TDOT were not used, so the city would like to enter into an agreement with TDOT to use the remaining amount of \$12,287.62 for the project; and

WHEREAS, the local matching funds were made available for the prior agreement and is currently available.

Now therefore,

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

SECTION I. That an agreement with the Tennessee Department of Transportation (TDOT) for TDOT Project No. 825307-S3-030 for the new vehicle storage project for KATS 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, an agreement with Tennessee Department of Transportation (TDOT) for TDOT Project No. 825307-S3-030 for the new vehicle storage project for and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution, said agreement being as follows:

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

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 January 1, 2020 ("Effective Date") and ending on December 31, 2023, ("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 Twelve Thousand, Two Hundred and Eighty-seven Dollars and Sixty-two Cents (\$12,287.62) ("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:

Department of Tennessee

Multimodal Transportation Resources Division

505 Deaderick Street – James K. Polk Building, Suite 1200 Nashville, Tennessee 37243

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 Tennessee, 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.

(4) All invoice reimbursement amounts are to be rounded down to the next lowest full dollar of the expense by source of reimbursement and by detail budget line item. If this contract includes funds previously allocated in a prior contract that did not require reimbursement in whole dollars, or if this contract provides for a subsequent phase of work with the same funding as a prior contract that did not require reimbursement in whole dollars, then this grant/contract's initial reimbursement by source of reimbursement and by detail budget line item shall be to achieve the remaining reimbursements in whole dollars. All remaining reimbursements after the first by source of reimbursement and by detail budget line item are to be rounded down to the next lowest whole dollar by source of reimbursement and by detail budget line item.

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 ninety (90) 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.

a. 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.

a. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that: 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.7. 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:

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

The Grantee:

Brenden Henderson, Program Monitor 1  
Tennessee Department of Transportation Multimodal Transportation Resources Division  
James K. Polk Building, Suite 1200  
505 Deaderick Street  
Nashville, Tennessee 37243  
[Brenden.henderson@tn.gov](mailto:Brenden.henderson@tn.gov)  
Telephone # (615) 253-4942  
FAX # (615) 253-1482

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.8. 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.9. 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.10. 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.11. 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.12. 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.13. 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.14. 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.15. 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.16. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.

D.17. 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.18. 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.19. 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.20. 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.21. 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.22. 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.23. 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.24. 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.25. Reserved.

D.26. 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.27. 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](http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

D.28. 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.29. 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.30. 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.31. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

D.32. 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.33. 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.

D.34. 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. 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. 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.3. 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.4. Personally Identifiable Information. While performing its obligations under this Grant Contract, Grantee may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Grant Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Grantee agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Grantee shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Grantee and in accordance with this Grant Contract, GLBA and Privacy Laws; and

(ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Grantee shall immediately notify State: (1) of any disclosure or use of any PII by Grantee or any of its employees, agents and representatives in breach of this Grant Contract; and (2) of any disclosure of any PII to Grantee or its employees, agents and representatives where the purpose of such disclosure is not known to Grantee or its employees, agents and representatives. The State reserves the right to review Grantee's policies and procedures used to maintain the security and confidentiality of PII and Grantee shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Grantee is in full compliance with its obligations under this Grant Contract in relation to PII. Upon termination or expiration of the Grant Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Grantee shall immediately return to the State any and all PII which it has received under this Grant Contract and shall destroy all records of such PII.

**E.5. 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.6. 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.7. 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.8. 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.9. Capital Asset.** The Grantee shall:

- (a) Use one or more vehicles, equipment, or facilities ("Capital Asset") acquired under this Grant Contract only for the purposes and the manner set forth in the Grantee's application.
  - (b) Certify at the beginning of each calendar year, that the Capital Asset acquired under this Grant Contract is still being used in accordance with the terms and provisions of this Grant Contract.
  - (c) Pay all fees on the Capital Asset acquired through this Grant Contract, including but not limited to title and registration fees.
  - (d) Be responsible for all costs and expenses related to the operation, maintenance, and repair of the Capital Asset acquired through this Grant Contract.
  - (e) Provide licensed drivers, as required by the Tennessee Department of Safety and Homeland Security, for operation of all vehicles or equipment received under this Grant Contract.
  - (f) Carry insurance on Capital Assets sufficient to cover the State interest, and the Federal interest if applicable, in the Capital Asset.
1. If the Grantee is governed by the Tennessee Governmental Tort Liability Act (Tenn. Code Ann. § 29-20-101 et seq.), then 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 a 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.
  2. If the Grantee is not governed by the Tennessee Governmental Tort Liability Act, then the following insurance coverage is required:

- a) Personal Injury Liability – minimum of \$300,000.00 per person and \$1,000,000.00 per incident.
- b) Property Damage Liability – minimum of \$300,000.00 per incident.
- c) Comprehensive – maximum deductible of \$500.00. Collision – maximum deductible of \$500.00.
- d) Uninsured Motorist – minimum of \$50,000.00 per person and \$100,000.00 per incident.

3. Additionally, if applicable, the Grantee shall comply with the provisions of Section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 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 Capital Asset 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 Capital Asset is delivered to the Grantee and annually on the anniversary date of the delivery of the Capital Asset. Upon demand by the State, the Grantee shall provide proof of insurance at any time during the term of useful life of the Capital Asset.

(g) Ensure that any vehicles received under this Grant Contract will comply with the Federal Motor Vehicle Safety Standards ("FMVSS") as established by the United States Department of Transportation.

(h) Ensure that any Capital Asset received under this Grant Contract shall be used for not less than the useful life, except with the State's prior written approval. The useful life of all Capital Assets purchased under the Grant Contract is as listed in the grant document filed with the Federal Transit Administration ("FTA"). Upon reaching the expiration of the useful life of the Capital Asset, the State may ask the Grantee to provide written notice to the State.

E.10. 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.11. 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.

E.12. 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 May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR


ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

TDOT PROJECT NO.: 825307-S3-030  
FTA PROJECT NO.: TN2016-015-01

 <b>GOVERNMENTAL GRANT CONTRACT</b> (cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)					
<b>Begin Date</b> 1/1/2020		<b>End Date</b> 12/31/2023		<b>Agency Tracking #</b> 40100-30800	<b>Edison ID</b>
<b>Grantee Legal Entity Name</b> City of Kingsport					<b>Edison Vendor ID</b> 1562
<b>Subrecipient or Contractor</b> <input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor		<b>CFDA #</b>  <b>Grantee's fiscal year end</b> <b>June 30</b>			
<b>Service Caption</b> (one line only) FFY 2013-2014 – 5307 Urbanized Area Program – Capital Funds					
<b>Funding —</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Grant Contract Amount</b>
2021	\$12,287.62				\$12,287.62
<b>TOTAL:</b>	<b>\$12,287.62</b>				<b>\$12,287.62</b>
<b>Grantee Selection Process Summary</b> <input type="checkbox"/> Competitive Selection      Describe the competitive selection process used. <input checked="" type="checkbox"/> Non-competitive Selection      Recipients apply directly to the Federal Transit Administration (FTA) for Section 5307 funds. Once their application has been approved by the FTA, recipients submit a request to TDOT Multimodal Division for matching funds.					
<b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.				<b>CPO USE – GG</b>	
<b>Speed Chart</b> (optional)		<b>Account Code</b> (optional) 71302000			

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

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 January 1, 2020 ("Effective Date") and ending on December 31, 2023, ("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 Twelve Thousand, Two Hundred and Eighty-seven Dollars and Sixty-two Cents (\$12,287.62) ("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:

Department of Tennessee  
 Multimodal Transportation Resources Division  
 505 Deaderick Street – James K. Polk Building, Suite1200  
 Nashville, Tennessee 37243

- 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 Tennessee, 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.
- (4) All invoice reimbursement amounts are to be rounded down to the next lowest full dollar of the expense by source of reimbursement and by detail budget line item. If this contract includes funds previously allocated in a prior contract that did not require reimbursement in whole dollars, or if this contract provides for a subsequent phase of work with the same funding as a prior contract that did not require reimbursement in whole dollars, then this grant/contract's initial reimbursement by source of reimbursement and by detail budget line item shall be to achieve the remaining reimbursements in whole dollars. All remaining reimbursements after the first by source of reimbursement and by detail budget line item are to be rounded down to the next lowest whole dollar by source of reimbursement and by detail budget line item.

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 ninety (90) 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.
    - a. 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:

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

The Grantee:

Brenden Henderson, Program Monitor 1  
Tennessee Department of Transportation  
Multimodal Transportation Resources Division  
James K. Polk Building, Suite 1200  
505 Deaderick Street  
Nashville, Tennessee 37243  
Brenden.henderson@tn.gov  
Telephone # (615) 253-4942  
FAX # (615) 253-1482

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](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.

- D.35. 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. 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. 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.3. 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.4. Personally Identifiable Information. While performing its obligations under this Grant Contract, Grantee may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Grant Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Grantee agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Grantee shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Grantee and in accordance with this Grant Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Grantee shall immediately notify State: (1) of any disclosure or use of any PII by Grantee or any of its employees, agents and representatives in breach of this Grant Contract; and (2) of any disclosure of any PII to Grantee or its employees, agents and representatives where the purpose of such disclosure is not known to Grantee or its employees, agents and representatives. The State reserves the right to review Grantee's policies and procedures used to maintain the security and confidentiality of PII and Grantee shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Grantee is in full compliance with its obligations under this Grant Contract in relation to PII. Upon termination or expiration of the Grant Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Grantee shall immediately return to the State any and all PII which it has received under this Grant Contract and shall destroy all records of such PII.

E.5. 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.6. 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.7. 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.8. 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.9. Capital Asset. The Grantee shall:
- (a) Use one or more vehicles, equipment, or facilities ("Capital Asset") acquired under this Grant Contract only for the purposes and the manner set forth in the Grantee's application.
  - (b) Certify at the beginning of each calendar year, that the Capital Asset acquired under this Grant Contract is still being used in accordance with the terms and provisions of this Grant Contract.
  - (c) Pay all fees on the Capital Asset acquired through this Grant Contract, including but not limited to title and registration fees.
  - (d) Be responsible for all costs and expenses related to the operation, maintenance, and repair of the Capital Asset acquired through this Grant Contract.
  - (e) Provide licensed drivers, as required by the Tennessee Department of Safety and Homeland Security, for operation of all vehicles or equipment received under this Grant Contract.
  - (f) Carry insurance on Capital Assets sufficient to cover the State interest, and the Federal interest if applicable, in the Capital Asset.
    1. If the Grantee is governed by the Tennessee Governmental Tort Liability Act (Tenn. Code Ann. § 29-20-101 et seq.), then 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 a 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.
    2. If the Grantee is not governed by the Tennessee Governmental Tort Liability Act, then the following insurance coverage is required:
      - a) Personal Injury Liability – minimum of \$300,000.00 per person and \$1,000,000.00 per incident.
      - b) Property Damage Liability – minimum of \$300,000.00 per incident.
      - c) Comprehensive – maximum deductible of \$500.00.

- d) Collision – maximum deductible of \$500.00.
- e) Uninsured Motorist – minimum of \$50,000.00 per person and \$100,000.00 per incident.

- 3. Additionally, if applicable, the Grantee shall comply with the provisions of Section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 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 Capital Asset 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 Capital Asset is delivered to the Grantee and annually on the anniversary date of the delivery of the Capital Asset. Upon demand by the State, the Grantee shall provide proof of insurance at any time during the term of useful life of the Capital Asset.

- (g) Ensure that any vehicles received under this Grant Contract will comply with the Federal Motor Vehicle Safety Standards ("FMVSS") as established by the United States Department of Transportation.
- (h) Ensure that any Capital Asset received under this Grant Contract shall be used for not less than the useful life, except with the State's prior written approval. The useful life of all Capital Assets purchased under the Grant Contract is as listed in the grant document filed with the Federal Transit Administration ("FTA"). Upon reaching the expiration of the useful life of the Capital Asset, the State may ask the Grantee to provide written notice to the State.

- E.10. 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.11. 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.
- E.12. 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.

**IN WITNESS WHEREOF,**

**CITY OF KINGSPORT:**

**PATRICK SHULL, MAYOR**

**DATE**

**PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)**

TDOT PROJECT NO.: 825307-S3-030  
FTA PROJECT NO.: TN2016-015-01

**DEPARTMENT OF TRANSPORTATION:**

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**CLAY BRIGHT, COMMISSIONER**

**DATE**

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**JOHN H. REINBOLD, GENERAL COUNSEL  
APPROVED AS TO FORM AND LEGALITY**

**DATE**

TDOT PROJECT NO.: 825307-S3-030  
FTA PROJECT NO.: TN2016-015-01

**ATTACHMENT ONE****UNIVERSAL MULTIMODAL TRANSPORTATION RESOURCES BUDGET**

	STATE SHARE	FEDERAL SHARE*	GRANT CONTRACT	GRANTEE SHARE	TOTAL
<b>SCOPE—CAPITAL</b>					
11.00.S0 Capital Assistance, Non-ADA - TDOT	\$12,287.62	\$98,300.96	\$12,287.62	\$12,287.62	\$122,876.20
11.00.S1 Capital Assistance, ADA - TDOT					
11.1x.xx Revenue Rolling Stock					
11.2x.xx Transitways / Line					
11.3x.xx Station Stops & Terminals					
11.4x.xx Support Equip / Facilities					
11.5x.xx Electrification / Power Dist.					
11.6x.xx Signal & Communication Equip					
11.7x.xx Other Capital Items					
11.8x.xx State / Programs Administration					
11.9x.xx Transit Enhancements					
12.xx.xx Fixed Guideway					
14.xx.xx New Start					
<b>SCOPE—OPERATING</b>					
30.00.00 Operating Assistance - TDOT					
30.xx.xx Operating Assistance					
<b>SCOPE—PLANNING</b>					
44.00.S0 Planning - TDOT					
44.xx.xx Planning					
<b>SCOPE—MANAGEMENT TRAINING</b>					
50.xx.xx Management Training					
<b>SCOPE—OVERSIGHT REVIEWS</b>					
51.xx.xx Oversight Review					
<b>SCOPE—RESEARCH PROJECTS</b>					
55.xx.xx Research Projects					
<b>SCOPE—SAFETY &amp; SECURITY</b>					
57.xx.xx Safety and Security					
<b>SCOPE - UNIVERSITY RESEARCH</b>					
70.xx.xx					
<b>SCOPE - Non-Add Scope Codes</b>					
99.xx.xx					
<b>SCOPE - OTHER</b>					
63.5x.xx - Rural Technical Assistance Program					
xx.xx.xx - Other					
xx.xx.xx - Other					
xx.xx.xx - Other					
<b>GRAND TOTAL</b>	\$12,287.62	\$98,300.96	\$12,287.62	\$12,287.62	\$122,876.20

\*Federal share not distributed in this grant contract.

TDOT PROJECT NO.: 825307-S3-030  
FTA PROJECT NO.: TN2016-015-01

**GRANT BUDGET LINE-ITEM DETAIL INFORMATION**

Line Item Detail For: CAPITAL	State	Federal	Grant Contract	Grantee	Total Project
11.00.S0 Capital Assistance, Non-ADA - TDOT	\$12,287.62	\$98,300.96	\$12,287.62	\$12,287.62	\$122,876.20
<b>TOTAL</b>	<b>\$12,287.62</b>	<b>\$98,300.96</b>	<b>\$12,287.62</b>	<b>\$12,287.62</b>	<b>\$122,876.20</b>

**ATTACHMENT TWO****Parent Child Information**

***The Grantee should complete this form and submit it with the Grant Contract. The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year.***

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number: 1562

Is City of Kingsport a parent? Yes ☐ No ☐

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is City of Kingsport a child? Yes ☐ No ☐

If yes, complete the fields below.

Parent entity's name: \_\_\_\_\_

Parent entity's tax identification number: \_\_\_\_\_

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager  
3<sup>rd</sup> Floor, WRS Tennessee Tower  
312 Rosa L Parks Avenue  
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Parent entity's Edison Vendor ID number, if applicable: \_\_\_\_\_



## AGENDA ACTION FORM

### **Enter into an Agreement with Cain Rash West Architects for Architectural Design Services for the John Sevier Middle School Renovation Project and Authorizing the Mayor to Sign all Applicable Documents**

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

Action Form No.: AF-139-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Michelle Ramey  
 Presentation By: D. Frye

#### **Recommendation:**

Approve the Resolution

#### **Executive Summary:**

On March 18, 2020, the City of Kingsport Procurement Department received proposals from Architectural Firms for multiple school renovation projects including the renovation of the former Sullivan North High School into the new John Sevier Middle School. Cain Rash West Architects was selected to provide Architectural Design Services for the Sullivan North Renovation by the review committee.

Cain Rash West Architects scope of work includes schematic design through construction administration phases. Proposed fee of \$1,003,214.62 (fee of 6%) is based on a Construction Budget of \$16,720,243.65 (Budget Estimate dated 03-16-2021).

Kingsport City Schools recommends awarding the contract to Cain Rash West Architects for a fee of 6% (\$1,003,214.62) of the estimated Construction Budget of \$16,720,243.65.

Funding is available in GP1733.

#### **Attachments:**

1. Resolution
2. Exhibit A Fee Schedule

Funding source appropriate and funds are available: \_\_\_\_\_

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: \_\_\_\_\_

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AN AGREEMENT WITH CAIN RASH WEST ARCHITECTS FOR ARCHITECTURAL DESIGN SERVICES FOR THE JOHN SEVIER MIDDLE SCHOOL RENOVATION PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the city, through its purchasing department, received proposals from architectural firms for multiple school renovation projects including the renovation of the former Sullivan North High School into the new John Sevier Middle School; and

WHEREAS, Cain Rash West Architects was selected to provide architectural design services for the Sullivan North Renovation by the review committee; and

WHEREAS, the city would like to enter into an agreement with Cain Rash West Architects to provide architectural design services to renovate the former Sullivan North High School into the new John Sevier Middle School; and

WHEREAS, the scope of work includes the schematic design through construction administration phases; and

WHEREAS, the proposed fee of the design services for the architect is a fee of six percent (6%) (\$1,003,214.62) of the owner's budget for the cost of the work is based on a Construction Budget of \$16,720,243.65 (Budget estimate dated 03-16-2021).

Now therefore,

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

SECTION I. That an agreement with Cain Rash West Architects to provide architectural design services to renovate the former Sullivan North High School into the new John Sevier Middle School 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, an agreement with Cain Rash West Architects to provide architectural design services to renovate the former Sullivan North High School into the new John Sevier Middle School and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution said agreement being AIA B101-2017, as amended by the city.

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 May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

**Renovation of John Sevier  
Middle School for Kingsport  
City Schools**

6 April 2021, REV 12 April 2021

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Ms. Michelle Ramey, CPPB  
Asst. Procurement Manager  
Kingsport City Schools  
400 Clinchfield St., Suite 200  
Kingsport, TN 37660

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**EXHIBIT A**

Dear Michelle,

CRW Architects and LS3P Architects are pleased to present the following fee proposal for the renovation of the former Sullivan North High School into John Sevier Middle School.

**Programming Phase**

Further programming is not expected and future design phases will be based on our latest Scoping Meeting of March 16, 2021.

**Schematic through Construction Administration Phases**

As the scope and program of the project develops the construction budget might change but for the purposes of planning we will assume the construction budget is \$16,720,243.65. (Based on budget estimate dated 3-16-21).

**\$16,720,243.65 x a fee of 6% = \$1,003,214.62**

Reimbursable expenses for the Schematic through Construction Administration Phases not included in the **\$1,003,214.62** fee would be:

- Travel expenses for LS3P at \$500 per trip to TN. (assume no more than 2 days in any given trip, additional days are \$250 per day)
- Postage and overnight mail expenses.
- Reprographic expenses. (please see attached hourly and reprographic expense sheet)

We propose to limit a cap of the above reimbursable expenses at \$100,000. Total fee for Schematic through Construction Administration Phases would not exceed **\$1,003,214.62** if the assumed \$16,720,243.65 construction budget does not change.


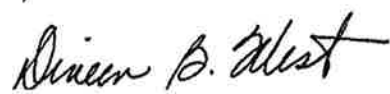
**Additional services not included in the Schematic through Construction Administration Phases:**

- State Review Fees.

- Special inspections /testing.
- Roofing Consultant.
- Traffic Engineering Studies, if required.
- Environmental assessments, if required.
- Food Service consultation.
- Acoustical consultation.
- Security Consultant.
- Structural Modifications other than current scope.
- Construction Administration Services required as a result of default of a General Contractor or Subcontractor.

We are excited about this opportunity and look forward to getting started.

With kind regards,



## AGENDA ACTION FORM

### Approve Updated Rental Agreement with Inventor Center

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

Action Form No.: AF-125-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Hannah Powell  
 Presentation By: M. Borders

### Recommendation:

Approve the Resolution

### Executive Summary:

Seeking approval for updated lease agreement with Model City Makers for Inventor Center facility at 118 Shelby Street for one year, with option to renew. Original lease with Model City Makers was approved in September 2019.

Proposed lease has updated dates for Model City Makers at the Inventor Center: Operation of the Center includes using it as a makerspace, providing member of the community with access to tools and resources to hone their crafts and learn new ones, a hackerspace focused on microcontrollers, network infrastructure, hardware, computing, and technology, will promote recreational and educational opportunities, entrepreneurship, and economic development, by creating an environment to generate jobs at the individual level, complementing established groups such as AccelNow/HBDC, KOSBE, and Sync Space. For RCAM, D-B Excel, and STREAMWORKS student's graduates, and other citizens, the Center will provide workspace to improve and expand their learning and skills. The Center will be open to the public by membership for daily or monthly use providing access to machinery used in making of products.

Removed contract wording included the original intent for renovation of the facility since the renovation is now complete.

### Attachments:

1. Resolution
2. Lease Agreement

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING A LEASE AGREEMENT WITH  
MODEL CITY MAKERSPACE FOR 118 SHELBY STREET;  
AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT  
AND ALL OTHER DOCUMENTS NECESSARY AND PROPER  
TO EFFECTUATE THE PURPOSE OF THE AGREEMENTS

WHEREAS, Model City Makerspace has been leasing the city property consisting of a building and parking area at 118 Shelby Street for its operation; and

WHEREAS, the Model City Makerspace provides recreational and educational opportunities to its citizens; and

WHEREAS, Model City Makerspace is a not-for-profit charitable organization as defined by Tennessee Code Annotated §§ 6-54-111 and 48-51-101 et seq., providing year services benefiting the general welfare of the residents of the city; and

WHEREAS, the terms of the lease have expired and Model City Makerspace would like to enter into a new lease for the same space for a term of one year beginning May 1 2021, and ending April 30, 2022, with a right to renew the lease for one year up to nine additional up to nine years following the initial term of the lease.

Now therefore,

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

SECTION I. That a Lease Agreement generally as set out below with Model City Makerspace 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 Lease Agreement generally as set out below with Model City Makerspace for property located at 118 Shelby Street and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the Lease or this resolution, said Lease being as follows:

**LEASE**

THIS LEASE made and entered into with an effective date of May 1, 2021, by and between City of Kingsport, a municipal corporation (herein called "Landlord"), and the MODEL CITY MAKERSPACE, Inc., a section 501(c)(3) Tennessee non-profit charitable organization as defined in T.C.A. § 6-54-111 (herein called "Tenant").

**RECITALS:**

WHEREAS, Landlord owns said property at 118 Shelby Street, Kingsport Tennessee; and  
WHEREAS, Tenant represents it is a nonprofit charitable organization providing year round services benefiting the general welfare of the residents of the city and pursuant to T.C.A. § 6-54-111 is eligible to receive financial assistance from Landlord; and  
NOW THEREFORE the parties agree as follows:

**WITNESSETH:**

THAT, in consideration of the premises and the mutual covenants and agreements herein contained and other good and valuable consideration, the parties do hereby agree as follows:

**Section 1. Premises.**

1.1 Landlord does hereby lease to Tenant and Tenant leases from Landlord real property (herein called "Premises") described as follows:

BEGINNING at a point in the westerly line of Shelby Street a distance of 175.2 feet from its intersection with the northerly line of Main Street; thence continuing northerly with the westerly line of Shelby Street 35 feet to corner of Lot #2; thence westerly with the divisional line of Lots 1 and 2, 138.75 feet to the easterly line of a 20-foot alley; thence southerly with the easterly line of the 20-foot alley 35 feet to a point in line of Lot 31; thence easterly on a line parallel with divisional line of Lots 1 and 31, 138.75 feet to the point of BEGINNING, containing 4,856 square feet, more or less. Being a part of the property conveyed the City of Kingsport by deed from Landmark America, II, Inc. dated August 15, 2007, and recorded in deed book 2584C, Page 707 in the Register of Deeds for Sullivan County, Tennessee at Blountville. The property is also shown as Parcel No. 1 in a deed from C. Ballard Searce, Jr., Successor Trustee to Landmark America II, Inc. dated June 27, 2007, and recorded in deed book 2561C, Page 535 in the Register of Deeds for Sullivan County, Tennessee at Blountville.

Said Premises is located in the City of Kingsport, Sullivan County, Tennessee.

1.2 This Lease is subject to the terms, covenants and conditions herein set forth, and Tenant covenants as a material part of the consideration for this Lease to keep and perform each and all of said terms, covenants and conditions.

#### **Section 2. Term.**

2.1 The initial term of this Lease shall be for the period of one year beginning May 1 2021, and ending April 30, 2022. By written agreement of the parties the term of this Lease may be renewed for a one year term for a maximum of nine renewals following the initial term of this Lease, provided the Lease is not terminated for other reasons stated herein.

2.2 After the initial term of the Lease either party may at any time terminate this Lease without cause and for such party's convenience and such termination shall not be deemed a breach of this Lease. The party exercising this termination for convenience shall give the other party thirty (30) days written notice prior to the effective date of the termination. As a result of a termination of the Lease the nonterminating party shall have no right to any damages, however characterized or incurred, including actual, general, special, incidental, consequential, or other damages. If Tenant, for any reason and without exception, ceases or fails to operate the Center on the property this Lease shall immediately and automatically terminate, and Tenant shall not be entitled to any damages from Landlord for such termination.

2.3 Tenant shall not allow the Premises to be open to the public until the improvements are fully completed to the satisfaction of Landlord. Landlord may, in its sole discretion and for any reason, including aesthetics, reject proposed improvements, and Tenant shall be obligated to install improvement satisfactory to Landlord. Upon the final completion and receipt of a Certificate of Occupancy for the building or the expiration of time set out herein, the Premises and the building and any improvements on the property will be the sole property of Landlord.

2.4 It is intended that the Premises will be used solely to house and operate the Center and for no other purpose or use. Any improvement made to the Premises by Tenant shall belong solely to the Landlord, including upon termination of the Lease for any reason.

2.5 At the expiration or earlier termination of this Lease, Tenant shall, at Tenant's expense, remove all of Tenant's personal property, and repair all injury done by or in connection with the installation or removal of said property, and surrender the Premises, broom clean and in as good condition as it was at the beginning of the Term, reasonable wear and tear excepted. All property of Tenant remaining on the Premises after the expiration or earlier termination of this Lease shall be conclusively deemed abandoned and at Landlord's option, may be retained by Landlord, or may be removed and disposed of by Landlord in any manner it sees fit in its sole discretion, and Tenant shall reimburse Landlord for the cost of such removal and disposal. Landlord may have any such property stored at Tenant's risk and expense.

#### **Section 3. Use.**

3.1 Tenant shall use the Premises solely to house and operate the Center and for no other purpose or use. Operation of the Center includes using it as a makerspace, providing members of the community with access to tools and resources to hone their crafts and learn new ones, a hackerspace focused on microcontrollers, network infrastructure, hardware, computing, and technology, will promote recreational and educational opportunities, entrepreneurship, and economic development, by creating an environment to generate jobs at the individual level, complementing established groups such as AccelNow/HBDC, KOSBE, and Sync Space. For RCAM, D-B Excel, and STREAMWORKS students, graduates, and other citizens, the Center will provide workspace to improve and expand their learning and skills. The Center will be open to the public by membership for daily or monthly use providing access to machinery used in making of products. Machinery is projected to include all aspects of creation from computer design to hand-built pottery, fabric manipulation, wood working and more advanced machinery such as laser cutter, cnc router and 3-d printing. Educational and recreational classes will be held regularly to familiarize

participants with the equipment and provide guided use to create a product. Memberships will allow for more extended use of the facility for those working on larger projects or proto-types for entrepreneurial efforts and subsequently contribute to the economic development of the city. Tenant will work with RCAM, Streamworks, D-B Excel, and other educational institutions and the operation of the Center must include and education and access to machinery and tools for students of those programs.

3.2 Tenant shall at all times control its agents, employees, invitees, and visitors at the Premises in such a manner so as not to create any nuisance, or interfere with, annoy or disturb any owner or tenant of adjacent property.

3.3 Tenant shall repair and maintain the Premises, in good order, condition, and repair (including any such replacement and restoration as is required for that purpose) without limitation, interior and exterior painting, all plate glass, windows, doors, hardware, plumbing lines and fixtures, gas pipes, electric wiring, electric fixtures and equipment, light fixtures, bulbs & ballasts, heating, ventilating, and air conditioning systems, walls, floors, floor coverings, ceilings and all machinery, equipment and facilities forming a part of any improvements to the Premises. Should Tenant fail to make any repairs or restoration for which Tenant is responsible under this Lease, Landlord may, but shall not be obligated to, make same at Tenant's expense, and the cost thereof shall be considered additional rent due hereunder payable immediately.

3.4 Tenant shall pay for all utilities needed or used on the Premises, including gas, electric, light, water, sewer charges, and stormwater, along with private garbage service incurred during the term of this Lease or for any holdover period.

3.5 Tenant shall be responsible for its own telephone and information technology services and installation of telephone and information technology equipment in the Premises.

#### **Section 4. Equipment.**

Tenant shall be responsible for all maintenance and repair of its equipment or its agents and contractors equipment stored, maintained, used, installed, or operated on the Premises. Landlord shall not be responsible for any damage to or theft of any equipment stored, maintained, used, installed, or operated by Tenant, its agents and contractors upon the Premises during the construction or use of the building.

#### **Section 5. Rent.**

5.1 Tenant agrees to pay to Landlord as rent, without notice or demand, One and NO/100 (\$1.00) dollars per year payable annually beginning thirty (30) days from the date of execution of the Lease.

5.2 All rentals payable by Tenant to Landlord under this Lease shall be paid to Landlord at the office of Landlord herein designated by it for notices or to such other place as Landlord may designate in writing to Tenant at least ten (10) days before such rental payment.

5.3 Tenant shall promptly pay all rentals herein prescribed when and as the same shall become due and payable.

5.4 If Landlord shall pay any monies or incur any expenses to cure any default of Tenant hereunder, the amounts so paid or incurred shall, at Landlord's option, and on notice to Tenant, shall be considered additional rentals, payable by Tenant with the first installment of rental thereafter becoming due and payable, and may be collected or enforced as by law provided in respect of rentals.

#### **Section 6. Uses Prohibited.**

Tenant shall not do or permit anything to be done in or about the Premises or bring or keep anything therein that 1) is not within the permitted use of the Premises; 2) is not permitted by the zoning designation of the Premises; or 3) causes a cancellation of any insurance policy covering said Premises or any part thereof, or any of its contents. Tenant shall not do or permit anything to be done in or about the Premises that will in any way obstruct or interfere with the rights of Landlord's use of the remainder of its property surrounding the Premises, or use or allow the Premises to be used for any unlawful purpose. Tenant shall not create or maintain, or permit others to create or maintain, any nuisance, public or private, including, without limiting the foregoing, language, excessively loud noises, sound effects, offensive odors, offensive smoke or dust in or about the Premises or do any act or fail to do any act which constitutes waste, and Tenant, at its own expense, shall keep the Premises clean, neat and free from all trash and rubbish. All materials and inventory shall be kept inside the building or screened from public view by a method approved by the Landlord.

#### **Section 7. Compliance with Law.**

Tenant shall not use the Premises, or permit anything to be done in or about the Premises, that will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or that shall hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or that may hereafter be in force, relating to or affecting the condition,

use or occupancy of the Premises. The judgment or any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord is a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant. Tenant shall indemnify, defend and hold Landlord harmless from and against any loss, cost, damage or expense, including, without limitation, attorneys' fees and costs of site investigation and clean up, incurred by or imposed upon Landlord as a result of the breach by Tenant of its obligations in this Lease.

**Section 8. Alterations.**

Tenant shall make alterations, additions, improvements, and other changes to the Premises, only with the written approval of Landlord. Any alterations, additions or improvements to the Premises by Tenant, shall be made: (a) by Tenant at Tenant's sole cost and expense; (b) in a good, workmanlike, first-class and prompt manner; and (c) in accordance with all applicable legal requirements and the requirements of any insurance company insuring the Premises.

**Section 9. Surrendered Premises.**

By entry hereunder, Tenant shall be deemed to have accepted the Premises AS IS. Tenant shall, upon the expiration or sooner termination of this Lease, surrender the Premises to Landlord in good condition, reasonable wear and tear excepted. Any damage to adjacent premises caused by Tenant's use of the Premises shall be repaired at the sole cost and expense of Tenant.

**Section 10. Liens.**

Tenant shall keep the Premises and improvements thereon free from any liens arising out of any work performed, materials furnished, or obligations incurred by or on behalf of Tenant.

**Section 11. Assignment and Subletting.**

Tenant shall not voluntarily, or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or allow any other person (employees, agents, servants, member, groups and invitees of Tenant excepted) to occupy or use the said Premises, or any portion thereof, without first obtaining the written consent of Landlord. Landlord may refuse to give consent and this decision shall be at Landlord's sole and absolute discretion. Consent to one assignment, subletting, occupation or use to any other person shall not be deemed to be consent to any subsequent assignment, subletting, occupation or use by another person. Consent to any such assignment or subletting shall in no way relieve Tenant of any liability under this Lease. Any such assignment or subletting without such consent shall be void, and shall, at the option of Landlord, constitute a default under the terms of this Lease. It is anticipated that individuals will be members of the Center for a fee and such membership will not be considered a subletting, if, and only if, such membership provides that the membership terminates upon the expiration or termination of this Lease for any reason.

**Section 12. Hazardous Substances.**

The term Hazardous Substances, as used in this Lease, shall mean pollutants, contaminants, toxic or hazardous wastes or any other substances the use and/or the removal of which is restricted, prohibited or penalized by any Environmental Law, which term shall mean any federal, state, or local law, ordinance or other statute of a governmental authority relating to pollution or protection of the environment. Tenant hereby agrees that: (a) no activity will be conducted on the Premises that will produce any Hazardous Substance; (b) the Premises will not be used in any manner for the storage of any Hazardous Substances; (c) Tenant will not allow any surface or subsurface conditions to exist or come into existence that constitute or with the passage of time may constitute a public or private nuisance; and (d) Tenant will not permit any Hazardous Substances to be brought onto the Premises, and if so brought or found located thereon, the same shall be immediately removed with proper disposal and all required cleanup procedures shall be diligently undertaken pursuant to all Environmental Laws.

**Section 13. Hold Harmless.**

Tenant shall indemnify and hold harmless Landlord against and from any and all claims arising from Tenant's use of the Premises or from the conduct of its business and from any activity, work, or other things done, permitted or suffered by Tenant in or about the Premises, and shall further indemnify and hold harmless Landlord against and from any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or negligence of Tenant, or any officer, agent, employee, guest, or invitee of Tenant, and from all costs, attorneys' fees and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. In case any action or proceeding is brought against Landlord by reason of such claim, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises, from any cause; and Tenant hereby waives all claims in

respect thereof against Landlord. Tenant shall give prompt notice to Landlord in case of casualty or accidents on the Premises. Any goods, property or personal effects stored or placed by Tenant, its employees or agents, in or about the Premises shall be at the sole risk of Tenant, and Landlord shall not in any manner be held responsible therefore. The provisions of this paragraph shall survive the expiration or termination of this Lease for any reason.

**Section 14. Liability Insurance.**

Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease a policy of broad form comprehensive general public liability insurance insuring Landlord and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than one million (\$1,000,000) dollars on account of bodily injuries to or death of one person; \$2,000,000.00 on account of bodily injuries to or death of more than one person as the result of any one accident or disaster; and property damage insurance with minimum limits of \$100,000.00. The limit of any such insurance shall not, however, limit the liability of Tenant hereunder. Insurance required hereunder shall: (a) be in companies acceptable to Landlord; (b) shall name Landlord as a named insured on all such policies; and (c) contain an endorsement prohibiting cancellation, failure to renew, reduction of amount of insurance or change in coverage without the insurers first giving Landlord thirty (30) days' prior written notice of such proposed action. Tenant shall deliver to Landlord a duplicate original or certified copy of each such policy, including all endorsements, together with a receipt evidencing payment of the premium for such insurance on or before the commencement date of this Lease and at least annually thereafter. Any failure, or non-coverage, by such policy shall not affect the indemnity or hold harmless provisions of this Lease. Duplicate policies of all such insurance shall be delivered to Landlord not less than ten (10) days prior to each effective date.

**Section 15. Loss of Use of Premises by Fire or Casualty.**

If at any time the Premises become totally untenable by reason of damage or loss by fire or other casualty and such fire, flood or other casualty shall not have been caused by the negligence or wrongful act or omission of Tenant, Tenant's servants, agents, licensees, or invitees, the rent shall abate until the Premises shall have been restored to tenantable condition, but nothing herein is to be construed as requiring Landlord to restore or rebuild the Premises. If the Premises are so damaged, but not to the extent that they are totally untenable, Tenant shall continue to occupy the tenantable portion thereof, and the rent shall abate in proportion to the untenable portion of the Premises. In the event of a loss from fire or other casualty, Landlord shall have an election not to rebuild or recondition the Premises, which such election may be exercised by written notice thereof to Tenant, given within thirty (30) days from the date of such casualty. If Landlord exercises such election, this Lease shall cease and terminate, effective on the date of such loss, and Landlord shall not be required to repay any rent paid by Tenant to Landlord, as it is a nominal rent payment. Upon such termination this Lease shall terminate, with no further obligation on the part of either party hereto for matters thereafter accruing, except the Tenant's obligation to indemnify Landlord as set out in this Lease or any other Agreement between the parties, even though the building may at a later date be rebuilt, restored or reconditioned. No damage or destruction shall allow Tenant to surrender possession of the Premises, nor affect Tenant's liability for the payment of rent, except as may be specifically provided in this Lease.

**Section 16. Entry by Landlord.**

Landlord reserves, and shall at any and all times have, the right to enter the Premises to inspect the same as Landlord may deem necessary or desirable, and Landlord shall have the right to use any and all means which Landlord may deem proper to enter said Premises in an emergency without liability to Tenant.

**Section 17. No Waiver.**

The failure of Landlord or Tenant to insist upon a strict performance of any term or condition of this Lease shall not be deemed a waiver of any right or remedy that Landlord or Tenant may have and shall not be deemed a waiver of any subsequent breach of such term or condition.

**Section 18. Landlord-Tenant Relationship.**

It is expressly agreed and understood that Landlord shall not be construed or held to be a partner or associate of Tenant in the conduct of its business, it being expressly understood and agreed that the sole relationship between the parties hereto is that of landlord and tenant.

**Section 19. Notices.**

All notices and other communications to be given hereunder by either party shall be in writing and shall be delivered personally or mailed by certified United States mail, postage prepaid, return receipt requested, to the other party (and the date of any notice by certified mail shall be deemed to be the date of certification thereof) delivered or addressed to the parties as follows or at such other address as either party may later designate in writing:

Landlord: City Manager

City of Kingsport  
225 West Center Street  
Kingsport, Tennessee 37660  
With copy to City Attorney  
City of Kingsport  
225 West Center Street  
Kingsport, Tennessee 37660

Tenant: Model City Makerspace  
118 Shelby Street  
Kingsport, Tennessee 37660

**Section 20. Entire Agreement.**

The entire agreement between the parties hereto is contained in this instrument and it is expressly agreed that no obligation of Landlord or Tenant shall be implied in addition to those herein expressly contained. Any amendment to this Lease must be in writing signed by the parties hereto in order to be binding.

**Section 21. Binding Effect.**

The terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and to their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto executed this Lease in duplicate originals effective on the day and date first above written.

[Acknowledgements Deleted for Inclusion in this Resolution]

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

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose including recreational and educational, 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 May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY



## AGENDA ACTION FORM

### Accept a Donation of Real Property from Willis Vicars

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

Action Form No.: AF-142-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: R. Trent  
 Presentation By: C. McCartt

#### Recommendation:

Approve the Resolution

#### Executive Summary:

Willis Vicars is the owner of a parcel of property that abuts Netherland Inn Road as shown on the attached map. Mr. Vicars would like to donate that parcel of property to the city with no restrictions. The city has current plans for the property to provide general open space for the intersection of Netherland Inn Road, Center Street and West Industry Drive.

The resolution accepts the donation and authorizes the mayor to execute the deed to show acceptance by the city of the gift.

#### Attachments:

1. Resolution
2. Map

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING THE DONATION OF REAL PROPERTY FROM WILLIS VICARS AND AUTHORIZING THE MAYOR TO EXECUTE THE WARRANTY DEED OF GIFT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE DONATION OR THIS RESOLUTION

WHEREAS, Willis Vicars would like to donate property, consisting of approximately 0.5 acres to the city; and

WHEREAS, the property is located adjacent to Netherland Inn Road; and

WHEREAS, the city has current plans for the property to provide general open space for the intersection of Netherland Inn Road, Center Street and West Industry Drive.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN as follows:

SECTION I. That the Warranty Deed of Gift for the donation by Willis Vicars of approximately 0.5 acres of real property adjacent to Netherland Inn Road is accepted.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a Warranty Deed of Gift with Willis Vicars for the donation of approximately 0.5 acres of real property and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the donation or this resolution, said Warranty Deed of Gift being as follows:

WARRANTY DEED OF GIFT

THIS WARRANTY DEED OF GIFT, made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 2021, by and between WILLIS R. VICARS, hereinafter referred to as Grantor, and the CITY OF KINGSFORT, TENNESSEE, a Tennessee municipal corporation, hereinafter referred to as Grantee.

WITNESSETH:

For in and consideration of the sum of ONE DOLLAR (\$1.00), the Grantor hereby gives, and by these presents does grant, transfer, and convey unto Grantee, its successors and assigns, and Grantee hereby accepts the following described land in Sullivan County, Tennessee, described as follows, to wit:

SITUATE, lying and being in in the City of Kingsport, 11th Civil District of Sullivan County, Tennessee, and more particularly described as follows:

BEGINNING at a point in the boundary line between the land of what was formerly the Pierce Roller Estate and formerly owned by J. M. DeVault, said point being on the southerly right-of-way line of the C.C. & O. Railroad (formerly S. & W. Railroad), and being 100 feet southerly from the center line of said railroad, which measured at right angles thereto, is 100.8 distant from said center line. Thence with the divisional line of what was formerly Pierce Roller Estate and the J.M. DeVault land (said land now being the divisional line of the property herein conveyed and Lot 4, Block 1, DeVault Addition, which is also owned by Leola M. Pennington, S. 27° 24' E., 65.9 feet to a point on the northerly sideline of Netherland Inn Road (formerly Highway 11-W, also known as the Kingsport-Lovedale Highway). Thence with the northerly sideline of the said Netherland Inn Road, N. 68° 43' E., 373 feet to the

point of intersection of the said northerly sideline of said Netherland Inn Road with the southerly sideline of the said railroad right-of-way. Thence with the said southerly sideline of the said railroad right-of-way, by a curve to the left with a radius of 1,173.6 feet, an arc distance of 387.15 feet to the point of BEGINNING, and containing 0.5 of an acre, more or less, as shown on survey by Hugh E. Alley, Surveyor, dated November 10, 1933, of record in the Register's Office for Sullivan County, Tennessee, in Plat Book 1 at page 79; to which reference is hereby expressly made.

AND BEING the property conveyed to Grantor by deed recorded in Deed Book 3226, page 2256 in the Office of the Register of Deeds for Sullivan County, Tennessee to which reference is here made.

Pursuant to Tenn. Code Ann. §66-24-121, no boundary survey having been made at the time of this conveyance, the description is the same as in the previous deed of record and without a title examination. The preparer of this deed makes no representation as to the status of the title or the accuracy of the description and assumes no liability therefore.

TO HAVE AND TO HOLD unto the Grantee in fee simple forever, subject to the following:

- (a) Ad valorem taxes for the year 2021, which will be paid by Grantor;
- (b) Any covenants, conditions, restrictions, or easements contained in former deeds or other instruments of record applicable to the property, insofar as the same are presently binding thereon;
- (c) Any easement or encumbrance apparent from a visual inspection of the property; and
- (d) The property can be used by Grantee for any purpose.

IN WITNESS WHEREOF, the execution hereof by the respective parties or their authorized representatives as of the day and year first above written.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the Warranty Deed of Gift 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 May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Parcel Donation

FORT ROBINSON DR

W INDUSTRY DR

NETHERLAND INN RD

GILLIAM ST

KELLER ST

DEVOUT ST

BARTON ST

**Legend**

-  City Owned Property
-  Parcels
-  Streets
-  Parcels selection
-  Parcel Donation



Prepared by the City of Kingsport  
Geographic Information System (G.I.S.)  
Date: 04-22-21  
Map File Name: 19567wo11969

0 50 100 150 200  
Feet





## AGENDA ACTION FORM

### Authorizing Certification of Local Government Approval for Family Promise of Greater Kingsport's 2021 Emergency Solutions Grant Application

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

Action Form No.: AF-133-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Jessica McMurray  
 Presentation By: J. McMurray

#### Recommendation:

Approve the Resolution

#### Executive Summary:

The mayor's signature is required on the Certification of Local Government Approval form which will allow Family Promise to apply for the 2021 Emergency Solutions Grant. This form is created and required by the Tennessee Housing Development Agency (THDA). THDA is a pass-through agency for the HUD-funded Emergency Solutions Grant. Local government approval of activities is required for applicants providing shelter services in the county of the shelters physical location.

The Family Promise program offers shelter, meals and supportive services to homeless families with minor children. The Family Promise shelter can accommodate up to 14 families and is located at 601 Holston Street in Kingsport. Family Promise is the only shelter in Kingsport that can accommodate two-parent families, families with teenaged boys, and single fathers with teenage girls. Families staying in the shelter actively seek employment, while working on a plan to regain their independence.

#### Attachments:

1. Resolution
2. Certification of Local Government Approval for Non-Profit Organizations

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN ALL DOCUMENTS NECESSARY AND PROPER TO CERTIFY LOCAL GOVERNMENT APPROVAL FOR THE NON-PROFIT ORGANIZATION OF FAMILY PROMISE OF GREATER KINGSPORT 2021 EMERGENCY SOLUTIONS GRANT

WHEREAS, the city desires to authorize the grant application for the non-profit entity of Family Promise of Greater Kingsport's 2021 Emergency Solutions Grant; and

WHEREAS, certain documents must be completed and executed to receive the funds.

Now therefore,

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

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized to approve, in a form approved by the city attorney, a Certification of Local Government/Shelter Standards with Family Promise of Greater Kingsport benefiting the general welfare of City of Kingsport residents.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a Certification of Local Governments/Shelter Standards, and all other documents necessary and proper to effectuate the purpose of the certification or this resolution, said certification being generally as follows:

**Certification of Local Governments/Shelter Standards**

I, Patrick W. Shull, duly authorized to act on behalf of City of Kingsport, Tennessee, hereby approve the following shelter project(s) proposed by Family Promise of Greater Kingsport that is (are) located in Kingsport, Tennessee:

- List address of each shelter location to be funded by 2021 ESG Grant in the community:
  - 601 Holston Street, Kingsport, Tennessee 37660

[Acknowledgements Deleted for Inclusion in this Resolution]

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

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

ADOPTED this the 4th day of May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

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J. MICHAEL BILLINGSLEY, CITY ATTORNEY

### **Certification of Local Governments/ Shelter Standards**

I, Patrick W. Shull, duly authorized to act on behalf of City of Kingsport, Tennessee, hereby approve the following shelter project(s) proposed by Family Promise of Greater Kingsport that is (are) located in Kingsport, Tennessee:

- List address of each shelter location to be funded by 2021 ESG Grant in the community:
  - 601 Holston Street, Kingsport, Tennessee 37660

BY:

Patrick W. Shull, City of Kingsport Mayor

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(Print Name and Title of Signatory)

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(Signature)

---

(Date)



## AGENDA ACTION FORM

### Authorizing the Mayor to Execute a Subrecipient Agreement for South Central CDC

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

Action Form No.: AF-143-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Jessica McMurray  
 Presentation By: J. McMurray

#### Recommendation:

Approve the Resolution

#### Executive Summary:

According to the FY 2019/2020 agreement between the City of Kingsport and South Central Kingsport CDC, the term to which funding was allocated, has expired with a remaining \$15,114.70 currently allotted. Due to do the impact of the COVID-19 pandemic and the effect it has had on public service agencies, and since the organization has showed adequate progress in completing past projects successfully, it is the recommendation to approve a resolution approving a new subrecipient agreement and authorizing the mayor to execute the agreement with South Central CDC through June 30, 2021. This agreement permit South Central CDC additional time to expend funds committed.

#### Attachments:

1. Resolution

Funding source appropriate and funds are available: *JM*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: *2W*

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AN SUBRECIPIENT AGREEMENT WITH SOUTH CENTRAL CDC FOR COMMUNITY DEVELOPMENT BLOCK GRANT FISCAL YEAR 2020/2021 AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the City of Kingsport desires to enter into an agreement for services in fiscal year 2020/2021 with the South Central Kingsport Community Development, Inc.,

WHEREAS said FY 2020/2021 South Central CDC agreement allows South Central to utilize 2019/2020 CDBG funding in the amount of \$15,114.70 that has been previously allotted and due to do the impact of the COVID-19 pandemic and the effect it has had on public service agencies, South Central was unable to utilize.

WHEREAS said FY 2020/2021 South Central CDC agreement shall terminate on June 30, 2021.

Now therefore,

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

SECTION I. That an agreement with South Central Community Development, Inc., for fiscal year 2020/2021 is approved.

SECTION III. 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 South Central Community Development, Inc., for FY 2020/2021 and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution, said agreement being as follows:

**GRANT CONTRACT  
BETWEEN THE CITY OF KINGSFORT, TENNESSEE  
AND**

**SOUTH CENTRAL KINGSFORT COMMUNITY DEVELOPMENT, Inc.**

This Grant Contract, by and between the City of Kingsport, hereinafter referred to as the "City" and South Central Kingsport Community Development, Inc., hereinafter referred to as the "Operating Agency", is for the provision of services to the homeless and those at risk for homelessness under the Community Development Block Grant Program ("CDBG"), as further described under "Scope of Services and Deliverables" (the "SCOPE OF SERVICES").

**Operating Agency's address 1140 Martin Luther King Dr., Kingsport, TN 37660**

**Operating Agency's Edison Vendor ID # \_\_\_\_\_**

**A. SCOPE OF SERVICES AND DELIVERABLES:**

A.1. The Operating Agency shall provide all services and deliverables ("Scope") as required, described, and detailed in this Grant contract.

A.2. To provide and operate public service activities to low and moderate income individuals and families within the city limits of Kingsport as specified in ATTACHMENT A: DESCRIPTION OF ACTIVITIES, ATTACHMENT B: IMPLEMENTATION PLAN, AND ATTACHMENT C: BUDGET.

A.3. Incorporation of Additional Documents. Each of the following documents is included as part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Operating Agency's duties, responsibilities, and performance hereunder, these terms shall govern or order of precedence below:

a. Title 24 Code of Federal Regulations, Part 570 and Part 91, of the Community Development Block Grant Program authorized by Title I of the Housing and Community Development Act of 1974 (42 USC 5301 et seq.), as amended (the "Federal CDBG Regulations").

b. The United States Department of Housing and Urban Development CDBG Desk Guide for Program and Eligibility Policies and Procedures.

A.4. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as ATTACHMENT D, is incorporated in this Grant Contract.

A.5. To comply with the Eligible Activity Requirements of 24 CFR 570, Subpart C, and Part 91 as applicable in accordance with the type of project assisted.

A.6. To maintain records adequate to document compliance with 24 CFR 570, along with such other records the City and HUD determines necessary to enable the City and HUD to fulfill its responsibilities in the CDBG Program. All records will be retained for a three (3) year period in accordance with the requirements of 24 CFR Part 570.

A.7. To furnish to the City all reports required to be filed in accordance with any directives of the City and within the time period prescribed by the City for such reports.

**B. TERM OF GRANT CONTRACT:**

B.1. Grant Term. This Grant Contract shall be effective on July 1, 2020 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date to **June 30, 2021** ("Term"). The City shall have no obligation for goods or services provided by the Operating Agency prior to the Effective Date or extending beyond the close of the Term.

**C. PAYMENT TERMS AND CONDITIONS:**

C.1. Maximum Liability. In no event shall the maximum liability of the City under this Grant Contract exceed **Fifteen Thousand, One Hundred Fourteen DOLLARS and Seventy CENTS** (\$15,114.70) ("Maximum Liability"). The Grant Budget, attached and incorporated hereto as Attachment C, shall constitute the maximum amount due the Operating Agency under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Operating Agency.

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

C.3. Payment Methodology. The Operating Agency shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Operating Agency shall submit invoices, in form and substance acceptable to the City, with all necessary supporting documentation, prior to any reimbursement of allowable costs.

C.4. Travel Compensation. Reimbursement to the Operating Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "City Comprehensive Travel Regulations", as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

C.5. Invoice Requirements. The Operating Agency shall invoice the City based on an approved payment schedule, using the forms and all necessary supporting documentation specified by the HUD CDBG Requirements, and present such to:

City of Kingsport

Office of Housing and Community Development

201 W. Market Street, Kingsport, Tennessee 37660

Attention: Jessica McMurray

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. Reimbursable expenditures may NOT vary from the Grant Budget line item amount(s) detailed. Any change in Grant Budget line items shall require an amendment to the Grant Contract.

C.7. Disbursement Reconciliation and Close Out. The Operating Agency shall submit any final invoice and a grant disbursement reconciliation report within forty-five (45) days of the Grant Contract end date, in form and substance acceptable to the City.

a. If total disbursements by the City pursuant to this Grant Contract exceed the amounts permitted by Section C of this Grant Contract, the Operating Agency shall refund the difference to the City. The Operating Agency shall submit said refund with the final grant disbursement reconciliation report.

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

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

d. The Operating Agency must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

C.8. Indirect Cost. Should the Operating Agency request reimbursement for indirect costs, the Operating Agency must submit to the City a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Operating Agency will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Operating Agency makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Operating Agency agrees to remit any overpayment of funds to the City, and subject to the availability of funds the City agrees to remit any underpayment to the Operating Agency.

C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of City of Kingsport Departments of Finance and Administration Policies or any amendments or revisions made to this policy statement during the Term.

C.10. Payment of Invoice. A payment by the City shall not prejudice the City's right to object to or question any reimbursement, invoice, or matter in relation thereto. A payment by the City shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.

C.11. Non-allowable Costs. Any amounts payable to the Operating Agency shall be subject to reduction for amounts included in any invoice or payment that are determined by the City, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute non-allowable costs.

C.12. City's Right to Set Off. The City reserves the right to deduct from amounts that are or shall become due and payable to the Operating Agency under this Grant Contract or any other contract between the Operating Agency and the City of Kingsport under which the Operating Agency has a right to receive payment from the City.

**D. STANDARD TERMS AND CONDITIONS:**

D.1. Required Approvals. The City is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Kingsport and Tennessee laws and regulations.

D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Kingsport and Tennessee laws and regulations.

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

D.4. Termination for Cause. If the Operating Agency fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Operating Agency violates any terms of this Grant Contract ("Breach Condition"), the City shall have the right to immediately terminate the Grant Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Operating Agency shall not be relieved of liability to the City for damages sustained by virtue of any Breach Condition and the City may seek other remedies allowed at law or in equity for breach of this Grant Contract. Upon such termination, the Operating Agency shall have no claim to any CDBG funds remaining under this Grant Contract.

D.5. Subcontracting. The Operating Agency shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the City. If such subcontracts are approved by the City, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest", "Lobbying", "Nondiscrimination", "Public Accountability", "Public Notice", and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Operating Agency shall remain responsible for all work performed.

D.6. Conflicts of Interest. The Operating Agency warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the City of Kingsport as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Operating Agency in connection with any work contemplated or performed relative to this Grant Contract.

The Operating Agency acknowledges, understands, and agrees that this Grant Contract shall be null and void if the Operating Agency is, or within the past six months has been, an employee of the City of Kingsport or the U. S. Department of Housing and Urban Development or if the Operating Agency is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the City of Kingsport or the U. S. Department of Housing and Urban Development.

D.7. Lobbying. The Operating Agency certifies, to the best of its knowledge and belief, that:

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The City:

Jessica McMurray  
City of Kingsport Office of Housing and Community Development  
201 W. Market Street, Kingsport, Tennessee 37660  
Telephone 423-229-9486  
Email [JessicaMcMurray@kingsporttn.gov](mailto:JessicaMcMurray@kingsporttn.gov)

The Operating Agency:

**South Central Kingsport Community Development, Inc.**  
1140 Martin Luther King Drive  
Kingsport, TN 37660  
Telephone 423-677-9779  
Email

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the City reserves the right to terminate this Grant Contract upon written notice to the Operating Agency. The City's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the City. Upon receipt of the written notice, the Operating Agency

shall cease all work associated with the Grant Contract. Should such an event occur, the Operating Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Operating Agency shall have no right to recover from the City any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.10. Nondiscrimination. The Operating Agency agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Operating Agency on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Operating Agency shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.11. HIPAA Compliance. The City and the Operating Agency shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of the Grant Contract.

a. The Operating Agency warrants to the City that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Grant Contract.

b. The Operating Agency warrants that it will cooperate with the City, including cooperation and coordination with City privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.

c. The City and the Operating Agency will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the City and the Operating Agency in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

d. The Operating Agency will indemnify the City and hold it harmless for any violation by the Operating Agency or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the City because of the violation.

D.12. Public Accountability. If the Operating Agency is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Operating Agency on behalf of the City, the Operating Agency agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Operating Agency shall also display in a prominent place, located near the passageway through which public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL FREE HOTLINE: 1-800-232-5454

The sign shall be on the form prescribed by the City. The City shall obtain copies of the sign from HUD, and upon request from the Operating Agency, provide Operating Agency with any necessary signs.

D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Operating Agency in relation to this Grant Contract shall include the statement, "This project is funded under an agreement with the City of Kingsport and the U.S. Department of Housing and Urban Development." All notices by the Operating Agency in relation to this Grant Contract shall be approved by the City.

D.14. Licensure. The Operating Agency and its employees and all sub-Operating Agencies shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

D.15. Records. The Operating Agency and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Operating Agency and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon

reasonable notice by the City of Kingsport and the U. S. Department of Housing and Urban Development, or their duly appointed representatives.

The records shall be maintained in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification, Public Company Accounting Oversight Board (PCAOB) Accounting Standards Codification, or Governmental Accounting Standards Board (GASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Audit Requirements, and Cost Principles for Federal Awards*.

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

The Operating Agency shall establish a system of internal controls that utilize the COSO Internal Control – Integrated Framework model as the basic foundation for the internal control system. The Operating Agency shall incorporate any additional Tennessee Comptroller of the Treasury directives into its internal control system.

D.16. Monitoring. The Operating Agency's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the City of Kingsport and the U. S. Department of Housing and Urban Development, or their duly appointed representatives.

D.17. Progress Reports. The Operating Agency shall submit brief, periodic, progress reports to the City as requested.

D.18. Reports. The Operating Agency shall submit all reports with form, substance and deadlines as specified in the Federal CDBG Regulations. The Operating Agency shall submit, within one (1) month of the conclusion of the Term, a CDBG annual report to the City.

D.19. Audit Reports. For purpose of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

The Operating Agency shall provide audited financial statements to the City of Kingsport if during the Operating Agency's fiscal year, the Operating Agency (1) expends seven hundred fifty thousand dollars (\$750,000) or more in direct and indirect federal financial assistance and the City is a pass-through entity; (2) expends seven hundred fifty thousand dollars (\$750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars (\$750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity. At least ninety (90) days before the end of its fiscal year, the Operating Agency shall complete ATTACHMENT E: NOTICE OF AUDIT to notify the City whether or not Operating Agency is subject to an audit. The Operating Agency should submit only one, completed document during the Operating Agency's fiscal year. Any Operating Agency that is subject to an audit and so indicates on Attachment E shall complete ATTACHMENT F: PARENT CHILD INFORMATION. If the Operating Agency is subject to an audit, Operating Agency shall obtain the Tennessee Comptroller's approval before engaging a licensed, independent public accountant to perform the audit. The Operating Agency may contact the Tennessee Comptroller for assistance identifying auditors.

All audits shall be performed in accordance with the Comptroller's requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

The audit contract between the Operating Agency and the Auditor shall be on a contract form prescribed by the Comptroller. The Operating Agency shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Operating Agency shall be subject to the provision relating to such fees contained within the Grant Contract. The Operating Agency shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.

D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Operating Agency shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Operating Agency is a subrecipient, the Operating Agency shall comply with 2 C.F.R. §§ 200.318-300.326 when procuring property and services under a federal award.

The Operating Agency shall obtain prior approval from the City before purchasing any equipment under this Grant Contract.

D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Operating Agency, being an independent contractor and not an employee of the City, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Operating Agency's employees, and to pay all applicable taxes incident to this Grant Contract.

D.23. City Liability. The City shall have no liability except as specifically provided in this Grant Contract.

D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Operating Agency's representatives, suppliers, subcontractors, customers or business apart from the Grant Contract is not a Force Majeure Event under this Grant Contract. Operating Agency will promptly notify the City of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the City within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Operating Agency's performance longer than forty-eight (48) hours, the City may, upon notice to Operating Agency: (a) cease payment of the fees until Operating Agency resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Operating Agency will not increase its charges under this Grant Contract or charge the City any fees other than those provided for in the Grant Contract as the result of a Force Majeure Event.

D.25. Tennessee Department of Revenue Registration. The Operating Agency shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.

D.26. Reserved.

D.27. City Interest in Equipment or Motor Vehicles. The Operating Agency shall take legal title to all equipment or motor vehicles purchased totally or in part with funds provided under this Grant contract, subject to the City's, equitable interest therein, to the extent of its *pro rata* share, based upon, the City's, contribution to the purchase price. The term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition costs which equals or exceeds five thousand dollars (\$5,000). The term "motor vehicle" shall include any article of tangible personal property that is required to be registered under the "Tennessee Motor Vehicle Title and Registration Law", Tenn. Code Ann. Title 55, Chapters 1-6.

As authorized by the Tennessee Uniform Commercial Code, Tenn. Code Ann. Title 47, Chapter 9 and the "Tennessee Motor Vehicle Title and Registration Law," Tenn. Code Ann. Title 55, Chapters 1-6, the parties intend this Grant contract to create a security interest in favor of the City in the equipment or motor vehicles acquired by the Operating Agency pursuant to the provisions of this Grant contract. A further intent of this Grant contract is to acknowledge and continue the security interest in favor of the City in the equipment or motor vehicles acquired by the Operating Agency

pursuant to the provisions of this program's prior year Grant contracts between the City, and the Operating Agency.

The Operating Agency grants the City a security interest in all equipment or motor vehicles acquired in whole or in part by the Operating Agency under this Grant contract. This Grant contract is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment or motor vehicles herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Operating Agency hereby grants the City a security interest in said equipment or motor vehicles. The Operating Agency agrees that the City may file this Grant contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment or motor vehicles herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Operating Agency agrees to execute and deliver to the City, upon the City's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant contract in such form as the City may require to perfect a security interest with respect to said equipment or motor vehicles. The Operating Agency shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the City may reasonably require. Without the prior written consent of the City, the Operating Agency shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment or motor vehicles, including replacements and additions thereto. Upon the Operating Agency's breach of any covenant or agreement contained in this Grant contract, including the covenants to pay when due all sums secured by this Grant contract. The City shall have the remedies of a secured party under the Uniform Commercial Code and, at the City's option, may also invoke the remedies herein provided.

The Operating Agency agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant contract. The Operating Agency shall maintain a perpetual inventory system for all equipment or motor vehicles purchased with funds provided under this Grant contract and shall submit an inventory control report which must include, at a minimum, the following:

- a. Description of the equipment or motor vehicles;
- b. Manufacturer's serial number or other identification number, when applicable;
- c. Consecutive inventory equipment or motor vehicles tag identification;
- d. Acquisition date, cost, and check number;
- e. Fund source, State Grant number, or other applicable fund source identification;
- f. Percentage of state funds applied to the purchase;
- g. Location within the Operating Agency's operations where the equipment or motor vehicles is used;
- h. Condition of the property or disposition date if Operating Agency no longer has possession;
- i. Depreciation method, if applicable; and
- j. Monthly depreciation amount, if applicable.
- k. The Operating Agency shall tag equipment or motor vehicles with an identification number which is cross referenced to the equipment or motor vehicle item on the inventory control report. The Operating Agency shall inventory equipment or motor vehicles annually. The Operating Agency must compare the results of the inventory with the inventory control report and investigate any differences. The Operating Agency must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

l. The Operating Agency shall submit its inventory control report of all equipment or motor vehicles purchased with funding through this Grant contract within thirty (30) days of its end date and in form and substance acceptable to the City. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Operating Agency shall notify the City, in writing, of any equipment or motor vehicle loss describing the reasons for the loss. Should the equipment or motor vehicles be destroyed, lost, or stolen, the Operating Agency shall be responsible to the City for the *pro rata* amount of the residual value at the time of loss based upon the City's original contribution to the purchase price.

m. Upon termination of the Grant contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant contract, the Operating Agency shall request written approval from the City for any proposed disposition of equipment or motor vehicles purchased with Grant funds. All equipment or motor vehicles shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

D.28. City, State and Federal Compliance. The Operating Agency shall comply with all applicable city, state, and federal laws, ordinances, rules and regulations in performance of this Grant Contract.

D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Operating Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Operating Agency acknowledges and agrees that any rights or claims against the City of Kingsport or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. § 29-20-101 *et seq.* and the sovereign immunity the city has through the State of Tennessee.

D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.

D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall control.

E.2. Debarment and Suspension. The Operating Agency certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

b. Have not within a three (3) year period preceding this the date of this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

d. Have not within a three (3) year period preceding the date of this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Operating Agency shall provide immediate written notice to the City if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.3. Work Papers Subject to Review. The Operating Agency shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by the City, the U. S. Department of Housing and Urban Development, or their respective representatives upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.

E.4 Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Children's Act for Clean Indoor Air of 1995", Tenn. Code Ann. §§ 39-17-1601 through 1606, the Operating Agency shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Operating Agency shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be a part of any subcontract related to this Grant Contract.

E.5. Hold Harmless. To the extent permitted by State law, the Operating Agency agrees to indemnify and hold harmless the City of Kingsport, the U. S. Department of Housing and Urban Development, as well as its officers, agents and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Operating Agency, its employees, or any person acting for or on its or their behalf relating to this Grant Contract. The Operating Agency further agrees it shall be liable for

the reasonable cost of attorneys and court costs for the City, the U. S. Department of Housing and Urban Development to enforce the terms of this Grant Contract.

In the event of any such suit or claim, the parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the City, the U. S. Department of Housing and Urban Development to give notice shall only relieve the Operating Agency of its obligations under this Section to the extent that the Operating Agency can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Operating Agency, through its attorney(s), the right to represent the City of Kingsport, the U. S. Department of Housing and Urban Development in any legal matter, as the right to represent the City and the State is governed by Tenn. Code Ann. § 8-6-106.

E.6. **Federal Funding Accountability and Transparency Act ("FFATA").** This Grant requires the Operating Agency to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Operating Agency is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Operating Agency provides information to the City as required. The Operating Agency shall comply with the following:

a. Reporting of Total Compensation of the Operating Agency's Executives.

(1) The Operating Agency shall report the names and total compensation of each of its five (5) most highly compensated executives for the Operating Agency's preceding completed fiscal year, if in the Operating Agency's preceding fiscal year it received:

i. 80 percent or more of the Operating Agency's annual gross revenues from federal procurement contracts and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and sub awards); and

ii. \$25,000,000 or more in annual gross annual revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and sub awards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports files under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

As defined in 2 CFR § 170.315. "Executive" means officers, managing partners, or any other employees in management positions.

(2) Total compensation means the cash and noncash dollar value earned by the executive during the Operating Agency's preceding fiscal year and includes the following (for information see 17 § CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings or deferred compensation which is not tax qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites of property) for the executive exceeds \$10,000.

b. The Operating Agency must report executive total compensation described above to the City by the end of the month during which this Grant Contract is fully executed.

c. If this Grant Contract is amended to extend the Term, the Operating Agency must submit an executive total compensation report to the City by the end of the month in which the amendment to this Grant Contract becomes effective.

d. The Operating Agency will obtain a Data Universal Numbering System ("DUNS") number and maintain its DUNS number for the terms of this Grant Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>.

The Operating Agency's failure to comply with the above requirements is a material breach of this Grant Contract for which the City may terminate this Grant Contract for cause. The City will not be

obligated to pay any outstanding invoice received from the Operating Agency unless and until the Operating Agency is in full compliance with the above requirements.

E.7. Training. The Operating Agency agrees to attend all training sessions regarding management of the CDBG Program which are scheduled by the City and HUD.

E.8. CDBG Program Requirements. Under this Grant Contract, Operating Agency is receiving an allocation or grant of Community Development Block Grant Program funds. The Operating Agency understands these funds are made available through the U.S. Department of Housing and Urban Development (HUD) and to facilitate the receipt of these funds the Operating Agency agrees and certifies to comply with all applicable HUD requirements. Without limitations, Operating Agency specifically agrees and certifies as to the following:

a. The Operating Agency will abide with all of the requirements of 24 CFR, Part 570 and Part 91, Community Development Block Grant Program.

b. The Operating Agency will comply with other applicable Federal requirements in 24 CFR, Part 570 and Part 91, as follows:

1. 24 CFR 5.105(a). Section 3 Nondiscrimination and Equal Opportunity;
2. 24 CFR 570 Subpart A, General Provisions;
3. 24 CFR 570 Subpart C, Eligible Activities;
4. 24 CFR 570 Subpart J, Grant Administration;
5. 24 CFR 570 Subpart K, Other Program Requirements;
6. 24 CFR 570 Subpart O, Performance Reviews;
7. Title VI and Executive Order 13166 Affirmative Outreach

c. If the Operating Agency is primarily a religious organization, it agrees to use its funds to provide all eligible activities under this program in a manner that is free from religious influences as provided by 24 CFR 576.406.

d. The Operating Agency will comply with the uniform administrative requirements of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award, and the requirements of 24 CFR 576.407.

e. The Operating Agency will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Estate Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR, Part 24 and the requirements of 24 CFR 576.59.

f. The Operating Agency will comply with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992, implementing regulations at 24 CFR, Part 35, Subparts A, B, H, J, K, and M as applicable.

g. The Operating Agency will use CDBG funds pursuant to its or the City's Consolidated Plan approved by HUD and all requirements of 24 CFR, Part 570 and Part 91.

h. The Operating Agency will maintain adequate documentation to determine eligibility of persons served by the CDBG program.

i. The Operating Agency will develop and implement procedures to ensure the confidentiality of records pertaining to any individual fleeing domestic violence situations. In addition the address and location of family violence shelter facilities receiving ESG funding may not be publicly disclosed except with the written authorization of the person(s) responsible for the shelter facility's operation.

E.9. Drug Free Workplace. The Operating Agency will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Operating Agency's workplace and specifying the action that will be taken against employees for violation of such prohibition;

b. Establishing an ongoing drug-free awareness program to inform employees about:

1. The dangers of drug abuse in the workplace;
2. The Operating Agency's policy of maintaining a drug-free workplace;
3. Any drug counseling, rehabilitation and employee assistance programs; and
4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of this Grant Contract be given a copy of the statement required by Paragraph E.10. (a);

d. Notifying the employee in the statement required by Paragraph E.10(a) that, as a condition of employment under this Grant Contract, the employee will:

1. Abide by the terms of the statement; and
2. Notify the employees in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the City in writing, within ten calendar days after receiving notice under Paragraph E.10(d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of

convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

f. Taking one of the following actions, within thirty calendar days of receiving notice under Paragraph E.10(d)(2), with respect to any employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirement of the Rehabilitation Act of 1973, as amended; or
2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or the appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs E.10 (a), (b), (c), (d), (e) and (f).

E.10. Corrective Action. If the City takes any corrective or remedial action as outlined in 24 CFR § 570.910 that is the result of any action taken by the Operating Agency, the Operating Agency will take any action required by the City to prevent a continuation of the deficiency, mitigate to the extent possible its adverse effects or consequences, and prevent its recurrence. These remedies could, among other actions, include repaying CDBG funds to the City.

**IN WITNESS WHEREOF**, the parties have by their duly authorized representatives set out their signatures.

[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 May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY



## AGENDA ACTION FORM

### **Amending the FY 2020/2021 CDBG Sub-Recipient Agreements with South Central CDC & with The Sons & Daughters of Douglass, Inc.**

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

Action Form No.: AF-132-2021  
 Work Session: May 3, 2021  
 First Reading: NA

Final Adoption: May 4, 2021  
 Staff Work By: Jessica McMurray  
 Presentation By: Jessica McMurray

#### **Recommendation:**

Approve the Resolution

#### **Executive Summary:**

The term of the FY 2020/2021 CDBG Sub-Recipient Agreement between the city and South Central Kingsport CDC for the provision of Community Development Block Grant funding expires at the end of the fiscal year. The funding allotted is \$10,000 and is not expected to be spent by the end of the term, due to do the impact of the COVID-19 pandemic and the effect it has had on public service agencies. Since the organization has showed adequate progress in completing past projects successfully, it is the recommendation to approve an amendment extending the term of the agreement through October 30, 2021.

The term of the FY 2020/2021 CDBG Sub-Recipient Agreement between the city and the Sons and Daughters of Douglass, Inc. for the provision of Community Development Block Grant funding expires at the end of the fiscal year. The funding allotted is \$10,000 and is not expected to be spent by the end of the term, due to do the impact of the COVID-19 pandemic and the effect it has had on public service agencies. Since the organization has showed adequate progress in completing past projects successfully, it is the recommendation to approve an amendment extending the term of the agreement through October 30, 2021.

#### **Attachments:**

1. Resolution
2. Grant for Sons & Daughters of Douglass, Inc.
3. Grant for South Central Community Development Corp.

Funding source appropriate and funds are available: *JM*

The money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure: \_\_\_\_\_

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AN AMENDMENT TO 2020/2021 CDBG SUB-RECIPIENT AGREEMENT WITH SOUTH CENTRAL COMMUNITY DEVELOPMENT CORPORATION AND APPROVING AN AMENDMENT TO THE FY 2020/2021 CDBG SUB-RECIPIENT AGREEMENT WITH SONS AND DAUGHTER OF DOUGLASS, INC.; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENTS; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, the city has entered into an agreement with South Central CDC for the provision of Community Development Block Grant funding for FY 2020/2021; and

WHEREAS, South Central CDC has requested to extend the 2020/2021 agreement grant term outlined in the agreement through October 30, 2021; and

WHEREAS, the city has entered into an agreement with the Sons and Daughters of Douglass, Inc. for the provision of Community Development Block Grant funding for FY 2020/2021; and

WHEREAS, Sons and Daughters of Douglass, Inc. has requested to extend the 2020/2021 agreement grant term outlined in the agreement through October 30, 2021.

Now therefore,

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

SECTION I. That an amendment to the 2020/2021 agreement with South Central CDC to support the term extension through October 30, 2021, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the 2020/2021 agreement with South Central CDC to extend the term of the agreement through October 30, 2021, and all other documents necessary and proper to effectuate the purpose of the agreement or this resolution, said amendment being generally as follows:

AMENDMENT TO GRANT CONTRACT

This Amendment ("Amendment") extends the Grant Agreement and all applicable documents ("Agreement") between City of Kingsport, Tennessee ("City") and South Central Community Development Corporation (herein "Subrecipient"). Notwithstanding any provision in the Agreement the language in this Amendment takes precedence over all other terms, conditions or language to the contrary, and the Agreement and this Amendment shall not be construed to create any ambiguity, it being the intent of the parties that this Amendment shall control. Accordingly, the Agreement is amended as follows:

As referenced in FY 2020/2021 Agreement, Attachments "B" and "D" – Contract Completion Date is hereby extended through October 30, 2021.

[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 amendment set out herein that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That an amendment to the 2020/2021 agreement with Sons and Daughters of Douglass, Inc., to support the term extension through October 30, 2021, is approved.

SECTION V. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the 2020/2021 agreement with Sons and Daughters of Douglass, Inc., to extend the term of the agreement through October 30, 2021, and all other documents necessary and proper to effectuate the purpose of the agreement or this resolution, said amendment being generally as follows:

AMENDMENT TO GRANT CONTRACT

This Amendment ("Amendment") extends the Grant Agreement and all applicable documents ("Agreement") between City of Kingsport, Tennessee ("City") and Sons and Daughters of Douglass, Inc. (herein "Subrecipient"). Notwithstanding any provision in the Agreement the language in this Amendment takes precedence over all other terms, conditions or language to the contrary, and the Agreement and this Amendment shall not be construed to create any ambiguity, it being the intent of the parties that this Amendment shall control. Accordingly, the Agreement is amended as follows: As referenced in FY 2020/2021 Agreement, Attachments "B" and "D" – Contract Completion Date is hereby extended through October 30, 2021.

[Acknowledgements Deleted for Inclusion in this Resolution]

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

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

ADOPTED this the 4<sup>th</sup> day of May, 2021.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

## AMENDMENT TO GRANT CONTRACT

This Amendment ("Amendment") extends the Grant Agreement and all applicable documents ("Agreement") between City of Kingsport, Tennessee ("City") and Sons and Daughters of Douglass, Inc. (herein "Subrecipient"). Notwithstanding any provision in the Agreement the language in this Amendment takes precedence over all other terms, conditions or language to the contrary, and the Agreement and this Amendment shall not be construed to create any ambiguity, it being the intent of the parties that this Amendment shall control. Accordingly, the Agreement is amended as follows:

As referenced in FY 2020/2021 Agreement, Attachments "B" and "D" – Contract Completion Date is hereby extended through October 30, 2021.

SONS AND DAUGHTERS OF DOUGLASS, INC.

CITY OF KINGSPORT, TENNESSEE

\_\_\_\_\_  
Douglas Releford, Board President, Sons and Daughters  
Of Douglass, Inc.

\_\_\_\_\_  
Patrick W. Shull, Mayor, City of Kingsport

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Recorder,

Approved as to form:

\_\_\_\_\_  
City Attorney

## AMENDMENT TO GRANT CONTRACT

This Amendment ("Amendment") extends the Grant Agreement and all applicable documents ("Agreement") between City of Kingsport, Tennessee ("City") and South Central Community Development Corporation (herein "Subrecipient"). Notwithstanding any provision in the Agreement the language in this Amendment takes precedence over all other terms, conditions or language to the contrary, and the Agreement and this Amendment shall not be construed to create any ambiguity, it being the intent of the parties that this Amendment shall control. Accordingly, the Agreement is amended as follows:

As referenced in FY 2020/2021 Agreement, Attachments "B" and "D" – Contract Completion Date is hereby extended through October 30, 2021.

SOUTH CENTRAL COMMUNITY DEVELOPMENT CORP.

CITY OF KINGSPORT, TENNESSEE

\_\_\_\_\_  
Linda Calvert, Board of Directors, South Central CDC

\_\_\_\_\_  
Patrick W. Shull, Mayor, City of Kingsport

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Recorder

Approved as to form:

\_\_\_\_\_  
City Attorney



## AGENDA ACTION FORM

### Lease Agreement with the Kingsport Convention and Visitors Bureau for Hunter Wright Stadium

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

Action Form No.: AF-144-2021  
 Work Session: May 3, 2021  
 First Reading: N/A

Final Adoption: May 4, 2021  
 Staff Work By: Michael T. Borders  
 Presentation By: Michael T. Borders

#### Recommendation:

Approve the Resolution

#### Executive Summary:

Since January 2010 the Kingsport Convention and Visitors Bureau has managed our interests at Hunter Wright Stadium. This has primarily involved the use of the stadium by the Kingsport Mets but has also included the recruitment and administration of age group tournaments, college tournaments as well as other events which have attracted visitors to Kingsport.

Approval of this agreement allows for two things; 1) a new five year agreement with KCVB to continue managing Hunter Wright Stadium on our behalf and, 2) authorizing KCVB to make improvements to the property. The most notable improvement will be the addition of a walk-in refrigerator.

#### Attachments:

- Resolution

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING A LEASE WITH THE KINGSPORT CONVENTION AND VISITORS BUREAU FOR HUNTER WRIGHT STADIUM AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, since January, 2010, the Kingsport Convention and Visitors Bureau (KCVB) has leased the Hunter Wright Stadium from the city; and

WHEREAS, the term of the prior lease has expired; and

WHEREAS, the city would like to enter into a new lease with KCVB for a term of five years; and

WHEREAS, the lease will permit KCVB to make improvements to the stadium property upon consultation with and written authorization from the board.

Now therefore,

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

SECTION I. That a lease with the Kingsport Convention and Visitors Bureau for Hunter Wright Stadium is approved.

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

**LEASE**

This Lease entered into the date of the acknowledgement of the CITY by and between the City of Kingsport, a Tennessee municipal corporation, (herein CITY) and THE GREATER KINGSPORT AREA CHAMBER OF COMMERCE, INC. for its KINGSPORT CONVENTION AND VISITORS BUREAU program (herein KCVB).

**WITNESSETH:**

NOW, THEREFORE, in consideration of the premises and mutual covenants of the parties contained herein the parties agree as follows:

**SECTION 1. PREMISES.** CITY, in consideration of the rents to be paid and the covenants and agreements to be performed and observed by the KCVB, does hereby lease to the KCVB and the KCVB does hereby lease from CITY the Hunter Wright Stadium (herein "Premises") in Kingsport, Tennessee and all improvements located thereon from CITY, which is the property shown inside the area shown outlined in red and designated as "Stadium Boundary" on Exhibit A attached hereto and incorporated herein by reference.

**SECTION 2. LEASE TERM.** The term of this Lease shall begin on \_\_\_\_\_, 2021, at noon and shall terminate on \_\_\_\_\_ 2026, at noon, unless sooner terminated as herein provided. The parties may by mutual agreement extend the term of this Lease for a period of up to five (5) years upon the terms, covenants and conditions agreed to by the parties. KCVB may exercise such right to extend the term upon written notice to CITY at least thirty (30) days prior to the expiration of the

initial term of the Lease. Either party may, for its own convenience terminate this Lease on ninety (90) days notice to the other party. Such termination shall not be a breach of this Lease.

**SECTION 3. RENT.** KCVB shall pay to CITY, without demand or deduction, in U.S. dollars rent as follows:

Year 1: \$1

Year 2: \$1

Year 3: \$1

Year 4: \$1

Year 5: \$1

The rent is payable in advance in equally monthly installments on the first day of each calendar month, without offset or deduction. The first monthly payment, plus an appropriate fraction of a monthly payment for any portion of a month at the commencement of the lease term, shall be made upon KCVB's execution of this Lease. All payments shall be made to CITY at City of Kingsport, 225 West Center Street, Kingsport, Tennessee 37660, Attention: Chief Financial Officer, or at such other place as is designated in writing by CITY. It is the intention of CITY and KCVB that the rent herein specified shall be strictly net to CITY and that all taxes, insurance premiums, utilities, maintenance and repairs, and all other costs, charges, expenses, and obligations of every kind relating to the Premises which may arise or become due during the term of this Lease shall be paid by KCVB and the CITY shall be indemnified by KCVB and is hereby so indemnified by KCVB against such costs, charges, expenses, and obligations.

**SECTION 4. USE OF PREMISES.** KCVB shall use the Premises solely for the wooden bat league affiliated with Major League Baseball, amateur and professional baseball. KCVB may allow other activities upon written consent of CITY. CITY may withhold consent if in the sole opinion of CITY the activity may compromise the condition of the playing field or other reason satisfactory to CITY, provided however horse shows, rodeos, and football games are not permitted. KCVB agrees not to use the Premises in any way that may be unlawful, improper, noisy, offensive, or contrary to any applicable statute, regulation, ordinance, or bylaw.

**SECTION 5. UTILITIES.** During the term of this Lease, CITY shall be responsible for the payment of any and all utilities of the Premises, including, but not limited to, gas, electric, telephone, cable and any service fees required for the installation of these utilities. CITY shall also be solely responsible for the payment of any and all water bills, sewer bills, and garbage collection costs concerning the Premises.

**SECTION 6. CLEAN AND SANITARY CONDITION.** During the term of the Lease, CITY shall keep and maintain the Premises and the surrounding area in a clean and sanitary condition at all times, free of all garbage and debris. All garbage and similar debris shall be deposited by KCVB in facilities specifically for garbage collection. KCVB shall further comply with all local ordinances and regulations imposed by CITY relating to maintaining the Premises in a clean and sanitary condition and collection of garbage and similar debris.

**SECTION 7. MAINTENANCE.** Except for the obligation of other parties to maintain certain parts of the Premises during their use of the Premises or damages caused by KCVB or those who use the Premises through KCVB, it shall be CITY'S responsibility to keep and maintain the Premises in good condition and repair, reasonable wear and tear excepted, at all times during the term of the Lease. KCVB agrees to pay for and be responsible for any additional maintenance needed if KCVB uses the Premises after a date set by CITY to cease use of the Premises in preparation for the wooden bat league.

**SECTION 8. COMPLIANCE WITH APPLICABLE LAWS.** Throughout the term of this Lease, KCVB shall, at its sole cost and expense, comply with all present and future laws, statutes, codes, ordinances, rules, and regulations of the federal government, state of Tennessee, or City of Kingsport, restrictive covenants, and all orders, decrees, and like actions of any court of competent jurisdiction which may be applicable to the Premises.

**SECTION 9. IMPROVEMENTS AND ALTERATIONS.** Subject to the terms and conditions contained in this Lease, KCVB may from time to time erect additional structures and make other improvements to the Premises. Prior to the commencement of any improvements, KCVB will provide CITY with a written proposal detailing the planned improvements and will request CITY's written approval thereof, which approval shall be in the CITY's sole and exclusive discretion. Approval by CITY is for its sole and exclusive purpose and KCVB will rely on such approval for any purpose other than as permission to make such improvement. KCVB, in conjunction with the CITY, agrees that CITY will have no responsibility for maintenance and repair of improvements placed upon the Premises and that KCVB will insure that all improvements are maintained, in a safe, neat and orderly condition at all times. KCVB shall be responsible for obtaining all applicable permits, authorizations and licenses prior to making any improvements, and all work related to the improvements shall be performed in compliance with applicable laws, ordinances, and regulations. Additionally, KCVB shall have the

right, at its sole expense, from time to time, to redecorate the Premises and to make such non-structural alterations and changes in such parts thereof as KCVB shall deem expedient or necessary for its purposes; provided, however, that such alterations and changes shall neither impair the structural soundness nor diminish the value of the Premises and shall otherwise comply with the requirements of this Lease. KCVB agrees to pay promptly when due the entire cost of any work done by it upon the Premises so that the Premises at all times shall be free of liens for labor and materials. KCVB further agrees that in doing such work that it shall employ materials of good quality and comply with all governmental requirements, and perform such work in a good and workmanlike manner. KCVB agrees that it shall procure all necessary permits for making any repairs, alterations, or other improvements for installations, when applicable.

**SECTION 10. SURRENDER OF PREMISES.** On the expiration or earlier termination of this Lease pursuant to its terms, KCVB shall peaceably and quietly leave and surrender the Premises to CITY, in good order, condition and repair, broom clean, reasonable wear and tear excepted and free and clear of all liens

**SECTION 11. TAXES.** KCVB, in addition to the rent provided herein, shall pay to CITY as additional rent any and all real estate taxes, assessments, and other governmental levies and charges, general and special, ordinary or extraordinary, unforeseen or foreseen, of any kind which are assessed against or imposed in respect of the Premises.

**SECTION 12. CONDITION OF PREMISES.** KCVB has examined the Premises and accepts the same in its present state and condition without any representations or warranties, express or implied, in fact or in law, by CITY as to the nature, condition or usability thereof, or as to the use or uses to which the Premises may be put.

**SECTION 13. FIRE, CASUALTY, EMINENT DOMAIN.** Should a substantial portion of the Premises, be substantially damaged by fire or other casualty, or be taken by eminent domain, CITY may elect to terminate this Lease. When such fire, casualty or taking renders the Premises substantially unsuitable for its intended use, a proportionate abatement of rent shall be made, and KCVB may elect to terminate this Lease if: (a) CITY fails to give written notice within 30 days after said fire, casualty or taking of its intention to restore the Premises; or (b) CITY fails to restore the Premises to a condition substantially suitable for its intended use within 90 days after said fire, casualty or taking. Notwithstanding the foregoing, in the event of damage by fire or other casualty resulting from the carelessness, negligence, or intentional, or other improper conduct of KCVB, its agents, employees, contractors or others acting on its behalf, or from the carelessness, negligence, or intentional or other conduct of KCVB's customers, guest or visitors, KCVB shall have the full liability and responsibility for repairing and/or rebuilding from such casualty loss and for other damages and losses incurred by CITY. CITY reserves all rights for damages or injury to the Premises for any taking by eminent domain, except for damage to KCVB's property or equipment.

**SECTION 14. FIRE INSURANCE.** KCVB shall not permit any use of the Premises which shall adversely affect or make voidable any insurance on the property of which the Premises are a part, or on the contents of said property, or which shall be contrary to any law, regulation or recommendation made by the state fire prevention agency, local fire department, CITY's insurer or any similar entity. KCVB shall on demand reimburse CITY all extra insurance premiums caused by KCVB's use of the Premises. KCVB shall not vacate the Premises or permit same to be unoccupied other than during KCVB's customary non-business days or hours, or cause or allow the utilities serving the Premises to be terminated.

**SECTION 15. SIGNS.** KCVB shall not place or permit to be placed, any sign or signboards on the exterior or interior of the Premises unless they are in conformity with all applicable laws. The cost for all signs shall be borne by KCVB.

**SECTION 16. ASSIGNMENT OR SUBLEASE.** KCVB may not assign this Lease, sublet the Premises, in whole or in part, or allow another entity or individual to occupy the whole or any part of the Premises, without CITY's prior written consent, which may be withheld for any or no reason. If KCVB notifies CITY in writing of its desire to assign this Lease or sublet the Premises, CITY shall have the option to terminate this Lease, at an effective date to be determined by CITY, upon written notice to KCVB. Notwithstanding CITY's consent to any assignment or sublease, KCVB and GUARANTOR shall remain liable to CITY for the payment of all rent and for the full performance of all covenants and conditions of this Lease. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law.

**SECTION 17. CITY'S ACCESS.** CITY, its agents and designates, may examine and inspect the Premises at reasonable times and KCVB shall provide CITY, if not already available, with a set of keys for the purpose of said examination, provided that CITY shall not thereby unreasonably interfere with the conduct of the KCVB's business. KCVB shall permit CITY to enter the Premises to inspect such repairs, improvements, alterations or additions thereto as may be required under the provisions of this Lease. CITY, its agents and designates, may at any reasonable time enter to show the

Premises to others without creating any obligation or liability for CITY. In the event of an emergency, CITY, its agents and other representatives, may enter at any time, without notice and without the presence of KCVB. No compensation shall be asked or claim made by KCVB by reason of any inconvenience or annoyance arising from anything that may be done in repairing, altering, working on or protecting the Premises or building, however the necessity may arise, but this Section 17 shall not be construed as imposing any duty on CITY to make any repairs, alterations or additions.

**SECTION 18. LIABILITY.** KCVB shall, and does hereby, assume all risk of loss or injury to the property or person of all persons at any time coming upon the Premises during the term of this Lease. KCVB shall be solely responsible as between CITY and KCVB for deaths or personal injuries to all persons and damage to any property, including damage by fire or other casualty, occurring in or on the Premises and arising out of the use, control, condition or occupancy of the Premises by KCVB, except for death, personal injuries or property damage directly resulting from the sole negligence of CITY. KCVB agrees to indemnify and hold harmless CITY from claims and any and all liability, including but not limited to costs, expenses, damages, causes of action, claims, judgments and attorney's fees caused by or in any way arising out of any of the aforesaid matters.

**SECTION 19. INSURANCE.** KCVB shall, during the entire term of this Lease, keep in full force and effect at its own expense the following insurance:

(a) Comprehensive General Liability Coverage. At all times during the Term of this Lease, KCVB shall maintain in full force and effect policies of contractual and comprehensive general liability insurance, including public liability and broad form property damage, for not less than \$1,000,000 for each occurrence involving bodily injury (including death), and \$1,000,000 for each occurrence involving damage to property. Such policy or policies shall name CITY as an additional insured thereunder. All of such insurance shall insure the performance by KCVB of its indemnity agreement as to liability for injury to or death of persons and injury or damage to property. All of such insurance shall be primary and noncontributing with any insurance which may be carried by CITY and shall contain a provision that CITY, named or not named as an insured, shall nevertheless be entitled to recover under said policy for any loss, injury or damage to CITY, its agents, and employees or the property of such persons, by reason of the negligence of KCVB. Such policy shall expressly provide that such policy shall not be canceled or altered without thirty (30) days prior written notice to CITY. CITY shall be named as an additional insured on all such policies.

(b) Fire and Casualty Insurance. At all times during the term of this Lease, KCVB shall maintain, at its cost and expense, broad form all-risk casualty insurance (with appropriate endorsements for risks or perils ordinarily included in the CITY's policy) insuring the improvements on the Premises. CITY shall be named as an additional insured in all such policies. The policies shall permit the insurance proceeds collected upon all such policies of insurance to be used to restore the improvements on the Premises so damaged or destroyed. KCVB further agrees that each such policy of insurance, and all other policies of insurance on the Premises, including, without in any way limiting the generality of the foregoing, workmen's compensation, general liability and business interruption insurance which shall be obtained by KCVB, whether required by the provisions of this Lease or not, shall be made expressly subject to the provisions of this Section 19, and shall provide (to the extent such a waiver can be obtained) that KCVB's insurers thereunder waive any right of subrogation against CITY. All such policies shall provide that the same may not be canceled or altered without thirty (30) days prior written notice to the CITY. The said "full insurable value" shall be determined at the time the fire and extended coverage insurance is initially taken out.

(c) Additional Insured Endorsement(s). As of the commencement of this Lease, KCVB shall provide CITY with certified copies of additional insured endorsement(s) complying with the coverage requirements herein. Should KCVB fail to obtain, pay for, or maintain any required insurance, such shall constitute a material breach, and CITY may immediately terminate or suspend this Agreement. Upon written request of CITY, KCVB agrees to provide certified copies of any or all insurance policies, including declaration pages, required herein, within thirty (30) days of such request.

(d) All insurance provided for in this Section 19, and all renewals thereof, shall be issued by responsible insurance companies authorized to do business in the State of Tennessee. If any insurer which has issued a policy of insurance required pursuant to this Lease becomes insolvent or the subject of any bankruptcy, receivership or similar proceeding, KCVB shall, in each instance, obtain a like policy issued by another insurer, which insurer and policy meets the requirements of this Lease.

(e) KCVB's Release. KCVB hereby releases CITY from any and all liability and responsibility to anyone claiming any loss or damage to property arising from a risk insured against under the insurance required to be carried by KCVB. To the extent obtainable, KCVB's insurance policies shall include appropriate clauses waiving all rights of subrogation against CITY to KCVB, with respect to losses payable under such policies.

(f) Use of Proceeds. Any Casualty Insurance Proceeds paid under any insurance policy of the character described in Section 19(b) shall be used to pay for the cost to Restore the Improvements so damaged or destroyed.

(g) Blanket Insurance. Nothing in this Section 19 shall prevent KCVB from taking out insurance of the kind and in the amounts provided for under Sections 19(a) and 19(b) under a blanket insurance policy or policies which can cover other improvements on the Premises.

**SECTION 20. DEFAULT AND ACCELERATION OF RENT.** In the event that (a) any assignment for the benefit of creditors, trust mortgage, receivership or other insolvency proceeding shall be made or instituted with respect to KCVB or KCVB's property or (b) KCVB shall default in the observance or performance of any of KCVB's covenants, agreements or obligations hereunder and such default shall not be corrected within 10 days after written notice thereof, then CITY shall have the right thereafter, while such default continues and without demand or further notice, to re-enter and take possession of the Premises, to declare the term of this Lease ended, and/or to remove KCVB's effects, without being guilty of trespass or conversion, and without prejudice to any remedies which might be otherwise used for arrears of rent or other default or breach of the Lease. If KCVB defaults in the payment of the security deposit, rent, taxes or substantial invoice from CITY or CITY's agent, and such default continues for 10 days after written notice thereof, and, because both parties agree that nonpayment of said sums when due is a substantial breach of the Lease, and, because the payment of rent in monthly installments is for the sole benefit and convenience of KCVB, then, in addition to any other remedies, the net present value of the entire balance of rent due hereunder as of the date of CITY's notice, using the published prime rate then in effect, shall immediately become due and payable as liquidated damages. No actions taken by CITY under this Section 20 shall terminate KCVB's obligation to pay rent under this Lease, as liquidated damages or otherwise. Any sums received by CITY from or on behalf of KCVB at any time shall be applied first to offset any unpaid invoice or other payment due to CITY and then to unpaid rent. KCVB shall pay any invoice within 10 days after receipt. If any rent and/or other payment is not received by CITY when due, then KCVB shall pay CITY a late charge for each past due payment equal to one percent of such overdue amount or \$35, whichever is greater. KCVB shall also pay CITY interest at the rate of 18 percent per annum on any past due payment. In addition to the foregoing, if after default, a debt collector or an attorney (including any attorney of the Office of the City Attorney of CITY) is employed or directed to collect or enforce the monetary or other obligations evidenced by this Lease or to assist CITY in connection with its exercise of any right, power, privilege, or remedy referred to herein, the parties hereby agree that the KCVB shall pay promptly all costs incurred by CITY with respect to collection or enforcement including reasonable attorney's fees and court costs.

**SECTION 21. WASTE OR NUISANCE.** KCVB shall not commit or suffer to be committed any waste upon the Premises, and KCVB shall not use or permit the use of any medium that might constitute a nuisance.

**SECTION 22. NOTICE.** Any notice from CITY to KCVB relating to the Premises or this Lease shall be deemed duly served when left at the Premises, or served by constable, or sent to the Premises or to the last address designated by notice in accordance with this Section 22, by certified or registered mail, return receipt requested, postage prepaid, or by recognized courier service with a receipt therefor, addressed to KCVB. Any notice from KCVB to CITY relating to the Premises or this Lease shall be deemed duly served when served by constable, or delivered to CITY by certified mail, return receipt requested, postage prepaid, or by recognized courier service with a receipt therefor, addressed to CITY at 225 West Center Street, Kingsport, Tennessee 37660, Attention City Attorney or at CITY's last designated address. No oral notice or representation shall have any force or effect. Time is of the essence in the service of any notice.

**SECTION 23. OCCUPANCY.** If KCVB takes possession of the Premises prior to the start of the lease term, KCVB shall perform and observe all of its covenants under this Lease from the date upon which it takes possession. If KCVB continues to occupy, control or encumber all or any part of the Premises after the termination of this Lease without the written permission of CITY, KCVB shall be liable to CITY for any and all loss, damages or expenses incurred by CITY, and all terms of this Lease shall continue to apply, except that use and occupancy payments shall be due in full monthly installments at a rate which shall be two times the greater of the monthly rent due under this Lease immediately prior to termination or CITY's then current published rent for the Premises, it being understood that such extended occupancy is a tenancy at sufferance, solely for the benefit and convenience of KCVB and of greater rental value. KCVB's control, occupancy or encumbrance of all or any part of the Premises beyond noon on the last day of any monthly rental period shall constitute KCVB's occupancy for an entire additional month, and increased payment as provided in this Section 23 shall be due and payable immediately in advance. CITY's acceptance of any payments from KCVB during such extended occupancy shall not alter KCVB's status as a tenant at sufferance. CITY may require KCVB to relocate to another similar facility at any time during the lease term upon prior written notice

to KCVB and on terms comparable to those herein, and KCVB shall be liable to CITY for any loss, damages or expenses incurred by CITY if KCVB fails to relocate as required herein.

**SECTION 24. FIRE PREVENTION.** KCVB agrees to use every reasonable precaution against fire, to provide and maintain approved, labeled fire extinguishers, emergency lighting equipment and exit signs, and to complete any other modifications within the Premises as required or recommended by the Insurance Services Office (or successor organization), OSHA, the local fire department, CITY's insurer or any similar entity.

**SECTION 25. ENVIRONMENTAL MATTERS.** The term "hazardous substances," as used herein shall mean pollutants, contaminants, toxic or hazardous wastes or any other substances the use and/or the removal of which is restricted, prohibited, or penalized by any "environment law," which term shall mean any federal, state or local law, ordinance or other statute of a governmental authority relating to pollution or protection of the environment. KCVB hereby agrees that (a) no activity shall be conducted on the Premises that shall produce any hazardous substance; (b) the Premises shall not be used in any manner with the storage of any hazardous substances; (c) KCVB shall not install or place upon the premises any underground or aboveground tanks of any type and shall not store, or allow the storage law, on the premises any gasoline, oil, diesel fuel or other petroleum products; (d) KCVB shall not allow any surface or subsurface conditions to exist or come into existence that constitutes or with the passage of time may constitute a public or private nuisance; and (e) KCVB shall not permit any hazardous substances to be brought onto the Premises. If at any time during or after of the term of this Lease, the Premises are found to be in violation of any of the covenants set forth in this Section 25 due to acts or occurrences during the occupancy of KCVB, or caused by KCVB, then KCVB shall diligently institute proper and thorough cleanup and remediation procedures at KCVB's sole cost. KCVB agrees to indemnify and hold CITY harmless from all claims, demands, actions, liabilities, costs, and expenses (including CITY's attorney fees), damages and obligations of any nature arising from or as a result of the use of the Premises by KCVB. The foregoing indemnification and the responsibilities of KCVB shall survive the termination or expiration of this Lease. KCVB shall not use the Premises so as not to interfere in any way with the use and enjoyment of other portions of the same or neighboring buildings by others by reason of odors, smoke, exhaust, smells, vibrations, noise, pets, accumulation of garbage or trash, vermin or other pests, or otherwise, and shall at its expense employ a professional pest control service if determined necessary by CITY. KCVB agrees to maintain effective devices for preventing damage to plumbing and heating equipment from deionized water, chemicals which may be present at the Premises.

**SECTION 26. RESPONSIBILITY.** CITY shall not be liable to anyone for, nor shall KCVB's obligations under this Lease be reduced because of, loss or damage caused in any way by the use, leakage, seepage, flooding or escape of water or sewage in any form or from any source, by the interruption or cessation of any service rendered customarily to the Premises or building or agreed to by the terms of this Lease, by any accident, the making of repairs, alterations or improvements, labor difficulties, weather conditions, mechanical breakdowns, trouble or scarcity in obtaining fuel, electricity, service or supplies from the sources from which they are usually obtained, by any change in any utility or service provider, or by any cause beyond CITY's immediate control.

**SECTION 27. SURRENDER.** On or before the termination of this Lease, KCVB shall remove all of KCVB's goods and effects from the Premises, and shall deliver to CITY actual and exclusive possession of the Premises and all keys and locks thereto, along with all fixtures, equipment and workstations of any type connected therewith, and all alterations, additions and improvements made to or upon the Premises, whether completed by KCVB, CITY or others, including but not limited to any offices, window blinds, floor coverings, computer floors, plumbing and plumbing fixtures, heating, ventilating and air conditioning equipment, ductwork, exhaust fans, water coolers, security, surveillance and fire protection systems, telecommunications and data wiring, telephone equipment, air and gas distribution piping, compressors, hoists, cabinets, counters, shelving, signs, electrical work, including but not limited to lighting fixtures of any type, wiring, conduit, EMT, transformers, generators, distribution panels, bus ducts, raceways, outlets and disconnects, and furnishings and equipment which have been bolted, welded, nailed, screwed, glued or otherwise attached to any wall, floor, ceiling, roof, pavement or ground, or which have been directly wired or plumbed to any portion of any building or other system serving the Premises, including but not limited to water supply, drainage, venting or air or gas distribution systems. Notwithstanding the foregoing, prior to termination of this Lease, KCVB shall, if requested by CITY, remove or tag for future use any and all wiring and cabling installed and/or used by KCVB. KCVB shall deliver the Premises fully sanitized from any chemicals or other contaminants, broom clean, and in at least the same condition as they were at the commencement of the Lease or any prior lease between the parties for the Premises, or as they were modified during said term with CITY's written consent, reasonable wear and tear only excepted, and KCVB shall be deemed to be encumbering the Premises until it delivers the Premises to CITY in the condition required under this Lease. Any of KCVB's property that remains in the

Premises upon termination of the Lease shall be deemed abandoned and shall be disposed of as CITY sees fit, with no liability to KCVB for loss or damage thereto, and at the sole risk of KCVB. CITY may remove and store any such property at KCVB's expense; retain the same under CITY's control; sell the same at public or private sale (without notice) and apply the net proceeds of such sale to the payment of any sum due hereunder; or destroy same. In no case shall the Premises be deemed surrendered to CITY until the termination date provided herein or such other date as may be specified in a written agreement between the parties, notwithstanding the delivery of any keys to CITY.

**SECTION 28. HOLDING OVER.** In the event KCVB occupies the Premises after the expiration or termination of this Lease with the consent of CITY, express or implied, such possession shall be considered to be a tenancy from month to month, terminable on 30 days advance written notice by either party. KCVB shall continue to pay all charges as provided in this Lease, and shall be bound by all of the other terms and conditions of this Lease as if it was still in full force and effect.

**SECTION 29. LOSS AND DAMAGE TO KCVB'S PROPERTY.** CITY shall not be responsible or liable to KCVB for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the premises adjacent to the Premises or any part, or for any loss or damages resulting to the KCVB or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes or for any damage or loss of property within the Premises from any cause whatsoever.

**SECTION 30. NOTICE BY KCVB.** KCVB shall give immediate notice to CITY in case of fire or accidents in the Premises or in the building of which the Premises are a part or of defects therein or in any fixtures or equipment.

**SECTION 31. SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the said parties, except that CITY shall only be liable for obligations occurring while the owner of the Premises.. No rights, however, shall inure to the benefit of any assignee of KCVB unless the assignment to such assignee has been approved by CITY in writing as provided in Section 16 herein.

**SECTION 32. GENERAL.** The following shall apply to this Lease:

(a) The invalidity or unenforceability of any clause or provision of this Lease shall not affect or render invalid or unenforceable any other clause or provision hereof;

(b) Any action or proceeding arising out of the subject matter of this Lease shall be brought by KCVB within one year after the cause of action has occurred and only in a state court in Kingsport, Tennessee;

(c) This Lease is made and delivered in the state of Tennessee, and shall be interpreted, construed, and enforced in accordance with the laws thereof and all legal proceedings relating to the subject matter of this Lease shall be maintained in the state courts for Kingsport, Sullivan County, Tennessee, and the parties agree that jurisdiction and venue for any such legal proceeding shall lie exclusively with such courts;

(d) This Lease is the result of negotiations between parties of equal bargaining strength, and when executed by both parties shall constitute the entire agreement between the parties, superseding all prior oral and written agreements, representations, statements and negotiations relating in any way to the subject matter herein. This Lease may not be extended or amended except by written agreement signed by both parties, or as otherwise provided herein, and no other subsequent oral or written representation shall have any effect hereon;

(e) Notwithstanding any other statements herein, CITY makes no warranty, express or implied, concerning the suitability of the Premises for KCVB's intended use;

(f) KCVB agrees that if CITY does not deliver possession of the Premises as herein provided for any reason, CITY shall not be liable for any damages to KCVB for such failure, but CITY agrees to use reasonable efforts to deliver possession to KCVB at the earliest practical date. A proportionate abatement of rent, excluding the cost of any amortized improvements to the Premises, for such time as KCVB may be deprived of possession of the Premises shall be KCVB's sole remedy, except where a delay in delivery is caused in any way by KCVB;

(g) Neither the submission of this Lease or any amendment hereof, nor the acceptance of the security deposit and/or rent shall constitute a reservation of or option for the Premises, or an offer to lease, it being expressly understood and agreed that neither this Lease nor any amendment shall bind either party in any manner whatsoever unless and until it has been executed by both parties;

(h) CITY nor KCVB shall be liable for any special, incidental, indirect or consequential damages, including but not limited to lost profits or loss of business, arising out of or in any manner connected with performance or nonperformance under this Lease, even if any party has knowledge of the possibility of such damages;

(i) The headings and captioned in this Lease are for convenience only and shall not be considered part of the terms hereof;

(j) No restriction, condition or other endorsement by KCVB on any check, nor CITY's deposit of any full or partial payment, shall bind CITY in any way or limit CITY's rights under this Lease;

(k) KCVB shall conform to all rules and regulations now or hereafter made by CITY for parking, for the care, use or alteration of the building, its facilities and approaches, and for the administration of this Lease, and shall not permit any employee or visitor to violate this or any other covenant or obligation of KCVB;

(l) KCVB's covenants under this Lease shall be independent of CITY's covenants, and CITY's failure to perform any of its covenants under this Lease, including a covenant constituting a significant inducement to KCVB to enter into this Lease, shall not excuse the payment of rent or any other charges by KCVB or allow KCVB to terminate this Lease;

(m) CITY and KCVB hereby waive any and all rights to a jury trial in any proceeding in any way arising out of the subject matter of this Lease.

**SECTION 33. WAIVERS, ETC.** No consent or waiver, express or implied, by CITY to or of any breach of any covenant, condition or duty of KCVB shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty. If KCVB is several persons, corporations, or other legal entities, or a partnership, or some combination thereof, KCVB's obligations are joint and several. Unless repugnant to the context, "CITY" and "KCVB" mean the person or persons, natural or corporate, named above as CITY and as KCVB respectively, and their respective heirs, executors, administrators, successors and assigns.

**SECTION 34. TIME.** Time is of the essence in this Lease.

**SECTION 35. SURVIVAL OF TERMS.** Wherever in this Lease either Tenant or Landlord shall have agreed or promised to perform certain acts or otherwise where the context of this Lease would require such performance to occur after the termination or expiration of the Lease, then those agreements and covenants shall survive the termination or expiration of the Lease and continue to bind Tenant and Landlord.

(Signatures omitted for inclusion in 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 May, 2021.

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PATRICK W. SHULL, MAYOR

ATTEST:

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ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

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J. MICHAEL BILLINGSLEY, CITY ATTORNEY