



AGENDA

BOARD OF MAYOR AND ALDERMEN WORK SESSION

**Monday, September 12, 2022, 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 Betsy Cooper
Alderman Darrell Duncan

Alderman Paul W. Montgomery
Alderman Tommy Olterman
Alderman James Phillips

Leadership Team

Chris McCartt, City Manager
Michael Borders, Assistant City Manager
Bart Rowlett, City Attorney
Lisa Winkle, City Recorder/Treasurer
John Rose, Economic Development Director
Adrienne Batara, Public Relations Director
Floyd Bailey, Chief Information Officer

Ryan McReynolds, Deputy City Manager
Jessica Harmon, Assistant City Manager
Tyra Copas, Human Resources Director
Dale Phipps, Police Chief
John Morris, Budget Director
Scott Boyd, Fire Chief

1. Call to Order
2. Roll Call
3. KEDB/NETWORKS Quarterly Update – Craig Denison and Clay Walker
4. ARPA Discussion – Chris McCartt
4. Review of items on September 13, 2022 Business Meeting Agenda
5. Adjourn

Next Work Session, Monday, October 3, 2022, 4:30 p.m.

Project Status in Pictures

1 Paving Project - Colonial Heights

Pavewell Paving Company began street resurfacing work along Montclair Road and Kenridge Street.

3 Bloomingdale Pike Signal

The crew is currently working to concrete the new poles and create cabinet box foundations.

2 Riverbend Park

Site preparation for the future boardwalk and dock features is underway,

4 Civic Auditorium Ramp

Concrete work for the sidewalk and bottom of loading area have finished and the project is complete.



Status Updates on Active Projects sorted by Cost

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	Current Status
\$17,610,480.00	Michael Thompson	Main Street Rebuild	The reconstruction of Main Street from Sullivan Street to Clay Street. [City & MTPO Funded]	7/1/2024	BMA approved awarding to Summers-Taylor and the contract documents have been executed. Another public hearing was held June 28th to re-engage the owners, tenants and public.
\$13,500,000.00	Ryan McReynolds	SR 347 (Rock Springs Road) [State & MTPO funded]	TDOT Managed, joint funded reconstruction of the State portion of Rock Springs Road	12/31/2022	TDOT expects to have a Public Hearing Summer 2022.
\$4,000,000.00	Michael Thompson	Brickyard Park Bicycle-Pedestrian Bridge	Bicycle-Pedestrian bridge over the CSX Railroad at Centennial Park connecting downtown Kingsport to the Brickyard Park Development. Design funded 80% Fed./ 20% Local via STB Grant and Construction is funded 75% Fed./ 25% Local via TA Grant.	12/31/2024	The TDOT requested addition of an historical/architectural assessment has been completed and submitted 4-21-22 to TDOT for review by the Cultural Resources Section.
\$3,500,000.00	Michael Thompson	Island Road Improvements from SR-126 to Kingsport City Limits	This project will realign Island Road to the southeast to improve vertical and horizontal roadway geometry for better traffic management and safety. The remaining unused portion of Island Road will be converted into a separated buffered multi-use path co	4/30/2024	Received NTP with Design Phase on 6/13/22. City has paid 20% match. Mattern & Craig has been given approval to proceed with Design Phase.
\$2,500,000.00	Michael Thompson	2021 Main Road Paving (MTPO Funded)	Paving of functionally classified roadways: Meadowview Pkwy, Moreland Dr, Cooks Valley, Fall Creek and Netherland Inn Road	11/1/2022	Notice to Proceed with Right-of-Way Phase issued 7/28/2022.
\$2,300,000.00	Ryan McReynolds	Justice Center Renovations	Renovations and expansion of Justice Center that will accommodate court space and county offices currently residing in City Hall.	12/31/2022	Architect is working on plans and having discussions with staff.
\$1,200,000.00	Chad Austin	Washington Co Water Task Force - waterline extension	Washington County is funding waterline extensions throughout their county. This project will provide upgraded or new service to residents along Double Springs Rd, Deakins Rd, and Hunt Rd, all in the Fall Branch area.	8/31/2022	Engineering division is surveying project area
\$1,044,000.00	Kitty Frazier	Kingsport Greenbelt Extension from Rotherwood Drive to Lewis Lane	This project will build an extension of the Kingsport Greenbelt walking and biking path west from the end of the current Greenbelt at Rotherwood Drive to Lewis Lane on West Stone Drive (State Route 1).	5/31/2024	Design Underway.
\$952,601.98	Kitty Frazier	Riverbend Park - Phase 1		11/23/2022	Clearing, grubbing, and majority of grading complete. Current work includes clearing of view shed and getting bench pads ready.
\$912,400.00	Michael Borders	MeadowView Roof Replacement	Partial Re-Roofing of the MeadowView Conference Resort & Convention Center		Bid has been awarded to Genesis Roofing Co., Inc. and the contract has been executed. Currently scheduling pre construction meeting. Estimated completion date is 215 days after construction begins.

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$850,000.00	Chad Austin	ETSU @ Valleybrook Farm sewer extension	Approximately 5,000 ft extension of sewer to Valleybrook Farm facility owned by ETSU. Project is funded through grant from Appalachian Regional Commission and Washington County.	3/31/2023	Ready to bid.
\$393,285.00	Tom Hensley	Wwtp Digester Cleaning	Two Wastewater plant 75' digesters were last cleaned in 2004. Grit and solids have built up in these two tanks and causing problems pumping sludge from tanks to the dewatering centrifuges.		8/23/22- Merrell Bros. projected start date early October 2022
\$352,000.00	Chad Austin	SR 93- Horse Creek/Derby Drive Section (TDOT)	TDOT project to improve State Route 93 in the Horse Creek/Derby Drive area. Project also includes improvements with the intersection with Derby Drive, along with a new bridge crossing Horse Creek. Impacted waterlines in this area will be are to be reloc	6/30/2024	Scheduled for construction in FY24
	Borders, Michael	Collar Replacement	Collar replacement for all 18 holes at Cattails at Meadowview		Project was re-advertized for bid on August 14. Bids will be opened on September 8.
	Chris Campbell	KATS Maintenance Facility Phase 2	Bus garage and maintenance building with wash bay and storage. (FTA Grant & City Funded)		Steel for mezzanine is being set.
	Chris Markley	Archives Move and Demo	Move Archives into the new city hall and demo existing Archives space, shelving, and cage at the Library.	9/22/2022	End panels on high density storage units have been finished.
	Kitty Frazier	Bike Park at Brickyard	New Bike Park in the vicinity of the new Skate Park.		Project design has been submitted by Barge for internal city review.
	Kristie Leonard	Farmer's Market Upgrades	Cosmetic and ventilation updates to the Farmer's Market Building		Design plans are currently being created by engineers.
	Megan Krager	Bays Mountain Park Nature Center Balcony	Renovation and Repairs of the Nature Center Balcony at Bays Mountain Park		One Bid was received from Inland Construction - recommendation for bid from Inland Construction to be accepted sent.
	Michael Borders	Bays Mountain Park Amphitheater	Construction of new amphitheater at Bays Mountain		Design is currently under review by design project estimators for final construction cost estimates.

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Revision 2: September 13, 2022

AGENDA

BOARD OF MAYOR AND ALDERMEN

BUSINESS MEETING

Tuesday, September 13, 2022, 7:00 p.m.
City Hall, 415 Broad Street, Boardroom

Board of Mayor and Aldermen

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Alderman Paul W. Montgomery
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Alderman James Phillips

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Ryan McReynolds, Deputy City Manager
Jessica Harmon, Assistant City Manager
Dale Phipps, Police Chief
Scott Boyd, Fire Chief
Tyra Copas, Human Resources Director
John Rose, Economic Development Director

I. CALL TO ORDER

updated

II.A PLEDGE OF ALLEGIANCE TO THE FLAG – Ken Weems

II.B INVOCATION – Pastor Rick Meade, Lynn Garden Baptist Church

III.A ROLL CALL

updated

IV.A RECOGNITIONS & PRESENTATIONS

1. Suicide Prevention Month Proclamation – Alderman Cooper (Kayla Sharp)
2. Pals Employee Recognition – Alderman Phillips (Ralph Gilliam and Pat Gilliam)
3. Keep Kingsport Beautiful Beautification Awards – Sharon Hayes

IV.B. APPOINTMENTS

1. Appointment to Neighborhood Advisory Commission (AF:269-2022) (Mayor Shull)
 - Appointment

V. APPROVAL OF MINUTES

1. Work Session – August 22, 2022
2. Business Meeting – August 23, 2022

VI. COMMUNITY INTEREST ITEMS

A. PUBLIC HEARINGS

1. Amend Zoning of Tax Map 022, Parcel 036.10 and a Portion of Parcel 036.06 Located Along University Boulevard from the R-3, Low Density Apartment District and B-3, Highway Oriented Business District to the R-4, Medium Density Apartment District (AF:270-2022) (Ken Weems)
 - Public Hearing
 - Ordinance – First Reading

COMMENT

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

B. BUSINESS MATTERS REQUIRING FIRST READING

1. Consideration of a Budget Adjustment Ordinance for the Sewer Fund in FY23 (AF:242-2022) (Chris McCartt)
 - Ordinance – First Reading
2. Consideration of an Ordinance to Amend the FY 2023 the General Purpose School Fund and the General Project Fund Budgets (AF:288-2022) (David Frye)
 - Ordinance – First Reading

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION

1. Consideration of an Ordinance to Amend Zoning (AF:237-2022) (Ken Weems)
 - Ordinance – Second Reading and Final Adoption
2. Consideration of a Budget Adjustment Ordinance for Various Funds in FY23 (AF:241-2022) (Chris McCartt)
 - Ordinance – Second Reading and Final Adoption
3. An Ordinance to Amend the FY 2023 the General Purpose School Fund Budget (AF:248-2022) (David Frye)
 - Ordinance – Second Reading and Final Adoption
4. An Ordinance to Amend the FY 2023 the School Special Projects Fund Budget (AF:249-2022) (David Frye)
 - Ordinance – Second Reading and Final Adoption

5. An Ordinance Amending Sections 155 and 157 of Article IV, Chapter 66 of the Kingsport Code of Ordinances Regarding the Composition of the Bays Mountain Park Commission (AF:254-2022) (Michael Borders)
 - Ordinance – Second Reading and Final Adoption

D. OTHER BUSINESS

1. A Resolution Authorizing the Purchase of Two (2) 2022 Autocar ASL Refuse Trucks Utilizing Sourcewell Cooperative Purchasing Agreement (AF:275-2022) (Ryan McReynolds/Steve Leonard)
 - Resolution
2. A Resolution Authorizing the Purchase of One (1) 2022 New Holland Boom Mower Utilizing Sourcewell Cooperative Purchasing Agreement (AF:276-2022) (Ryan McReynolds/Steve Leonard)
 - Resolution
3. A Resolution Authorizing the Purchase of One (1) CAT 308 Mini Excavator from the Tennessee State Contract (AF:277-2022) (Ryan McReynolds/Steve Leonard)
 - Resolution
4. A Resolution Authorizing the Mayor to Execute a Memorandum of Understanding with Boys & Girls Club of Greater Kingsport for the Use of Available Space for Kingsport City Schools (AF:280-2022) (David Frye)
 - Resolution
5. A Resolution to Amend the Agreement with Energy Systems Group to Change the Scope of Work to Include Kingsport North Gym (AF:279-2022) (David Frye)
 - Resolution
6. A Resolution to Amend the Agreement with Cain Rash West Architects to Include the Former Sullivan North High School Gym (AF:287-2022) (David Frye)
 - Resolution
7. A Resolution to Accept a Monetary Donation for Kingsport City Schools (AF:282-2022) (David Frye)
 - Resolution
8. A Resolution to Authorize the Reimbursement of Materials Agreement Funds to Hickory Ridge, LLC, Related to the Frylee Court Development (AF:272-2022) (Ryan McReynolds)
 - Resolution
9. A Resolution to Authorize the Reimbursement of Materials Agreement Funds to HPV, Related to the Caymus Yards Development (AF:273-2022) (Ryan McReynolds)
 - Resolution

9/13/22

9/13/22

10. A Resolution Approving the Tennessee Department of Transportation Matching Funding for Grant Contract FTA031-01 for the KATS Transit Garage Construction (AF:253-2022) (Candace Sherer)
 - Resolution
11. A Resolution Authorizing the Mayor to Execute an Amendment to the Contract Between the City of Kingsport and the Tennessee Department of Environment and Conservation (TDEC) (AF:261-2022) (Ryan McReynolds)
 - Resolution
12. A Resolution Authorizing the Kingsport Economic Development Board on Behalf of the City of Kingsport to Enter into the Bidding Process for the Purchase of the Former Colonial Heights Middle School Property (AF:258-2022) (David Frye/Chris McCartt)
 - Resolution
13. A Resolution to Enter the Tennessee Consolidated Retirement System Hybrid Plan with Cost Controls as of January 1, 2023 (AF:262-2022) (Tyra Copas)
 - Resolution - Consolidated Retirement System
 - Resolution - Tax Deferred Retirement Plan
14. A Resolution to Implement the Bridge Benefit with the Tennessee Consolidated Retirement System Hybrid Plan with Cost Controls as of January 1, 2023 (AF-263-2022) (Tyra Copas)
 - Resolution
15. A Resolution Adopting an Agreement for a 401K and 457 Plan effective January 1, 2023 (AF:264-2022) (Tyra Copas)
 - Resolution - 401K
 - Resolution - 457
16. A Resolution to Approve the Purchase of Property Located at 124 Cherokee Street (AF:274-2022) (Michael Borders)
 - Resolution
17. A Resolution to Enter into a Lease with H.O.P.E. Inc. (AF:286-2022) (Michael Borders)
 - 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. A Resolution Approving a Stormwater Annual Compliance Report for TDEC (AF:281-2022) (Ryan McReynolds)
 - Resolution

Updates

2. A Resolution Authorizing the Assignment of all Employee Benefit Policies Under one Broker of Record (AF:283-2022) (Tyra Copas)
 - Resolution
3. A Resolution to Authorize the Addition of Voluntary Benefits to the City's Benefits Portfolio (AF-266-2022) (Tyra Copas)
 - Resolution – Accidental and Universal Life
 - Resolution – Critical Illness Insurance
4. A Resolution Authorizing Vacation Roll Over Exception for Calendar Year 2022 (AF:267-2022) (Tyra Copas)
 - Resolution
5. Consideration of Resolutions to Amend Personnel Policies (AF:271-2022) (Tyra Copas)
 - Resolution - Employment Verification Policy
 - Resolution - Employment Policy
 - Resolution - Personal Leave Without Pay Policy
6. Resolution Authorizing an Application for Voluntary Vision Benefits through Davis Vision (AF:284-2022) (Tyra Copas)
 - Resolution
7. A Resolution to Authorize the Mayor to Execute a Letter of Agreement with the Tennessee Department of Intellectual & Developmental Disabilities to Receive a Grant for Miracle Field (AF:290-2022) (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

Appointment to Neighborhood Advisory Commission

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

Action Form No.: AF-269-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Commission
 Presentation By: Mayor Shull

Recommendation:

Approve appointment.

Executive Summary:

It is recommended to appoint Jerry Woods to the Neighborhood Advisory Commission to fulfill the unexpired term for Shannon Morelock. If approved by the Board of Mayor and Aldermen the recommended table reflects term dates.

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

Current Commission:			
Member	Term Expires	No. of Terms	Residing Neighborhood
Anitra Little	12/31/23	1	Midtown
Alanna Leonberg	12/31/23	1	Allandale
James Johnson	12/31/22	Fulfilling unexpired terms	Fall Creek
Tammy Fannon	12/31/22		Lynn Garden
Amy Provance	12/31/22		Downtown
Jamie Jackson	12/31/22	2	Edinburgh
Shannon Morelock	12/31/23	1	Green Acres
Trey Darnell	12/31/23	1	Colonial Heights
Christie Gott	12/31/24	1	Amersham
Tiffany Hickman	12/31/24	1	Midtown
Theresa Ann Fanning	12/31/24	1	Preston Woods
Christy McMakin	12/31/24	Fulfilling unexpired term	Colonial Heights

Recommended Commission:			
Member	Term Expires	No. of Terms	Residing Neighborhood
Anitra Little	12/31/23	1	Midtown
Alanna Leonberg	12/31/23	1	Allandale
James Johnson	12/31/22	Fulfilling unexpired terms	Fall Creek
Tammy Fannon	12/31/22		Lynn Garden
Amy Provance	12/31/22		Downtown
Jamie Jackson	12/31/22	2	Edinburgh
Jerry Woods	12/31/23	Fulfilling unexpired term	Bloomingtondale
Trey Darnell	12/31/23	1	Colonial Heights
Christie Gott	12/31/24	1	Amersham
Tiffany Hickman	12/31/24	1	Midtown
Theresa Ann Fanning	12/31/24	1	Preston Woods
Christy McMakin	12/31/24	Fulfilling unexpired term	Colonial Heights

Attachments:

1. Jerry Woods. Bio

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

Jerry Woods

404 Pebble Ct. (Bloomingtondale)

703-307-6694

jwoodsutk@gmail.com

I just moved back, after 13 years away. I want to help make Kingsport a better, more accessible and attractive place by lending my perspective as a person with disabilities.

My strongest skills are organization, planning, strategy, budgeting, consensus building, and accessibility awareness.

My commission interest would be serving on the following boards: Board of Zoning & Appeals, Kingsport Higher Education, Kingsport Housing & Redevelopment Authority, Kingsport Public Library Commission, Neighborhood Commission, Parks and Recreation Advisory Committee, PETWorks, Public Art Committee, Regional Planning Committee, Senior Center Advisory Council, Visitor Enhancement Program Board

Minutes of the Regular Work Session of the
Board of Mayor and Aldermen, City of Kingsport, Tennessee
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Adrienne Batara, Public Relations Director
Michael Thompson, Public Works Director
Ken Weems, Planning Manager
Angie Marshall, City Clerk/Deputy City Recorder

1. **CALL TO ORDER:** 4:30 p.m. by Mayor Patrick W. Shull.
2. **ROLL CALL:** by Deputy City Recorder Angie Marshall. Absent: Alderman Paul Montgomery.
3. **MOVE TO KINGSFORT UPDATE.** Jeff Fleming gave a presentation on this item, providing statistics of new residents in the city. Some discussion ensued as he answered questions from the board.
4. **REVIEW OF AGENDA ITEMS ON THE AUGUST 23, 2022 REGULAR BUSINESS MEETING AGENDA.** City staff gave a summary for each item on the proposed agenda. The following items were discussed at greater length or received specific questions or concerns.

NOTE: At this time, Economic Development Director John Rose discussed items VI.D.8 and VI.D.9 in the same presentation as he provided details and benefits of a TIF. The City Manager also provided further information on these items. Considerable discussion ensued.

**Minutes of the Regular Work Session of the Board of Mayor and Aldermen of
Kingsport, Tennessee, Monday, August 22, 2022**

VI.D.8 Approve a Tax Increment Financing Amendment for the Downtown Kingsport Development District – Brickyard Village (AF: 256-2022).

VI.D.9 Approve a Tax Increment Financing Amendment for the Downtown Kingsport Development District – Centennial Project (AF: 257-2022).

NOTE: The regular agenda schedule resumed after the presentation.

VI.A.1 Public Hearing and Consideration of a Resolution to Annex and Adopt a Plan of Services for the Browder Road Annexation and Consideration of an Ordinance to Amend Zoning (AF: 237-2022). Planning Manager Ken Weems gave a presentation on this item, pointing out there had been no public objection.

VII.1 Approve the Kingsport Regional Planning Commission's Delegation of Authority to City Planning Staff for Certain Final Subdivision Plat Approval (AF: 236-2022). City Manager McCartt gave details on this item, commenting local control has been removed from cities throughout the state. Alderman Phillips expressed his disappointment, stating the city had a good process and this change has slowed down development and building in a time where it was not needed. Mayor Shull noted 2500 houses in the pipeline being disrupted.

5. ADJOURN. Seeing no other matters presented for discussion at this work session, Mayor Shull adjourned the meeting at 6:11 p.m.

ANGELA MARSHALL
Deputy City Recorder

PATRICK W. SHULL
Mayor

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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: New Vision Youth.

II.B. INVOCATION: Pastor Donna Hestor, Kingsley United Methodist Church.

III.A. ROLL CALL: By City Recorder Winkle. Absent: Alderman Paul Montgomery.

IV.A. RECOGNITIONS AND PRESENTATIONS.

1. Kingsport Axmen - 2022 Appalachian League Champions – Logan Davis (Alderman Olterman)
2. Keep Kingsport Beautiful Beautification Award – Neil Brown
3. Citizen Commendation Certificate from the Kingsport Police Department – Chief Phipps (Robert Medley, Paul Fine, Wyatt Richard)

IV.B. APPOINTMENTS/REAPPOINTMENTS.

1. Appointment to the Bays Mountain Park Commission (AF: 239-2022) (Mayor Shull).

Motion/Second: Phillips/Cooper, to approve:

APPOINTMENT OF COLETTE GEORGE TO SERVE A TWO-YEAR TERM ON THE **BAYS MOUNTAIN PARK COMMISSION** EFFECTIVE IMMEDIATELY AND EXPIRING ON JULY 31, 2024.

Passed: All present voting “aye” except George “abstaining.”

2. Appointments/Reappointments to the Senior Advisory Council (AF: 247-2022) (Mayor Shull).

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, August 23, 2022**

Motion/Second: George/Duncan, to approve:

REAPPOINTMENT OF PAT BREEDING, LAUREL MCKINNEY, BRENDA EILERS, KENN NAEGALE, RICK CURRIE, PETER SHANG AND LISA SHIPLEY AND APPOINTMENT OF XIAOLI XUE, TERRY CUNNINGHAM, LINDA FORD AND RICK VALONE TO SERVE TWO-YEAR TERMS ON THE **SENIOR ADVISORY COUNCIL**. ALL APPOINTMENTS/REAPPOINTMENTS ARE EFFECTIVE IMMEDIATELY AND EXPIRE ON SEPTEMBER 30, 2024.

Passed: All present voting “aye.”

V. APPROVAL OF MINUTES.

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

- A. August 1, 2022 Regular Work Session
- B. August 2, 2022 Regular Business Meeting

Approved: All present voting “aye.”

VI. COMMUNITY INTEREST ITEMS.

A. PUBLIC HEARINGS.

1. Public Hearing and Consideration of a Resolution to Annex and Adopt a Plan of Services for the Browder Road Annexation and Consideration of an Ordinance to Amend Zoning (AF: 237-2022) (Ken Weems).

PUBLIC COMMENT ON ITEM VI.A.1. Ms. Teri Edwards asked for clarification on the zoning change. Mr. Weems explained the county B-3 zone would now be a city R-3 zone.

Motion/Second: George/Phillips, to pass:

Resolution No. 2023-029, A RESOLUTION TO ANNEX THAT CERTAIN TERRITORY ADJOINING THE PRESENT CORPORATE BOUNDARIES OF THE CITY OF KINGSPORT, EMBRACING THAT CERTAIN PART OF THE 7th CIVIL DISTRICT OF SULLIVAN COUNTY, TENNESSEE, AND KNOWN AS THE BROWDER ROAD ANNEXATION, AS HEREINAFTER DESCRIBED; TO INCORPORATE THE SAME WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF KINGSPORT, TENNESSEE; AND TO FIX THE EFFECTIVE DATE OF THIS RESOLUTION

Passed: All present voting “aye.”

Motion/Second: Olterman/Cooper, to pass:

AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY LOCATED ALONG BROWDER ROAD FROM COUNTY B-3, GENERAL COMMERCIAL DISTRICT, TO R-3, LOW DENSITY APARTMENT DISTRICT IN THE 7TH 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 first reading: All present voting “aye.”

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, August 23, 2022**

Motion/Second: George/Olterman, to pass:

Resolution No. 2023-030, A RESOLUTION ADOPTING A PLAN OF SERVICES FOR THE BROWDER ROAD ANNEXATION OF THE CITY OF KINGSFORT, TENNESSEE

Passed: All present voting “aye.”

PUBLIC COMMENT. Mayor Shull invited citizens to speak on remaining agenda items. With no one coming forward to speak, the Mayor closed the public comment segment.

B. BUSINESS MATTERS REQUIRING FIRST READING.

1. Budget Adjustment for Various Funds in FY23 (AF: 241-2022)
(Chris McCartt).

Motion/Second: Duncan/George, to pass:

AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR THE YEAR ENDING JUNE 30, 2023; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

2. Amend the FY23 General Purpose School Fund Budget (AF: 248-2022) (David Frye).

Motion/Second: Phillips/Cooper, to pass:

AN ORDINANCE TO AMEND THE GENERAL PURPOSE SCHOOL FUND FOR THE FISCAL YEAR ENDING JUNE 30, 2023; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

3. Amend the FY23 School Special Projects Fund Budget (AF: 249-2022) (David Frye).

Motion/Second: Olterman/Duncan, to pass:

AN ORDINANCE TO AMEND THE FY 2023 SCHOOL SPECIAL PROJECTS FUND BUDGET; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

4. Amend Sections 155 and 157 of Article IV, Chapter 66 of the Kingsport Code of Ordinances Regarding the Composition of Bays Mountain Park Commission (AF: 254-2022) (Michael Borders).

Motion/Second: Duncan/Olterman, to pass:

AN ORDINANCE TO AMEND SECTIONS 155 AND 157 OF ARTICLE IV, CHAPTER 66 OF THE CODE OF ORDINANCES, CITY OF KINGSFORT, TENNESSEE, RELATING TO THE BAYS MOUNTAIN PARK COMMISSION; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, August 23, 2022**

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION.

1. Budget Adjustment Ordinance for Various Funds in FY22 (AF: 229-2022) (Chris McCartt).

Motion/Second: George/Phillips, to pass:

ORDINANCE NO. 7035, AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR THE YEAR ENDING JUNE 30, 2022; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on second reading in a roll call vote: Cooper, Duncan, George, Olterman, Phillips and Shull voting “aye.”

2. Budget Adjustment Ordinance for Various Funds in FY23 (AF: 230-2022) (Chris McCartt).

Motion/Second: George/Duncan, to pass:

ORDINANCE NO. 7036, AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR THE YEAR ENDING JUNE 30, 2023; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on second reading in a roll call vote: Cooper, Duncan, George, Olterman, Phillips and Shull voting “aye.”

D. OTHER BUSINESS.

1. Authorize the Purchase of One (1) T870 Bobcat Track Loader Utilizing Sourcewell Cooperative Purchasing Agreement (AF: 240-2022) (Ryan McReynolds).

Motion/Second: Olterman/George, to pass:

Resolution No. 2023-031, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO BOBCAT OF THE MOUNTAIN EMPIRE UTILIZING SOURCEWELL COOPERATIVE PURCHASING AGREEMENT NO. 040319-CEC FOR A BOBCAT TRACK LOADER FOR USE BY THE STREETS MAINTENANCE DEPARTMENT

Passed: All present voting “aye.”

2. Purchase Ammunition for the Kingsport Police Department from the Tennessee State Contract (AF: 246-2022) (Chief Phipps)

Motion/Second: George/Olterman, to pass:

Resolution No. 2023-032, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR AMMUNITION FROM GULF STATES DISTRIBUTORS UTILIZING TENNESSEE STATE CONTRACT SWC331/55311 FOR THE KINGSFORT POLICE DEPARTMENT

Passed: All present voting “aye.”

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, August 23, 2022**

**3. Bid Award for the Jefferson Elementary School HVAC Project to
S.B. White Company, Inc. (AF: 252-2022) (David Frye).**

Motion/Second: Duncan/Olterman, to pass:

Resolution No. 2023-033, A RESOLUTION AWARDDING THE BID FOR THE JEFFERSON ELEMENTARY SCHOOL HVAC REPLACEMENT PROJECT TO S.B. WHITE COMPANY, INC., AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

**4. Approve a Facilities Use Agreement with TNT Sportsplex for
Kingsport City Schools and Authorize the Mayor to Execute the Agreement (AF:
244-2022) (David Frye).**

Motion/Second: George/Cooper, to pass:

Resolution No. 2023-034, A RESOLUTION TO APPROVE A FACILITY USE AGREEMENT WITH TNT PROPERTIES, LLC D/B/A TNT SPORTSPLEX FOR KINGSFORT CITY SCHOOLS AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ANY OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

**5. Amendment to the Central Technologies Agreement for the KCS
Surveillance Camera Project (AF: 243-2022) (David Frye).**

Motion/Second: Phillips/Cooper, to pass:

Resolution No. 2023-035, A RESOLUTION TO AMEND THE AGREEMENT WITH CENTRAL TECHNOLOGIES, INC., FOR THE KINGSFORT CITY SCHOOLS SURVEILLANCE CAMERA SYSTEM UPDATE PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY DOCUMENTS

Passed: All present voting "aye."

**6. Approve Agreement with Environmental Systems Research
Institute (ESRI) for GIS Mapping Software (AF: 250-2022) (Ryan McReynolds).**

Motion/Second: Duncan/George, to pass:

Resolution No. 2023-036, A RESOLUTION APPROVING AN AGREEMENT WITH ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE FOR GIS MAPPING SOFTWARE AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, August 23, 2022**

7. Bid Award for Purchase of Road Salt for FY23 (AF: 251-2022)
(Ryan McReynolds).

Motion/Second: George/Phillips, to pass:

Resolution No. 2023-037, A RESOLUTION AWARDING THE BID FOR THE PURCHASE OF ROAD SALT TO COMPASS MINERALS AMERICA, INC., AS A PRIMARY SOURCE AND FROM THE STATE CONTRACT VENDOR, AS A SECONDARY SOURCE; AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME

Passed: All present voting “aye.”

8. Approve a Tax Increment Financing Amendment for the Downtown Kingsport Development District – Brickyard Village (AF: 256-2022) (Chris McCartt). The City Manager gave a presentation on this and the following item. Some discussion followed.

Motion/Second: Phillips/George, to pass:

Resolution No. 2023-038, A RESOLUTION APPROVING A TAX INCREMENT FINANCING AMENDMENT FOR THE DOWNTOWN KINGSFORT REDEVELOPMENT DISTRICT – BRICKYARD VILLAGE PROJECT

Passed: All present voting “aye.”

9. Approve a Tax Increment Financing Amendment for the Downtown Kingsport Development District – Centennial Project (AF: 257-2022) (Chris McCartt).

Motion/Second: Olterman/Duncan, to pass:

Resolution No. 2023-039, A RESOLUTION APPROVING A TAX INCREMENT FINANCING AGREEMENT AMENDMENT FOR THE DOWNTOWN KINGSFORT REDEVELOPMENT DISTRICT- CENTENNIAL ROW PROJECT

Passed: All present voting “aye.”

10. Authorize City Manager to Purchase Six Trane HVAC Units Utilizing the OMNIA Partners Trane Contract (AF: 260-2022) (David Frye).

Motion/Second: Olterman/Duncan, to pass:

Resolution No. 2023-040, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER WITH TRANE FOR SIX HVAC UNITS

Passed: All present voting “aye.”

VII. CONSENT AGENDA.

(These items are generally considered under one motion. Vice-Mayor George asked for Item VII.1 to be pulled from the consent for further discussion before a separate vote was taken.)

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, August 23, 2022**

1. Approve the Kingsport Regional Planning Commission's Delegation of Authority to City Planning Staff for Certain Final Subdivision Plat Approval (AF: 236-2022) (Ken Weems).

Motion/Second: Olterman/Duncan, to adopt:

Resolution No. 2023-041, A RESOLUTION APPROVING THE DELEGATION OF AUTHORITY BY THE KINGSPORT REGIONAL PLANNING COMMISSION TO CITY PLANNING STAFF FOR CERTAIN FINAL SUBDIVISION PLAT APPROVAL

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

(NOTE: The following three items were considered under one motion.)

Motion/Second: George/Olterman, to adopt:

2. Approve Submittal of a BlueCross BlueShield Healthy Place Grant Application (AF: 233-2022) (Michael Borders).

Resolution No. 2023-042, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR A BLUECROSS BLUESHIELD HEALTHY PLACE GRANT FROM THE BLUECROSS BLUESHIELD OF TENNESSEE FOUNDATION

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

3. Enter into a Lease with the Kingsport Theatre Guild (AF: 255-2022) (Michael Borders).

Resolution No. 2023-043, A RESOLUTION APPROVING A LEASE AGREEMENT WITH THE KINGSPORT THEATER GUILD FOR SPACE AT THE RENAISSANCE CENTER AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

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

4. Rescind the Award of Mowing & Trimming of Various Locations to Phillips Landscaping (AF: 245-2022) (Ryan McReynolds).

Resolution No. 2023-044, A RESOLUTION RESCINDING THE AWARD OF BID FOR THE MOWING AND TRIMMING OF VARIOUS LOCATIONS THAT WAS AWARDED TO PHILLIPS LANDSCAPING

Passed in a roll call vote: 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, August 23, 2022**

VIII. COMMUNICATIONS.

A. CITY MANAGER. Mr. McCartt commented on the great event at the Netherland Inn last Saturday as well as the good turnout to view the Braves trophy at the Farmers Market. He also remarked on the downtown enhancements as well as the Main Street rebuild representing 25 years of growth and its impact. He stated his appreciation for the work of the BMA.

B. MAYOR AND BOARD MEMBERS. Alderman Phillips agreed with the City Manager's comments, noting he was excited about the projects and that some of it is being completed by local businesses. Alderman Olterman commented on the DB football game, noting he had already congratulated Coach Christian earlier today. Alderman Duncan congratulated Alderman Phillips on his new apartment complex. He also mentioned Jeff Fleming's presentation at the work session yesterday that depicted steady growth as well as the changes that will result from the two TIFs that were passed. Lastly he talked about upcoming shows at Lamplight Theatre. Alderman Cooper mentioned the football game, pointing out she spoke with Dr. Hampton who asked her to thank staff for stepping up in light of the recent dome closing to reschedule events at the civic to allow the school to use that facility. She also commented the theatre and encouraged everyone to visit. She also pointed out she met with the DKA earlier today stating there were many things happening and listed upcoming events through the Christmas season. Lastly she recognized the fire department for saving a dog involved in a car wreck and other non-traditional rescue duties they perform. Vice-Mayor George commented on the many projects that began in February of 2020 that were held up by the pandemic that are now making progress again. Mayor Shull the Chief Phipps and the Times News for providing a forum on crime is reported. He mentioned the bicentennial event thanking staff and volunteers who coordinated it. He also provided details on the city's vibrant history involving two charters. The pointed out upcoming events at Exchange Place and the downtown Folk Festival.

C. VISITORS. None.

IX. ADJOURN. Seeing no other business for consideration at this meeting, Mayor Shull adjourned the meeting at 8:30 p.m.

ANGELA MARSHALL
Deputy City Recorder

PATRICK W. SHULL
Mayor



AGENDA ACTION FORM

Amend Zoning of Tax Map 022, Parcel 036.10 and a Portion of Parcel 036.06 Located Along University Boulevard from the R-3, Low Density Apartment District and B-3, Highway Oriented Business District to the R-4, Medium Density Apartment District

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

Action Form No.: AF-270-2022
 Work Session: September 12, 2022
 First Reading: September 13, 2022

Final Adoption: October 4, 2022
 Staff Work By: Ken Weems
 Presentation By: K. Weems

Recommendation:

- Hold public hearing
- Approve ordinance amending the zoning ordinance to rezone Tax Map 022, Parcel 036.10 and a portion of Parcel 036.06 located along University Boulevard from the R-3, Low Density Apartment District and B-3, Highway Oriented Business District to the R-4, Medium Density Apartment District.

Executive Summary:

This is an owner-requested rezoning of approximately 16.1 acres located along University Boulevard from the R-3 and B-3 zones to the R-4 zone. The purpose of the rezoning is to facilitate development of an additional 198 apartment units on the property. Citizen concern pertaining to potential traffic impacts, increased crime, and visibility of the project was received from 3 adjacent residents during planning commission consideration of the request. During their August 2022 regular meeting, the Kingsport Regional Planning Commission voted to send a favorable recommendation to rezone the property to the Board of Mayor and Aldermen by a vote of 6-0. The notice of public hearing was published on August 29, 2022.

Attachments:

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

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: *gm*

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

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN to all citizens of the City of Kingsport, Tennessee, to all persons interested, and the public at large that the City of Kingsport Board of Mayor and Aldermen will conduct a Public Hearing during its regular business meeting on September 13, 2022 to consider the rezoning for Tax Map 022, parcel 036.10 and a portion of parcel 036.06 located along University Boulevard from the R-3 and B-3 districts to the R-4 district. The regular business meeting will begin at 7:00 p.m. in the Board Room located on the third floor of City Hall, 415 Broad Street, Kingsport, Tennessee.

The property proposed for rezoning is generally described as follows:

Tract 1 (Parcel 036.10; R-3 Portion):

Beginning at a point, said point being on the easterly right-of-way of University Boulevard and the westerly common corner of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.10; thence in a northerly direction along said right-of-way for a distance of approximately 711.4 feet to a point, said pointing being the southeasterly corner of the intersection of University Boulevard and Bellingham Drive; thence along the southerly right-of-way of Bellingham Drive for a distance of approximately 682.5 feet to a point; said point being the shared property corner of Hawkins County, Tennessee tax parcels 022 036.10 and 022 036.12; thence S 21° 48' 43" E for a distance of 627.74' to a point; thence S 72° 54' 24" W for a distance of 699.75 feet to a point, said point being the point of beginning.

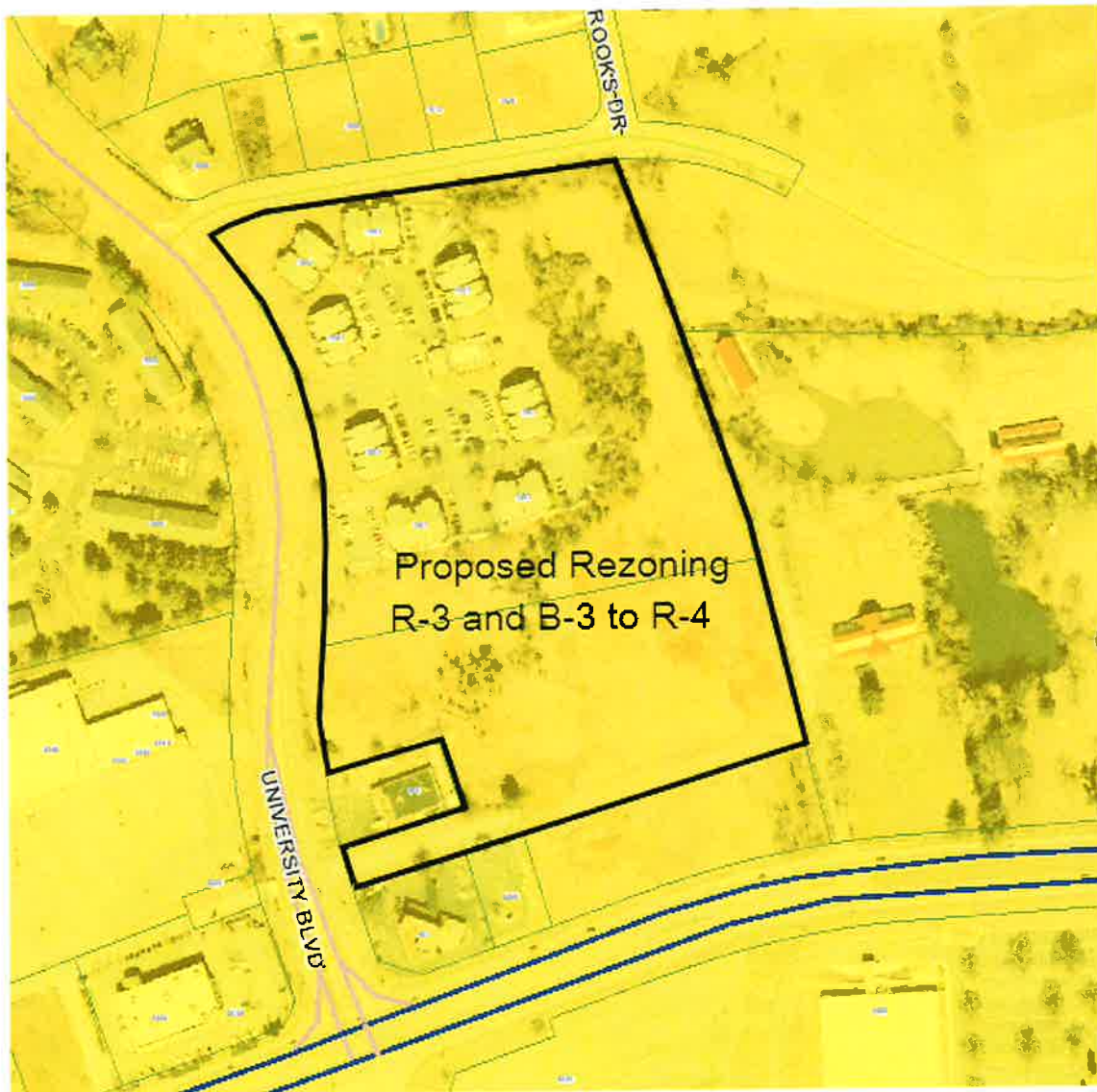
Tract 2 (a Portion of Parcel 036.06; B-3 Portion):

Beginning at a point, said point being on the easterly right-of-way of University Boulevard and the westerly common corner of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.10; thence S 72° 54' 24" W for a distance of 699.75 feet to a point; thence S 16° 23' 22"E for a distance of 565.07 feet to a point, said point being on the northerly right-of-way of West Stone Drive – Highway 11W; thence in a westerly direction along said right-of-way line for a distance of approximately 313.57 feet to a point; thence N 21° 41' 39" W for a distance of approximately 179.97 feet to a point; thence S 68° 16' 29" W for a distance of approximately 99.69 feet along the common divisional lines of Hawkins County tax parcels 022 036.06 and 022 036.08; thence S 68° 16' 20" W for a distance of approximately 174.41 feet along the common divisional lines of Hawkins County, Tennessee tax parcels 022 036.06 and 022 031.00 to a point, said point being on the easterly right-of-way line of University Boulevard; thence in a northerly direction along said right-of-way line for a distance of approximately 71.36 feet to a point; thence N 68° 13' 17" E for a distance of approximately 210.44 feet along the common divisional line of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.02; thence N 21° 44' 18" W for a distance of approximately 119.61 feet along the common divisional line of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.02; thence S 68° 15' 25" W for a distance of approximately 186.65 feet along the common divisional line of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.02 to a point on the easterly right-of way of University Boulevard; thence N 01° 58' 47" E for a distance of approximately 99.92 feet along said right-of-way line to a point, said point being the point of beginning.

All interested persons are invited to attend this meeting and public hearing. A detailed map and description is on file in the offices of the City Clerk, Public Library, and Planning Manager for inspection. Additional information concerning this proposal may be obtained by contacting the Kingsport Planning Division of the Development Services Department, telephone 423-229-9368.

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

CITY OF KINGSPORT
Angie Marshall, City Clerk
PIT: 8/29/2022



PRE-FILED
CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY LOCATED ALONG UNIVERSITY BOULEVARD FROM THE R-3 AND B-3 DISTRICTS TO THE R-4, MEDIUM DENSITY APARTMENT DISTRICT IN THE 1ST CIVIL DISTRICT OF HAWKINS COUNTY; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the zoning code, text, and map, be and the same is hereby further amended to rezone property located along University Boulevard from the R-3, Low Density Apartment District and B-3, Highway Oriented Business District to the R-4, Medium Density Apartment District in the 1st Civil District of Hawkins County; said area to be rezoned being further and more particularly described as follows:

Tract 1 (Parcel 036.10; R-3 Portion):

Beginning at a point, said point being on the easterly right-of-way of University Boulevard and the westerly common corner of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.10; thence in a northerly direction along said right-of-way for a distance of approximately 711.4 feet to a point, said pointing being the southeasterly corner of the intersection of University Boulevard and Bellingham Drive; thence along the southerly right-of-way of Bellingham Drive for a distance of approximately 682.5 feet to a point; said point being the shared property corner of Hawkins County, Tennessee tax parcels 022 036.10 and 022 036.12; thence S 21° 48' 43" E for a distance of 627.74' to a point; thence S 72° 54' 24" W for a distance of 699.75 feet to a point, said point being the point of beginning.

Tract 2 (a Portion of Parcel 036.06; B-3 Portion):

Beginning at a point, said point being on the easterly right-of-way of University Boulevard and the westerly common corner of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.10; thence S 72° 54' 24" W for a distance of 699.75 feet to a point; thence S 16° 23' 22" E for a distance of 565.07 feet to a point, said point being on the northerly right-of-way of West Stone Drive – Highway 11W; thence in a westerly direction along said right-of-way line for a distance of approximately 313.57 feet to a point; thence N 21° 41' 39" W for a distance of approximately 179.97 feet to a point; thence S 68° 16' 29" W for a distance of approximately 99.69 feet along the

common divisional lines of Hawkins County tax parcels 022 036.06 and 022 036.08; thence S 68° 16' 20" W for a distance of approximately 174.41 feet along the common divisional lines of Hawkins County, Tennessee tax parcels 022 036.06 and 022 031.00 to a point, said point being on the easterly right-of-way line of University Boulevard; thence in a northerly direction along said right-of-way line for a distance of approximately 71.36 feet to a point; thence N 68° 13' 17" E for a distance of approximately 210.44 feet along the common divisional line of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.02; thence N 21° 44' 18" W for a distance of approximately 119.61 feet along the common divisional line of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.02; thence S 68° 15' 25" W for a distance of approximately 186.65 feet along the common divisional line of Hawkins County, Tennessee tax parcels 022 036.06 and 022 036.02 to a point on the easterly right-of way of University Boulevard; thence N 01° 58' 47" E for a distance of approximately 99.92 feet along said right-of-way line to a point, said point being the point of beginning.

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

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

PATRICK W. SHULL
Mayor

ATTEST:

ANGELA MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III
City Attorney

PASSED ON 1ST READING _____

PASSED ON 2ND READING _____

Kingsport Regional Planning Commission
Rezoning Report

File: REZONE22-0200

University Boulevard Rezoning

Property Information			
Address	1401 University Blvd and parcel 036.06 along W Stone Dr.		
Tax Map, Group, Parcel	Map 022, Parcels 036.10 and 036.06		
Civil District	1		
Overlay District	n/a		
Land Use Designation	Multi-Family and Retail/Commercial		
Acres	16.1 +/-		
Existing Use	Apartments and vacant land	Existing Zoning	R-3 and B-3
Proposed Use	198 additional apartment units	Proposed Zoning	R-4
Owner /Applicant Information			
Name: Stone Road QOZB LLC Address: 3203 McKinney Ave City: Dallas State: TX Zip Code: 75204 Phone: not available		Intent: <i>To rezone from R-3 and B-3 to R-4 for the purpose of constructing additional apartment buildings on the property.</i>	
Planning Department Recommendation			
<p>The Kingsport Planning Division recommends sending a POSITIVE recommendation to the Kingsport Board of Mayor and Aldermen for the following reasons:</p> <p><i>The rezoning site is identified as appropriate for both multi-family and commercial use in the 2030 Future Land Use Plan. The R-4 zone will raise the allowable residential unit density of the site to 20 du/a as compared to the current maximum of 15 du/a. The existing B-3 commercial zone along the southern boundary of the rezoning site is being shifted closer to W. Stone Dr.</i></p> <p><i>The submitted conceptual site plan demonstrates adherence to the R-4 zone standards.</i></p> <p>Staff Field Notes and General Comments:</p> <p><i>The site is very well buffered from all surrounding streets and properties by dense vegetation.</i></p> <p><i>The remaining frontage of the southern parcel outside the scope of the rezoning effort will remain the B-3 zone which is most appropriate for the W. Stone Dr. frontage.</i></p> <p><i>The site is very well buffered from all surrounding streets and properties by dense vegetation.</i></p>			
Planner:	Ken Weems	Date:	August 12, 2022
Planning Commission Action		Meeting Date:	August 18, 2022
Approval:			
Denial:		Reason for Denial:	
Deferred:		Reason for Deferral:	

PROPERTY INFORMATION

ADDRESS	1401 University Blvd
DISTRICT	1
OVERLAY DISTRICT	n/a
EXISTING ZONING	R-3 (Low Density Apartment) and B-3 (Highway Oriented Business)
PROPOSED ZONING	R-4 (Medium Density Apartment)
ACRES	16.1 +/-
EXISTING USE	existing Bradley Hills Apartments and vacant land
PROPOSED USE	additional apartment buildings

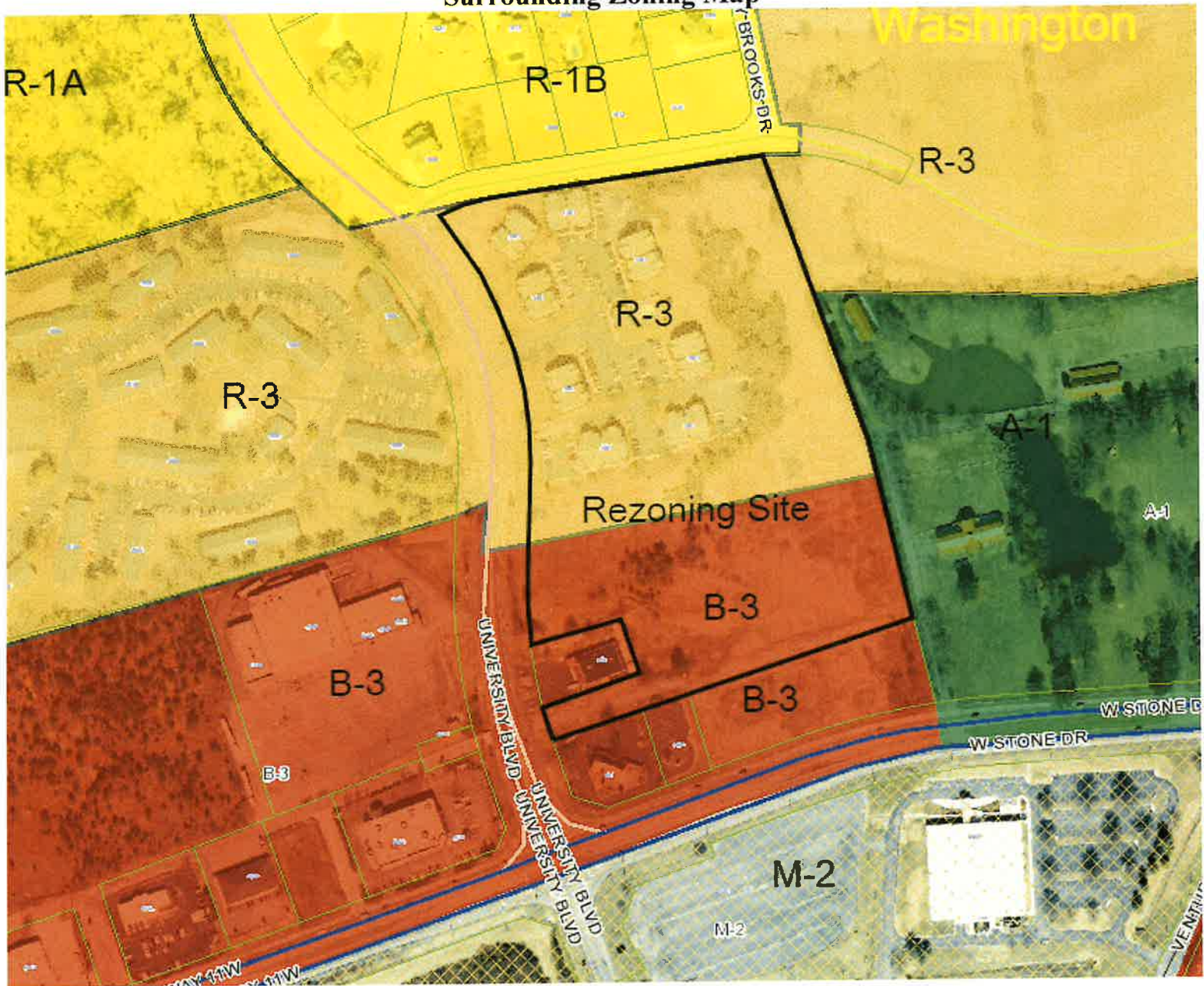
INTENT

To rezone from R-3 and B-3 to R-4 for the purpose of constructing additional apartment buildings on the property.

Vicinity Map



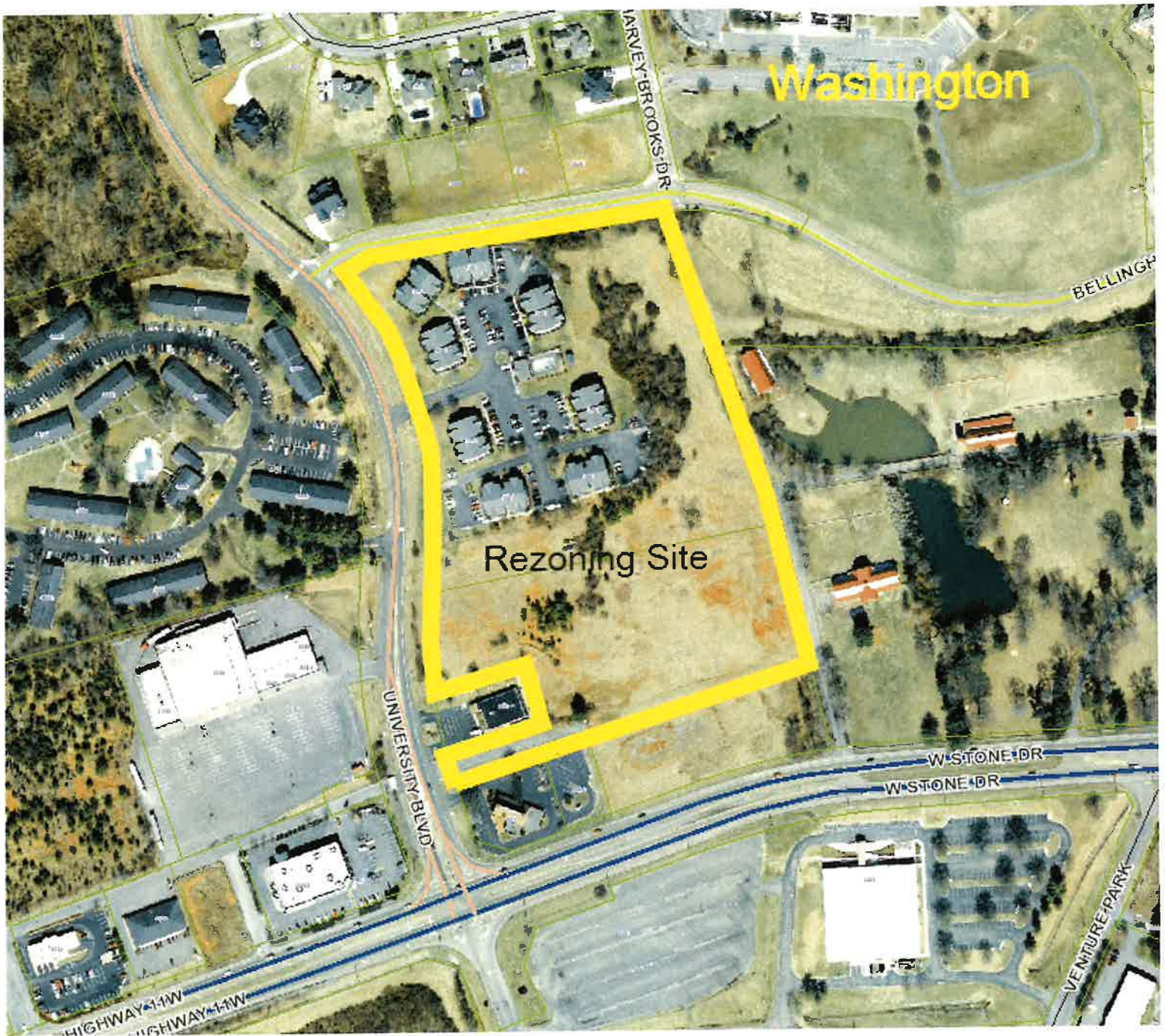
Surrounding Zoning Map



Future Land Use Plan 2030
Designation: Multi-Family and Retail/Commercial



Aerial



View Toward Allandale from the End of the Existing Driveway



View Toward W. Stone Drive from the Rezoning Site



**View Toward Existing Bradley Hills Apartments from the Intersection of
University Boulevard and Bellingham Drive**



Existing Zoning/ Land Use Table

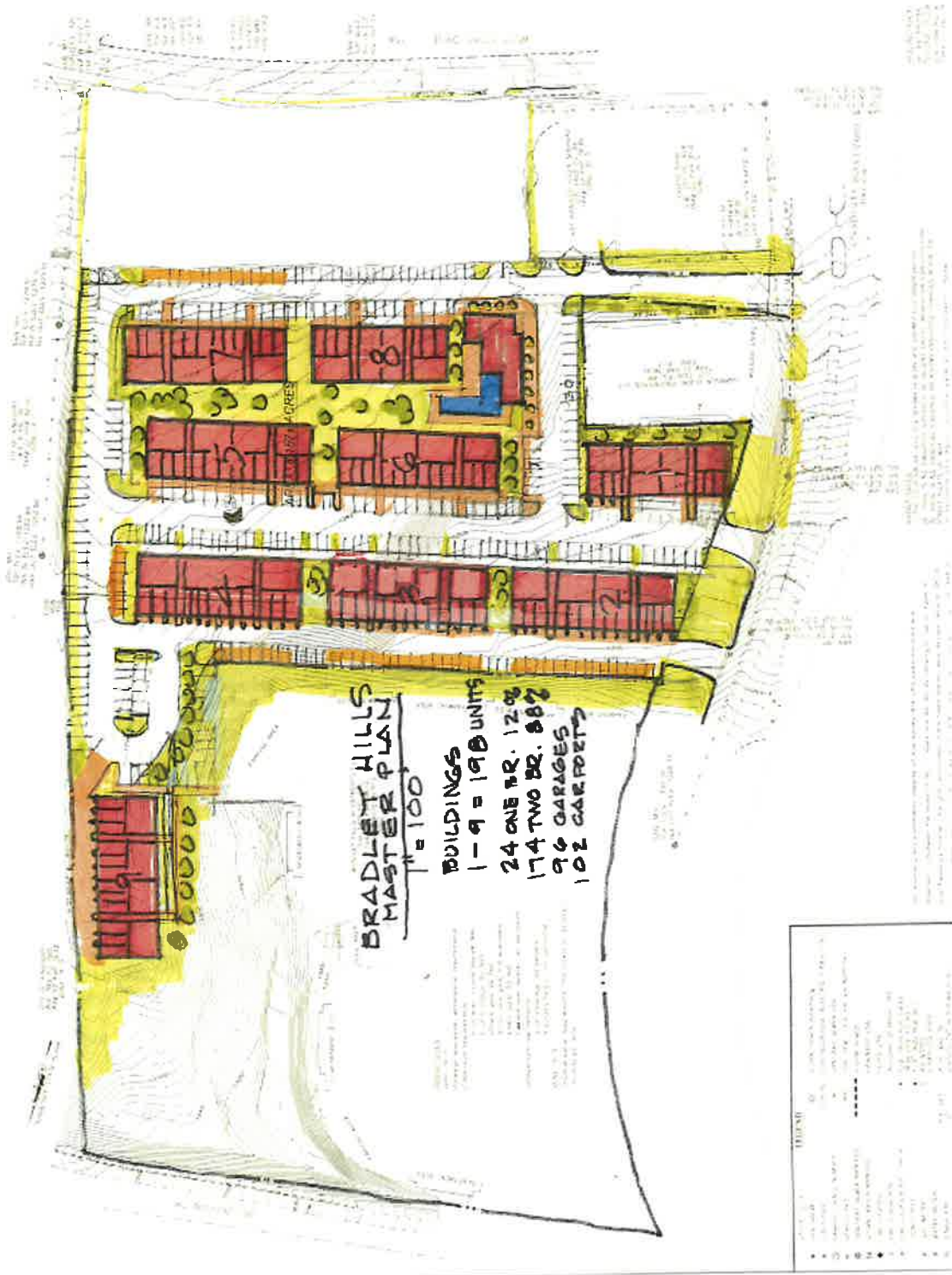


Location	Parcel / Zoning Petition	Zoning / Use	History Zoning Action Variance Action
North, East, Northwest	1	<u>Zone: R-1A</u> <u>Use: vacant</u>	n/a
Further North and Northwest	2	<u>Zone: City R-1B</u> <u>Use: single family residential</u>	n/a

Kingsport Regional Planning Commission**Rezoning Report****File: REZONE22-0200**

East	3	<u>Zone: City R-3</u> <u>Use: public elementary school</u>	n/a
Further East	4	<u>Zone: City A-1</u> Use: Allandale Mansion	n/a
Southeast and South	5	<u>Zone: City M-2</u> Use: HAAP	n/a
Further South	6	<u>Zone: City B-3</u> Use: financial services	n/a
West	7	<u>Zone: County R-3 and B-3</u> <u>Use: apartments and shopping center</u>	n/a

Kingsport Regional Planning Commission
 Rezoning Report File: REZONE22-0200
 Conceptual Site Plan



Conceptual Elevation



REEPOINT

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BUILDING 1

SCALE: 1/16"=1'-0"

SCHAUMBURG
ARCHITECTS

417 W. DUGGITY AVE., SUITE 100, KINGSPORT, TX 77603
TEL: (409) 238-0077 FAX: (409) 238-7776

Standards of Review

Staff shall, with respect to each zoning application, investigate and make a recommendation with respect to factors 1 through 7, below, as well as any other factors it may find relevant.

- 1. Whether or not the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property?** The proposal would permit a use that is suitable to accommodating the future land use plan and an appropriate addition to the existing apartments at the site.
- 2. Whether or not the proposal will adversely affect the existing use or usability of adjacent or nearby property?** The proposal should not adversely affect the existing use or usability of adjacent or nearby property. The same use of multi-family residential already exists on the site.
- 3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned?** The property to be affected by the proposal does have a

reasonable economic use as currently zoned. The proposed use will shift the commercial only closer to W Stone Drive and afford more residential unit density for a site that it is appropriate for.

4. **Whether the proposal is in conformity with the policies and intent of the land use plan?** The proposal substantially conforms to the 2030 future land use plan.

Use: an additional 198 apartment units

The Future Land Use Plan Map recommends multi-family and retail/commercial

5. **Whether there are other existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal?** The existing conditions of the property, to include adjacent location to a major highway, provide supporting grounds to approve the rezoning effort.
6. **Whether the present district boundaries are illogically drawn in relation to existing conditions?** The present district boundaries are logically drawn in relation to the existing conditions. The proposed district boundaries are logically drawn relative to existing conditions as well.
7. **Whether the change will create an isolated district unrelated to similar districts:** The proposed R-4 zone is substantially similar to the existing/surrounding R-3 zones, B-3 zones, and the City Park of Allandale.

CONCLUSION

Staff recommends sending a POSITIVE recommendation to the Board of Mayor and Aldermen to rezone from R-3 and B-3 to R-4. The proposal conforms to the future land use plan and adds residential density to an appropriate multi-family land use area.



AGENDA ACTION FORM

Consideration of a Budget Adjustment Ordinance for the Sewer Fund in FY23

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

Action Form No.: AF-242-2022
 Work Session: September 12, 2022
 First Reading: September 13, 2022

Final Adoption: October 4, 2022
 Staff Work By: John Morris
 Presentation By: C. McCartt

Recommendation:

Approve the ordinance.

Executive Summary:

The Sewer Fund budget is being amended by transferring \$250,000.00 from the Professional/Consultant line (412-5001-5001-501.20-20) and \$150,000.00 from the Operating Supplies and Tool line (412-5003-501.30-20) to the Depreciation line (412-5006-501.40-20) in the amount of \$400,000.00. This amendment was requested by the Director of the Division of Local Government Finance.

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: *aw*

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

ORDINANCE NO.

PRE-FILED
CITY RECORDER

AN ORDINANCE TO AMEND THE SEWER FUND BUDGET FOR
THE YEAR ENDING JUNE 30, 2023; AND, TO FIX THE
EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the Sewer Fund budget be amended by transferring \$250,000 from the Professional/Consultant line (412-5001-501.20-20) and \$150,000 from the Operating Supplies & Tool line (412-5003-501.30-20) to the Depreciation line (412-5006-501.40-20) in the amount of \$400,000.

Account Number/Description:

Sewer Fund: 412

Expenditures:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
412-5001-501.20-20 Professional/Consultant	500,000	(250,000)	250,000
412-5003-501.30-20 Operating Supplies & Tool	650,000	(150,000)	500,000
412-5006-501.40-20 Depreciation	0	400,000	400,000
Total:	1,150,000	0	1,150,000

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

PATRICK W. SHULL, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

PASSED ON 1ST READING:

PASSED ON 2ND READING:



AGENDA ACTION FORM

Consideration of an Ordinance to Amend the FY 2023 the General Purpose School Fund and the General Project Fund Budgets

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

Action Form No.: AF-288-2022
 Work Session: September 12, 2022
 First Reading: September 13, 2022

Final Adoption: September 16, 2022
 Staff Work By: David Frye
 Presentation By: D. Frye

Recommendation:

Approve the ordinance.

Executive Summary:

The Board of Education approved fiscal year 2032 budget amendment number three at their meeting on September 13, 2022. This amendment increases the General Purpose School Fund budget by \$4,526,599.00. The estimated revenue for Other Local Revenues is being increased by \$100,000.00. These funds are from an anonymous donation to assist with replacement of the basketball court at the former Sullivan North High School. The estimated revenue for Fund Balance Appropriations is being increased by \$4,426,599.00 to fund the renovations of the gym facilities and the former Sullivan North High School and to fund the potential purchase of Colonial Heights Middle School. The appropriations for Land Purchase is being increased by \$2,250,000.00 and Fund Transfers is being increased by \$2,276,599.00. The General Project Fund budget is being increased by \$2,276,599.00. These funds will provide funding for the renovations to the gym facilities at the former Sullivan North High School. City bond funds will be transferred from the Sullivan North Renovation project to the Dobyns-Bennett Renovation project. This will provide funding for the immediate shoring of the Dobyns-Bennett Dome, as well as future dome, pool, and other renovation work.

Attachments:

1. Ordinance
2. BOE Budget Amendment Number Three – FY 2023

Funding source appropriate and funds are available: *PM*

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PURPOSE
SCHOOL FUND AND GENERAL PROJECT FUND BUDGETS
FOR THE FISCAL YEAR ENDING JUNE 30, 2023; AND TO FIX
THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Purpose School Fund Budget be amended by increasing the estimated revenue for Other Local Revenue by \$100,000 and the estimated revenue for Fund Balance Appropriations by \$4,426,599. The expenditure budget will be amended by increasing the appropriations Land Purchase by \$2,250,000 and for Fund Transfers by \$2,276,599. The General Project Fund Budget will be amended by increasing the estimated revenues and appropriations for the Dobyns-Bennett Renovation project (GP2111) by \$7,364,452 and by decreasing the estimated revenues and appropriations for the Sullivan North Renovation project (GP1733) by \$5,087,853.

Fund 141: General Purpose School Fund

<u>Revenues:</u>	\$	\$	\$
141-0000-369-4990 Other Local Revenue	700,000	100,000	800,000
141-0000-392-0100 Fund Balance Appropriations	1,467,034	4,426,599	5,893,633
Totals	2,167,034	4,526,599	6,693,633

<u>Expenditures:</u>	\$	\$	\$
141-7650-871-0715 Land Purchase	0	2,250,000	2,250,000
141-7950-881-0590 Fund Transfers	910,400	2,276,599	3,186,599
Totals	910,400	4,526,599	5,436,999

Fund 311: General Project Fund

Sullivan North Renovation Project (GP1733)

<u>Revenues:</u>	\$	\$	\$
311-0000-361-1050 School Bond Interest	679,792	0	679,792
311-0000-368-1051 G O Bonds Series 2015	25,000	(25,000)	0
311-0000-368-1054 G O Bonds Series 2016	193,621	(193,621)	0
311-0000-368-1056 G O Bonds Series 2018	69,799	(69,799)	0
311-0000-368-1066 G O Bonds Series 2019	927,267	(927,267)	0
311-0000-368-1069 G O Bonds Series 2021	5,523,000	(5,523,000)	0
311-0000-368-2101 Premium on Bond Sale	625,765	(625,765)	0
311-0000-391-2100 Transfer from School Fund	0	2,276,599	2,276,599
311-0000-391-2150 Sullivan Co School Bonds	2,365,050	0	2,365,050
Total:	10,409,294	(5,087,853)	5,321,441

Expenditures:

	\$	\$	\$
311-0000-601-2022 Construction Contracts	8,026,212	(4,029,771)	3,996,441
311-0000-601-2023 Architect/Engineering Serv	1,482,050	(157,050)	1,325,000
311-0000-601-4041 Bond Sale Expense	76,032	(76,032)	0
311-0000-601-9004 Equipment	825,000	(825,000)	0
Total:	10,409,294	(5,087,853)	5,321,441

Dobyns-Bennett Renovation Project (GP2111)**Revenues:**

	\$	\$	\$
311-0000-368-1051 G O Bonds Series 2015	0	25,000	25,000
311-0000-368-1054 G O Bonds Series 2016	0	193,621	193,621
311-0000-368-1056 G O Bonds Series 2018	0	69,799	69,799
311-0000-368-1066 G O Bonds Series 2019	0	927,267	927,267
311-0000-368-1069 G O Bonds Series 2021	0	5,523,000	5,523,000
311-0000-368-2101 Premium on Bond Sale	0	625,765	625,765
311-0000-391-2100 Transfer from School Fund	441,870	0	441,870
Total:	441,870	7,364,452	7,806,322

Expenditures:

	\$	\$	\$
311-0000-601-2022 Construction Contracts	0	7,288,420	7,288,420
311-0000-601-2023 Architect/Engineering Serv	441,870	0	441,870
311-0000-601-4041 Bond Sale Expense	0	76,032	76,032
Total:	441,870	7,364,452	7,806,322

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

PATRICK W. SHULL, Mayor

ATTEST:

APPROVED AS TO FORM:

ANGELA MARSHAL, Deputy City Recorder

RODNEY B. ROWLETT, III, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____

September 13, 2022

KINGSPORT CITY SCHOOLS
FISCAL YEAR 2022-2023
BUDGET AMENDMENT NUMBER THREE

GENERAL PURPOSE SCHOOL FUNDS

ITEM ONE: DONATION

Kingsport City Schools has been approached by an individual that desires to make an anonymous donation to assist with the cost of replacing basketball court at the former Sullivan North High School gym. A preliminary estimate for this cost is \$250,000 to \$300,000. The amount of the donation is \$100,000.

It is recommended that the estimated revenue for Other Local Revenue and the appropriation for Fund Transfers be increased by \$100,000. It is further recommended that these funds be transferred to the Former Sullivan North Renovation Project.

ITEM TWO: POTENTIAL PURCHASE OF COLONIAL HEIGHTS MIDDLE SCHOOL

The Board of Education recently authorized the purchase of the old Colonial Heights Middle School property. The Board action authorized using \$2,250,000 of the Unreserved Fund Balance for this potential purchase.

It is recommended that the estimated revenue for Fund Balance Appropriations* and the appropriation for Land Purchase be increased by \$2,250,000.

ITEM THREE: RENOVATION OF FORMER SULLIVAN NORTH GYM

With the closing of the Dobyns-Bennett Dome for the foreseeable future plans, are being made to utilize the former Sullivan North gym area for some of Dobyns-Bennett athletics. It is anticipated that the basketball, volleyball, and wrestling teams will use these facilities for practice and home games. We will use the current Sullivan North Renovation project to account for the expenditures for this renovation. At this time, there is \$1,723,401 of unobligated funding in this project. We have established a budget of \$4,000,000 for the renovation of former Sullivan North gym area. This includes the entryway, the gym, the locker rooms, and the parking lot. This will require additional funding of \$2,276,599. The donation described in item one will fund \$100,000 and the balance of \$2,176,599 will need to come from the General Purpose School Fund Unreserved Fund Balance.

It is recommended that the estimated revenue for Fund Balance Appropriations* and the appropriation for Fund Transfers be increased by \$2,176,599. It is further recommended that these funds be transferred to the Former Sullivan North Renovation Project.

***Unreserved Fund Balance** – It anticipated that the Unreserved Fund Balance at the end of fiscal year 2021-22 will have a balance of approximately \$16,000,000. Unpaid purchase orders for FY 22 will obligate \$642,000 and budget amendment number one appropriated \$825,000 for security

upgrades. This leaves a balance of approximately \$14,533,000. This budget amendment appropriates an additional \$4,426,599, leaving a balance of approximately \$10,100,000. This amount is approximately 11.7% of the FY 2023 operating budget.

GENERAL PROJECT FUND

SULLIVAN NORTH RENOVATION PROJECT (GP1733)

Currently, the Sullivan North Renovation project has a total budget of \$10,409,294. This consists of a combination of Sullivan County bond funds, interest earnings, and City of Kingsport bonds funds. At this time, we are recommending that all City of Kingsport bond funds be removed from this project and funds from the General Purpose School Fund be added to fund the renovation of the gym area for use by Dobyys-Bennett athletics. There are previous obligation associated with the overall renovations of this facility of \$1,321,441. The estimated costs for the renovations associated with the use for Dobyys-Bennett athletics is \$4,000,000. This brings the total required funding for past work and current work to a total of \$5,321,441.

It is recommended that the estimated revenue for this project be amended by decreasing the estimated revenue for Bond Funds and Bond Premiums by \$7,364,452 and by increasing the estimated revenue for Transfers from the School Fund by \$2,276,599. It is recommended that the appropriations for Construction Contracts, Architectural/Engineering Fees, Equipment, and Bond Sale Expense be decreased by the net amount of \$5,087,853.

DOBYNS-BENNETT RENOVATION PROJECT (GP2111)

The Dobyys-Bennett Renovation project currently has a budget of \$441,870. There have been expenses of \$209,507 charged to this project, leaving a balance of \$232,363. Current expenditures include architect/engineering fees associated with the new cooling tower, general overall renovations, and dome structural evaluation fees. The costs of the shoring of the Dome needs to be charged to this project, as well architect and engineering fees associated with this work. The contract with Towers Construction for the shoring work is \$298,005, not including payment and performance bonds. In addition to the Dome work, there is also renovation work being planned for the Pool area. At this time, we are recommending that all of the City bond funds that have previously been allocated to the Sullivan North renovation project be reallocated to the Dobyys-Bennett renovation project.

It is recommended that the estimated revenue for Bond Funds and Bond Premiums be increased by \$7,364,452. It is also recommended that the appropriations for Construction Contracts, Architectural/Engineering Fees, and Bond Sale Expense be increased by \$7,364,452.



AGENDA ACTION FORM

Consideration of an Ordinance to Amend Zoning

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

Action Form No.: AF-237-2022
 Work Session: August 22, 2022
 First Reading: August 23, 2022

Final Adoption: **September 13, 2022**
 Staff Work By: Ken Weems
 Presentation By: K. Weems

Recommendation:

- Approve ordinance amending the zoning ordinance for the Browder Road Annexation

Executive Summary:

This is an owner-requested annexation of approximately 1.15 acres located at 206 Browder Road. The proposed zoning for the annexation site is R-3, Low Density Apartment District. The purpose of the annexation is to accommodate development of multifamily residential units on the site. During their July 2022 regular meeting, the Kingsport Regional Planning Commission voted to send a favorable recommendation for the annexation, zoning, and plan of services to the Board of Mayor and Aldermen by a vote of 5-0. The notice of public hearing was published on August 8, 2022.

Attachments:

1. Zoning 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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY LOCATED ALONG BROWDER ROAD FROM COUNTY B-3, GENERAL COMMERCIAL DISTRICT, TO R-3, LOW DENSITY APARTMENT DISTRICT IN THE 7TH CIVIL DISTRICT OF SULLIVAN COUNTY; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the zoning code, text, and map, be and the same is hereby further amended to rezone property located along Browder Road from County B-3, General Commercial District to R-3, Low Density Apartment District in the 7th Civil District of Sullivan County; said area to be rezoned being further and more particularly described as follows:

Sullivan County Tax Parcel ID 078 098.24

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

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

PATRICK W. SHULL
Mayor

ATTEST:

ANGELA MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III
City Attorney

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



AGENDA ACTION FORM

Consideration of a Budget Adjustment Ordinance for Various Funds in FY23

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

Action Form No.: AF-241-2022
 Work Session: August 22, 2022
 First Reading: August 23, 2022

Final Adoption: **September 13, 2022**
 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 transferring \$42,075.00 from the Brickyard Park Buffer project (NC2226) to the Greenbelt Landscaping project (NC2227).

The Sewer Project Fund budget is being amended by accepting a grant from the Appalachian Resource Commission (ARC) in the amount of \$350,000.00 and appropriating funds to be received from Washington County in the amount of \$485,000.00 to the Valleybrook Sewer Extension project (SW2303) and by transferring \$190,000.00 from the West Kingsport Sewer Evaluation project (SW2207) to the South Fork Sewer Basin Study project (SW2304).

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Oltzman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO.

AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR
THE YEAR ENDING JUNE 30, 2023; 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 \$42,075 from the Brickyard Park Buffer project (NC2226) to the Greenbelt Landscaping project (NC2227).

SECTION II. That the Sewer Project Fund budget be amended by accepting a grant from the Appalachian Resource Commission (ARC) in the amount of \$350,000 and appropriating funds to be received from Washington County in the amount of \$485,000 to the Valleybrook Sewer Extension project (SW2303) and by transferring \$190,000 from the West Kingsport Sewer Evaluation project (SW2207) to the South Fork Sewer Basin Study project (SW2304).

Account Number/Description:

Brickyard Park Buffer (NC2226)

Revenues:

111-0000-391.01-00 From General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	60,000	(42,075)	17,925
Total:	60,000	(42,075)	17,925

Expenditures:

111-0000-601.20-22 Construction Contracts

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	60,000	(42,075)	17,925
Total:	60,000	(42,075)	17,925

Greenbelt Landscaping (NC2227)

Revenues:

111-0000-391.01-00 From General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	105,000	42,075	147,075
Total:	105,000	42,075	147,075

Expenditures:

111-0000-601.20-23 Arch/Eng/Landscaping Serv

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	105,000	42,075	147,075
Total:	105,000	42,075	147,075

Account Number/Description:

Sewer Project Fund: 452

Valleybrook Sewer Ext (SW2303)

Revenues:

452-0000-331.32-00 ARC

452-0000-333.77-45 Washington County

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	0	350,000	350,000
	0	485,000	485,000
Total:	0	835,000	835,000

Expenditures:

452-0000-606.90-26 Sewer Extensions

	\$	\$	\$
	0	835,000	835,000
Total:	0	835,000	835,000

West Kingsport Sewer Evaluation (SW2207)

Revenues:

452-0000-391.42-00 From Sewer Fund

Totals:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	403,398	(190,000)	213,398
Totals:	403,398	(190,000)	213,398

Expenditures:

452-0000-606.20-23 Arch/Eng/Landscaping Serv

Totals:

	\$	\$	\$
	403,398	(190,000)	213,398
Totals:	403,398	(190,000)	213,398

South Fork Sewer Basin (SW2304)

Revenues:

452-0000-391.42-00 From Sewer Fund

Totals:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	0	190,000	190,000
Totals:	0	190,000	190,000

Expenditures:

452-0000-606.20-23 Arch/Eng/Landscaping Serv

Totals:

	\$	\$	\$
	0	190,000	190,000
Totals:	0	190,000	190,000

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:

RODNEY B. ROWLETT, III, City Attorney

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



AGENDA ACTION FORM

An Ordinance to Amend the FY 2023 the General Purpose School Fund Budget

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

Action Form No.: AF-248-2022
 Work Session: August 22, 2022
 First Reading: August 23, 2022

Final Adoption: **September 13, 2022**
 Staff Work By: David Frye
 Presentation By: D. Frye

Recommendation:

Approve the ordinance.

Executive Summary:

The Board of Education approved fiscal year 2023 budget amendment number two at their meeting on August 9, 2022. This amendment increases the General Purpose School Fund budget by \$272,000.00. The estimated revenue for Basic Education Funds is being increased by \$266,000.00 and the estimated revenue for Other Local Revenue is being increased by \$6,000.00. The appropriations for Teacher Salaries and Benefits is being increased by \$73,500.00, the appropriations for Health Insurance Benefits is being increased by \$118,000.00, the appropriations for CTE Other Wages and Benefits is being increased by \$6,000.00, and the appropriations for Fund Transfer is being increased by \$74,500.00. The Fund Transfers will provide local funding to the Voluntary Pre-K program (\$64,500.00) and the Family Resource Center program (\$10,000.00).

Attachments:

1. Ordinance

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PURPOSE
SCHOOL FUND FOR THE FISCAL YEAR ENDING JUNE 30,
2023; 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 State BEP Funds by \$266,000 and Other Local Revenue by \$6,000. The expenditure budget will be amended by increasing the appropriations Regular Teacher Salaries and Benefits by \$73,500; by increasing the appropriations for Health Insurance by \$118,000; by increasing the appropriations for Vocational Education Other Wages and Benefits by \$6,000; and by increasing the appropriations for Fund Transfers by \$74,500.

Fund 141: General Purpose School Fund

<u>Revenues:</u>	\$	\$	\$
141-0000-338-6511 State BEP Funds	35,911,000	266,000	36,177,000
141-0000-369-4990 Other Local Revenue	700,000	6,000	706,000
<i>Totals</i>	36,611,000	272,000	36,883,000

<u>Expenditures:</u>	\$	\$	\$
141-7116-711-0116 Reg Ed Inst – Teacher Sal	28,087,700	55,900	28,143,600
141-7116-711-0201 Reg Ed Inst – Social Security	1,753,900	3,500	1,757,400
141-7116-711-0204 Reg Ed Inst – St Retirement	2,555,100	5,000	2,560,100
141-7116-711-0206 Reg Ed Inst – Life Insurance	64,200	200	64,400
141-7116-711-0207 Reg Ed Inst – Health Ins	4,801,700	7,800	4,809,500
141-7116-711-0209 Reg Ed Inst – Long-Term Dis	34,800	200	35,000
141-7116-711-0210 Reg Ed Inst – Unemp Ins	21,400	100	21,500
141-7116-711-0212 Reg Ed Inst – Medicare	410,100	800	410,900
141-7150-711-0207 Reg Ed Inst – Health Ins	4,809,500	70,000	4,879,500
141-7150-721-0207 Sp Ed Inst – Health Ins	615,200	11,000	626,200
141-7150-731-0207 Voc Ed Inst – Health Ins	135,100	500	135,600
141-7250-772-0207 Health Ser – Health Ins	114,200	2,200	116,400
141-7250-773-0207 Other Std Sup – Health Ins	221,600	3,900	225,500
141-7250-781-0207 Reg Ed Sup – Health Ins	288,200	5,100	293,300
141-7250-782-0207 Sp Ed Sup – Health Ins	70,500	1,300	71,800
141-7250-783-0207 Voc Ed Sup – Health Ins	5,200	100	5,300
141-7250-785-0207 Technology Sup – Health Ins	87,000	1,500	88,500
141-7250-792-0207 Superintendent Off – Hlth Ins	73,500	1,300	74,800
141-7250-801-0207 Principals Office – Health Ins	443,400	7,000	450,400
141-7250-811-0207 Fiscal Services – Health Ins	67,200	1,100	68,300
141-7250-812-0207 Human Resources – Hlth Ins	33,300	600	33,900
141-7250-821-0207 Operation of Plant – Hlth Ins	319,000	5,500	324,500
141-7250-822-0207 Maint of Plant – Health Ins	158,100	2,700	160,800
141-7250-831-0207 Reg Ed Trans – Health Ins	178,800	3,400	182,200
141-7253-831-0207 Sp Ed Trans – Health Ins	40,100	800	40,900

141-7100-731-0189	Voc Inst – Other Wages	0	5,600	5,600
141-7100-731-0189	Voc Inst – Social Security	66,800	300	67,100
141-7100-731-0189	Voc Inst - Medicare	15,700	100	15,800
141-7950-881-0590	Fund Transfers	910,400	74,500	984,900
	Totals	46,381,700	272,000	46,653,700

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

PATRICK W. SHULL, Mayor

ATTEST:

APPROVED AS TO FORM:

ANGELA MARSHAL, Deputy City Recorder

RODNEY B. ROWLETT, III, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____



AGENDA ACTION FORM

An Ordinance to Amend the FY 2023 the School Special Projects Fund Budget

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

Action Form No.: AF-249-2022
 Work Session: August 22, 2022
 First Reading: August 23, 2022

Final Adoption: **September 13, 2022**
 Staff Work By: David Frye
 Presentation By: D. Frye

Recommendation:

Approve the ordinance.

Executive Summary:

The Board of Education approved fiscal year 2023 budget amendment number two at their meeting on August 9, 2022. This amendment increases the School Special Projects Fund budget by \$201,400.00. The estimated revenue for Other State Education Funds is being increased by \$86,900.00, the estimated revenue for Other Local Revenue is being increased by \$40,000.00, and the estimated revenue for Transfers from School Fund is being increased by \$74,500.00. The appropriations for DB Excel and Washington STEM grants is being increased by \$40,000.00, appropriations for the Pre-K Expansion grant is being increased by \$151,400.00, and the appropriations for the Family Resource Center grant is being increased by \$10,000.00

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. ****

PRE-FILED
CITY RECORDER

AN ORDINANCE TO AMEND THE FY 2023 SCHOOL SPECIAL PROJECTS FUND BUDGET; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the FY 2023 School Special Projects Fund budget be amended by increasing/(decreasing) appropriations for Grant funds to the following Grant projects.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
CSH023 Coordinated School Health	100,000	0	100,000
DBE023 DB Excel STEM Grant	0	20,000	20,000
FRC023 Family Resource Center	29,612	0	29,612
HAG023 Homeless Assistance	55,000	0	55,000
KTIP23 Kingsport Truancy Intervention	53,720	0	53,720
PK5123 Pre-K Expansion Grant System-Wide	590,000	86,900	676,900
SSA023 Safe Schools Act	115,000	0	115,000
WASH23 Washington STEM Grant	0	20,000	20,000
Transfer from General School Fund	118,368	74,500	201,868
<u>Totals:</u>	<u>1,061,700</u>	<u>201,400</u>	<u>1,263,100</u>

<u>Expenditures:</u>	\$	\$	\$
Instruction	590,000	186,203	776,203
Support Services	471,700	15,197	486,897
Non-Instructional Services	0	0	0
Capital Outlay	0	0	0
Other	0	0	0
<u>Totals:</u>	<u>1,061,700</u>	<u>201,400</u>	<u>1,263,100</u>

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

PATRICK W. SHULL, Mayor

ATTEST:

APPROVED AS TO FORM:

ANGELA MARSHALL, Deputy City Recorder

RODNEY B. ROWLETT, III, City Attorney

PASSED ON 1ST READING:
PASSED ON 2ND READING:
City of Kingsport, Tennessee



AGENDA ACTION FORM

An Ordinance Amending Sections 155 and 157 of Article IV, Chapter 66 of the Kingsport Code of Ordinances Regarding the Composition of the Bays Mountain Park Commission

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

Action Form No.: AF-254-2022
 Work Session: August 22, 2022
 First Reading: August 23, 2022

Final Adoption: **September 13, 2022**
 Staff Work By: Michael Borders
 Presentation By: M. Borders

Recommendation:

Approve the ordinance.

Executive Summary:

Historically, Sullivan County has contributed financial support to the operations of Bays Mountain Park and the Sullivan County Mayor has recommended an appointment to the Bays Mountain Park Commission. Staff recommends Kingsport Code of Ordinances section 66-155 be amended to officially adopt this practice.

Moreover, the Bays Mountain Park Director currently serves as an ex officio member. Staff recommends Kingsport Code of Ordinances section 66-155 be amended to designate the Director as a non-voting ex officio member

Lastly, staff recommends Kingsport Code of Ordinances section 66-157 be amended to increase the number of members necessary to call a meeting and the number of members necessary to constitute a quorum be increased from four members to five voting members.

As a result of these changes the Bays Mountain Park Commission will consist of ten total members, nine of whom shall have voting rights.

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: *jm*

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 155 AND 157 OF ARTICLE IV, CHAPTER 66 OF THE CODE OF ORDINANCES, CITY OF KINGSFORT, TENNESSEE, RELATING TO THE BAYS MOUNTAIN PARK COMMISSION; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That Section 66-155 of the Code of Ordinances, City of Kingsport, Tennessee, is hereby amended to read as follows:

Sec. 66-155. - Composition; appointment; filling vacancies; compensation.

- (a) The Bays Mountain Park Commission shall be composed of ten members as follows:
- (i) seven at large members, at least five of whom shall be residents of the city;
 - (ii) one member of the Sullivan County Commission who shall be recommended by the mayor of Sullivan County;
 - (iii) the Bays Mountain Park Association President who shall serve as an ex officio member;
 - (iv) the Director of Bays Mountain Park who shall serve as a non-voting ex officio member.
- (b) The at large members of the commission shall be appointed by the mayor with the approval of the board. The board shall approve the member of the Sullivan County Commission upon recommendation of the mayor of Sullivan County. All non ex officio members shall serve a term of three years or until their successors are appointed and qualify.
- (c) If a vacancy occurs on the commission among the at large members, the mayor shall appoint a new member to fill the unexpired term. The mayor of Sullivan County shall recommend a new county commissioner should the county commission member cease to serve on the Sullivan County Commission. All appointments shall be approved by the board.
- (d) The members of the commission shall serve without compensation.

SECTION II. That Section 66-157 of the Code of Ordinances, City of Kingsport, Tennessee, is amended as follows:

Sec. 66-157. - Meetings; quorum.

The Bays Mountain Park Commission shall meet in regular session at least quarterly, and the time and place shall be decided by vote of the members. It shall be the duty of the chairperson to preside over all meetings of the commission. In the absence of the chairperson, the vice-chairperson shall preside. The secretary shall keep a record of all proceedings of the commission. Special meetings may be called by the chairperson or by any five voting members of the commission. Five voting members shall constitute a quorum.

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

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

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



AGENDA ACTION FORM

A Resolution Authorizing the Purchase of Two (2) 2022 Autocar ASL Refuse Trucks Utilizing Sourcewell Cooperative Purchasing Agreement

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

Action Form No.: AF-275-2022
Work Session: September 12, 2022
First Reading: N/A

Final Adoption: September 13, 2022
Staff Work By: Committee
Presentation By: R. McReynolds/S. Leonard

Recommendation:

Approve the resolution.

Executive Summary:

It is the recommendation of the committee to purchase Two (2) 2022 Autocar ASL Refuse Trucks from Municipal Equipment utilizing Sourcewell Cooperative Purchasing Agreement #091219-NWY for use by Sanitation Department. The delivery from the dealership to the agency is included in the total price of \$702,789.28.

With Sourcewell, agencies can utilize competitively solicited contracts to help save time and resources while still meeting purchasing requirements. All cooperative purchasing contracts from Sourcewell have been competitively solicited by a lead public agency and meet rigorous cooperative standards and supplier commitments. Each supplier commits to delivering their best overall government pricing so that the City of Kingsport can buy with confidence.

Please see the attached recommendation memo for additional information & Sourcewell Cooperative Contract.

These units are a fleet replacement.

Funding is identified in Project/Account # 51150085019010

Attachments:

1. Resolution
2. Recommendation Memo
3. Quote
4. Sourcewell Cooperative Contract

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO MUNICIPAL EQUIPMENT UTILIZING SOURCEWELL COOPERATIVE PURCHASING AGREEMENT NO. 091219-NWY FOR TWO REFUSE TRUCKS FOR THE KINGSPORT SANITATION DEPARTMENT

WHEREAS, staff recommends the purchase of two (2) 2022 Autocar ASL Refuse Trucks from Municipal Equipment utilizing Sourcewell Cooperative Purchasing Agreement #091219-NWY for use by Sanitation Department; and

WHEREAS, the city participates in the Sourcewell cooperative purchasing; and

WHEREAS, Tennessee Code Annotated section 12-3-1205 permits city to participate in a cooperative purchasing agreement for the procurement of equipment; and

WHEREAS, in order to purchase the equipment, a purchase order needs to be issued to Municipal Equipment, in the amount of \$702,789.28; and

WHEREAS, funding for this equipment is available in project account 51150085019010.

Now therefore,

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

SECTION I. That the city manager is authorized to execute a purchase order to Municipal Equipment for two (2) 2022 Autocar ASL Refuse Trucks from Municipal Equipment utilizing Sourcewell Cooperative Purchasing Agreement #091219-NWY for use by Sanitation Department in the amount of \$702,789.28.

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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



FLEET MAINTENANCE DEPARTMENT
City of Kingsport

To: Nikisha Eichmann, Assistant Procurement Manager
From: Steve Leonard, Fleet Manager
Date: August 17, 2022, 2022
Re: Fleet Replacement of 2163 and 2078 Purchase Recommendation

It is the recommendation of this office to purchase the Fleet Replacements of Sanitation Services unit # 2163 and unit #2078 utilizing Sourcewell Contract pricing of \$351,394.64 each for a total of \$702,789.28. The units bid meet the expectations of the department and will fulfill the requirements of their operational needs. The Sourcewell Contract ID# 091219-NWY allows a municipality to purchase off of the Sourcewell Contract pricing. A copy of the Sourcewell Contract is attached.

Item	Quantity	Description	Award to Vendor	Fuel Economy
1	2	2022 Autocar ASL Refuse	Municipal Equipment	5 City/8 Hwy

These units will be a Fleet Replacements

The units listed below will be replaced and the trade in units will be disposed of utilizing the current approved City process.

The Sourcewell offerings were reviewed by Tim Elsea and Rodney Deel and they are in agreement with this recommendation.

Fuel Economy Improvement

00%

No fuel economy improvements would be realized since the replacement units are similar to the current units being operated.

Sourcewell ID Number 091219-NWY

Replacements

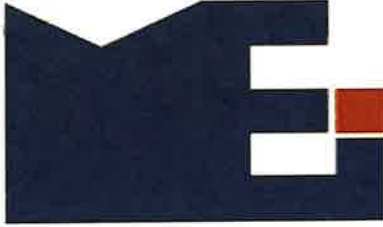
2163	2014 Mack w/ New Way Body *	Mileage	109,242
2078	2013 Autocar w/ New Way Body	Mileage	120,792

*Note 2163 Replacement from wreck

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

Thank you.





Municipal Equipment, Inc.

313 Jenso Drive
Knoxville, TN 37912
800-248-7590
msalomone@meieq.com

Mailing: P.O. Box 197809
Louisville, KY 40259

REVISED

GOOD FOR 45 DAYS

Number: MS-8-17-22-1
Date: 8/17/2022
Page: 1 of 1

To:
City of Kingsport, TN
Steve Leonard
609 West Industry Drive
Kingsport, TN 37660
423-276-5515
steveleonard@kingsporttn.gov

Ship To If Different:

City of Kingsport Sourcewell ID: 29779

Delivery	Sales Rep	FOB	Ship Via	Terms	Sales Tax:	Excise Tax:
120-150 DAYS ARC	Michael Salomone		Best Way	C.O.D	Included: Not Included: X	Included: Not Included: X

QTY	NEW WAY SOURCEWELL ID: 091219-NWY	Unit Price	Total Price
2	New Way-31 Yard Sidewinder ASL	\$166,534.64	\$333,069.28
	Fall Protection Harness with Installation by Kingsport Iron (Sourced Good):	\$810.00	\$1,620.00
	Forward Facing-Recording Camera with Monitor-purchased and installed by MEI. Same as 2019 ASL bid specs	\$550.00	\$1,100.00
	New Way 31 Yard Sidewinder:	\$167,894.64	\$335,789.28
	2023 Autocar-ACX64 Class 8 (Sourced Good):	\$180,500.00	\$361,000.00
	Subtotal:	\$348,394.64	\$696,789.28
	Freight/PDI/Training:	\$3,000.00	\$6,000.00
	TOTAL SOURCEWELL PRICE:	\$351,394.64	\$702,789.28
	BOTH CHASSIS (VINS: 238064 and 238066) BUILD SEPTEMBER 2022		
	**CHASSIS DELIVERY TO NEW WAY ETA OCTOBER 2022*		
	DETAILED BODY SPECS ATTACHED SEPARATELY		
	Subtotal		
	Tax		
	Freight		
	Miscellaneous		
	Balance Due		

Michael G. Salomone

Municipal Equipment, Inc.

Accepted By _____ Date _____

By Signing This Quote is Confirmation for Binding Contract to Purchase



Solicitation Number: RFP#091219

CONTRACT

This Contract is between **Sourcewell**, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and **Scranton Manufacturing Company/New Way Trucks**, 101 State Street Scranton, IA 51462 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to its members. Participation is open to all levels of governmental entity, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and its Members (Members).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires November 15, 2023, unless it is cancelled sooner pursuant to Article 24. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.
- C. **SURVIVAL OF TERMS.** Articles 11 through 16 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in Vendor's product and pricing list. Unless agreed to by the Member in advance, Equipment or Products must be delivered as operational to the Member's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. LAWS AND REGULATIONS. All Equipment, Products, or Services must comply fully with applicable federal laws and regulations, and with the laws of the state or province in which the Equipment, Products, or Services are sold.

C. WARRANTY. Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Member in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Member.

D. DEALERS AND DISTRIBUTORS. Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized Distributors/Dealers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

Regardless of the payment method chosen by the Member, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Member at the time of purchase.

When providing pricing quotes to Members, all pricing quoted must reflect a Member's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Member's requested delivery location.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Members. Members reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcwell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Member will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Member.

B. SALES TAX. Each Member is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, Members must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcwell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcwell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Members.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcwell Price and Product Change Request Form to the assigned Sourcwell Contract Administrator. This form is available from the assigned Sourcwell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcwell contract number
- Clearly specify the requested change
- Provide sufficient detail to justify the requested change
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change)
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcwell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. MEMBERSHIP, CONTRACT ACCESS, AND MEMBER REQUIREMENTS

A. **MEMBERSHIP.** Membership in Sourcewell is open to public and nonprofit entities across the United States and Canada; such as municipal, state/province, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Members that can legally access the Equipment, Products, or Services under this Contract. A Member's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Member's use of this Contract is at the Member's sole convenience and Members reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell membership requirements and documentation and will encourage potential members to join Sourcewell. Sourcewell reserves the right to add and remove Members to its roster during the term of this Contract.

B. **PUBLIC FACILITIES.** Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Member policies and procedures, and all applicable laws.

6. MEMBER ORDERING AND PURCHASE ORDERS

A. **PURCHASE ORDERS AND PAYMENT.** To access the contracted Equipment, Products, or Services under this Contract, Member must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically a Member will issue a purchase order directly to Vendor. Members may use their own forms for purchase orders, but it should clearly note the applicable Sourcewell contract number. Members will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Member.

B. **ADDITIONAL TERMS AND CONDITIONS.** Additional terms and conditions to a purchase order may be negotiated between a Member and Vendor, such as job or industry-specific requirements, legal requirements (such as affirmative action or immigration status requirements), or specific local policy requirements. Any negotiated additional terms and conditions must never be less favorable to the Member than what is contained in Vendor's Proposal.

C. **PERFORMANCE BOND.** If requested by a Member, Vendor will provide a performance bond that meets the requirements set forth in the Member's purchase order.

D. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Member requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Member and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

E. **TERMINATION OF PURCHASE ORDERS.** Members may terminate a purchase order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Member fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal or state laws or regulations prohibit the purchase or change the Member's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Member.

F. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Member's purchase order will be determined by the Member making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Member inquiries; and
- Business reviews to Sourcewell and Members, if applicable.

B. **BUSINESS REVIEWS.** Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to members, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. **CONTRACT SALES ACTIVITY REPORT.** Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcwell Assigned Entity/Member Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcwell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcwell, the Vendor will pay an administrative fee to Sourcwell on all Equipment, Products, and Services provided to Members. The Vendor will submit a check payable to Sourcwell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Members under this Contract during each calendar quarter. Payments should note the Sourcwell-assigned contract number in the memo and must be mailed to the address above "Attn: Accounts Receivable." Payments must be received no later than forty-five (45) calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcwell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcwell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than thirty (30) days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcwell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcwell in writing.

10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

- A. **ASSIGNMENT.** Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.
- B. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.
- C. **WAIVER.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.
- D. **CONTRACT COMPLETE.** This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.
- E. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, master-servant, principal-agent, or any other relationship.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Members, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

12. AUDITS

Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract for a minimum of six (6) years from the end of this Contract. This clause extends to Members as it relates to business conducted by that Member under this Contract.

13. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

14. INTELLECTUAL PROPERTY

As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Members against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Members by any person on account of the use of any Equipment or Products by Sourcewell or its Members supplied by Vendor in violation of applicable patent or copyright laws.

15. PUBLICITY, MARKETING, AND ENDORSEMENT

A. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

B. **MARKETING.** Any direct advertising, marketing, or offers with Members must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

C. **ENDORSEMENT.** The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

16. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

17. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

18. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the

remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

19. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have thirty (30) calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Members as a result of such failure to proceed will be borne by the Vendor.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Member order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

20. INSURANCE

A. **REQUIREMENTS.** At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition). At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for Products-Completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer).

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance.* During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability.*

During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:

\$2,000,000 per claim or event

\$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance.* During the term of this Contract, Vendor will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. **CERTIFICATES OF INSURANCE.** Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. All policies must include there will be no cancellation, suspension, non-renewal, or reduction of coverage without thirty (30) days' prior written notice to the Vendor.

Upon request, Vendor must provide to Sourcewell copies of applicable policies and endorsements, within ten (10) days of a request. Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. **ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE.** Vendor agrees to name Sourcewell and its Members, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance

maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies).

F. SELF-INSURED RETENTIONS. Any self-insured retention in excess of \$10,000 is subject to Sourcewell's approval.

21. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid status on all required federal, state, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Members.

22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota, the United States federal government, or any Member. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

23. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Members that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Members may also require additional requirements based on specific funding specifications. Within this Article, all references to "federal" should be interpreted to mean the United States federal government. The following list only applies when

a Member accesses Vendor's Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708).** Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. § 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction

work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award

covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of three (3) years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

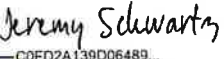
K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.


24. CANCELLATION

Sourcwell or Vendor may cancel this Contract at any time, with or without cause, upon sixty (60) days' written notice to the other party. However, Sourcwell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Termination of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to termination.

Sourcwell

DocuSigned by:
By: 
C0FD2A139D06489...
Jeremy Schwartz
Title: Director of Operations &
Procurement/CPO
Date: 11/11/2019 | 4:15 PM CST

Scranton Manufacturing Company/
New Way Trucks

DocuSigned by:
By: 
AC537C12014541C...
Don Ross
Title: Vice President of Sales and Marketing
Date: 11/21/2019 | 4:06 PM CST

Approved:
DocuSigned by:
By: 
7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO
Date: 11/11/2019 | 6:40 PM CST

RFP 091219 - Mobile Refuse Collection Vehicles with Related Equipment, Accessories, and Services

Vendor Details

Company Name: Scranton Manufacturing Co.< Inc.
Does your company conduct business under any other name? If yes, please state: New Way Trucks
Address: 101 State Street
Scranton , IA 51462
Contact: Jesse Geeslin
Email: jgeeslin@newwayfleetforce.com
Phone: 715-321-6048
HST#: 42-0993825

Submission Details

Created On: Thursday July 11, 2019 11:28:13
Submitted On: Thursday September 12, 2019 16:03:12
Submitted By: Jesse Geeslin
Email: jgeeslin@newwayfleetforce.com
Transaction #: bb987cd9-c812-4f9a-990d-2071bf6a773d
Submitter's IP Address: 66.43.199.59

Specifications

Proposer Identity & Authorized Representatives

Line Item	Question	Response *
1	Proposer Legal Name (and applicable d/b/a, if any):	Scranton Manufacturing Company/New Way Trucks
2	Proposer Address:	101 State Street, Scranton, Iowa 51462
3	Proposer website address:	newwaytrucks.com
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer):	Don Ross, Vice President of Sales and Marketing, 101 State Street, Scranton, IA 51462, dross@newwaytrucks.com, 712.652.3396
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Don Ross, Vice President of Sales and Marketing, 101 State Street, Scranton, IA 51462, dross@newwaytrucks.com, 712.652.3396
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Jesse Geeslin, Director of Sales for New Way FleetForce, 101 State Street, Scranton, IA 51462, jgeeslin@newwayfleetforce.com, 715.321.6048

Company Information and Financial Strength

Line Item	Question	Response *
7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	<p>Scranton Manufacturing and its New Way Trucks brand is the crown jewel of the McLaughlin Family Companies. It is the largest privately-held mobile refuse collection vehicle manufacturer in the nation. New Way Trucks is the fastest-growing company in the \$80 billion solid waste industry and has been family-owned for more than 45 years. Throughout our existence, we have been committed to innovation, safety, quality, and customer satisfaction. Midwest values drive everything we do, and our people are our most valuable asset. When asked about why and how our company has grown, McLaughlin Family Companies founder and 2009 National Waste & Recycling Association (Nwra) Hall of Fame inductee, John McLaughlin, attributes the company's continued success to the 4 P's: Principles, People, Products, and Persistence.</p> <p>Since the very beginning, New Way's business plan has been based on growth and expansion. We have experienced exponential year-over-year growth in each of the last 10 years, and in 2015 we added a 56,000 square foot manufacturing addition. In 2018 a \$3 million investment in computerized fabrication equipment and robotics continued that expansion and today our manufacturing space exceeds 400,000 square feet under roof in central Iowa with joint venture manufacturing projects throughout North America.</p> <p>We are proud to offer the widest lineup of refuse collection equipment of any manufacturer in the industry. Our full line of affordable refuse equipment includes front loaders, rear loaders, satellite bodies, recycling bodies, side loaders, and automated side loaders in sizes ranging from 6 to 43 yards. We also offer Compressed Natural Gas (CNG) fueling integration on all of our models, which results in a cleaner burning vehicle that lowers exhaust emissions and utilizes a domestic fuel source.</p> <p>We are also proud to boast the nation's largest Dealer Network with 36 dealers and 83 separate locations that provide service to all 50 states. In Canada, our Dealer Network includes five privately-owned dealerships and 13 locations covering all of Canada. New Way's Dealer Network also includes 11 additional locations across the globe. Due to our extensive Dealer Network, New Way Trucks are on the ground in five of the world's seven continents.</p> <p>Our small-town Iowa location in America's heartland still holds dear our family values and a hard work ethic that has been passed down through generations. Pair this work ethic and dedication to the job with the ability to innovate and the willingness to learn, and you'll see why New Way is able to produce such cutting edge, high quality products. Through continually investing in training and educational opportunities for all employees, we are proud to maintain a focus on research, remaining adaptable, and drive customer value in order to meet the specific needs of our end-users.</p>
8	Provide a detailed description of the products and services that you are offering in your proposal.	<p>New Way Trucks offers the widest product lineup of refuse collection equipment in the industry. Our Mammoth front end load (FEL) models come in both standard and west-coast lightweight designs. Our rear end load (REL) models: the Diamondback, Viper, Cobra, Cobra High Compaction, and King Cobra range in size from 6 to 32 cubic yards for both residential and commercial collection applications. In addition, we offer the strongest and most durable automated side load (ASL) mobile refuse collection vehicle on the market, the Sidewinder, and our Mamba Satellite Side Loader completes the lineup. New Way is also the exclusive dealer for RotoPAC, the world's first auger-driven automated side loader.</p>

All of our mobile refuse collection vehicles are available to be rented through our New Way FleetForce program - the only direct-from-manufacturer rental company in the industry. New Way FleetForce offers various rental contract options, ranging from as short as one week to a multi-year rental contract. New Way FleetForce maintains a rental fleet of the newest and most productive waste collection vehicles and has the volume to meet Members' various needs and delivery requirements. In most cases, delivery can happen immediately. Since our FleetForce mobile refuse collection vehicles are built and distributed like any other of our New Way products, Members are guaranteed factory-trained support through our nationally-renowned Dealer Network.

Front Loaders

The New Way Mammoth is known for its superior strength and front-load durability. Designed with one-piece, curved shell body side construction for superior strength and a streamlined appearance, the New Way Mammoth Front-End Loader comes equipped with the strongest steel specifications in the waste industry. In addition, heavy-duty, single-piece constructed arms, torque tube assembly, and Pack-on-the-Go features maximize route and labor efficiency.

Standard features on the Mammoth front-loader mobile refuse collection vehicle include a 4-split bearing block with bronze bushings and an easy adjust deceleration valve, giving the operator control of the arm's return to the vehicle body. Two safety cameras come standard on this series; one affording the operator a view into the hopper and another to assist in reverse. This front loader also boasts the largest clean-out doors and sump in the industry. Combined, these two features set the standard for ease of access and the clean out of trash trapped behind the packing blade. As with all New Way Trucks mobile refuse collection vehicles, the Mammoth comes standard with a two-year cylinder warranty.

No other front-load mobile refuse collection vehicle on the market can offer the ease of use and maintenance, superior strength, durability, and product support of a New Way Mammoth Front Loader.

The New Way Mammoth Western Series is a lighter front-end-loader with mammoth strength. There is no need to sacrifice power in a front-load mobile refuse collection vehicle when a lighter weight matters. The Western Series Mammoth Front Loader is over 10 percent lighter than the Mammoth, while boasting the same superior strength and capacity that all New Way Trucks are known for. Weighing in at just 16,100 to 17,300 pounds, the Western Series Mammoth maintains an impressive 34 to 40 cubic yard hopper capacity and a packer cycle time of only 25 seconds.

This front-loader was designed to be compliant with DOT weight regulations in many areas, which we accomplished with lighter weight, high-tensile steels. This results in a mobile refuse collection vehicle with superior strength at a reduced overall body weight that is compliant with coastal states' regulations.

Customization of the Western Series Mammoth to accommodate 2 to 4 cubic yard bins is easy with smaller hydraulic cylinder sizes. This front loader still offers an incredible 8,000 pounds of lift in the single-piece arm, but when less strength is required for smaller bins, customers can also select a 6,000 pound hydraulic cylinder option.

Each Western Series Mammoth front loader's standard equipment includes high-tensile steel, heavy-duty single-piece arms, torque tube assembly, two safety cameras: one for operator viewing of the hopper and another for backing up, and the largest clean-out doors and sump in the industry. New Way Trucks also includes a two-year hydraulic cylinder warranty on all mobile refuse collection vehicles.

Overall, the Western Series Mammoth front-loader offers brute force and superior strength and stamina, all while being weight-log compliant for more stringent Department of Transportation regulations.

Rear Loaders

The New Way King Cobra offers industry-leading rear-load waste compaction. The design of this heavy-duty mobile refuse collection vehicle sets the bar in the refuse industry, putting it at the top of the industry's food chain. The King Cobra is the unequivocal leader with an approximate 1,000 to 1,300 pounds per cubic yard compaction rate and superior rear-loading capabilities.

Built to take on a lot of work without requiring much maintenance, the King Cobra rear loader offers many of the standard features of other New Way rear-loaders. Curbside hydraulic access, side-body automatic tailgate locks, a rear-view camera and two-year hydraulic cylinder warranty are just a few of the many standard options. The King Cobra can also be customized to meet the needs of a Member's individual operation.

Combine all of this with the fact that the King Cobra has the lowest cost of operation of any comparable body size and one of the lowest warranty claims of any mobile refuse collection vehicle body in the industry, and you've got a mobile refuse collection vehicle that charms the most demanding of routes.

The New Way Cobra Magnum is a large rear-loader that is still fully DOT compliant. The

Cobra Magnum offers the ultra-high compaction of the King Cobra with a body weight lighter than what the competition is able to achieve.

The Cobra Magnum is designed to comply with Department of Transportation weight regulations and offers the easiest operational features in today's mobile refuse collection vehicle market. Operators have convenient access to curbside hydraulic controls on this impressive rear loader that will easily compact approximately 1,000+ pounds per cubic yard.

Add in a huge 3.55 cubic yard hopper and a striking 21-23 second cycle time, and the Cobra Magnum delivers the perfect size mobile refuse collection vehicle with the bite to crush anything you throw its way.

The newest addition to New Way's product line is the Cobra High Compaction 25 yard rear-end-loader. The Cobra High Compaction (HC) boasts the compaction and speed of its bigger brothers, the Cobra Magnum and King Cobra, but features a lightweight body with an overall lower profile for height-restricted refuse collection routes.

Preventive maintenance is made simple and easy with the vehicle's mounted front valve, easy access wiring system, and removable slide show access cover. The new Way Cobra HC hits the industry in 2020 with its 1,100 to 1,300 pounds per cubic yard compaction rate, 15,000 pound weight (for the standard 25-yard model), and a 21-23 second cycle time.

Additional features include a large 3.5 cubic yard hopper with wide 80-inch tailgate and inboard hydraulic cylinders, an inside-body hydraulic tank, optional auto-lock turnbuckles, and optional bolt-on winch systems.

The New Way Cobra is a lightweight rear loader with full-sized compaction. Our Cobra rear-end-loader is the contractor's choice, striking the perfect balance between outstanding compaction and a lightweight 20 cubic yard body. With a compaction rate of up to 1,000 pounds per cubic yard, the Cobra is a powerful rear load mobile refuse collection vehicle that will do everything mid-size mobile refuse collection vehicles can do.

Add in the Cobra's large 3 cubic yard hopper - available in 9 to 25 cubic yard capacities - on a single-axle chassis, externally-mounted hydraulic cylinders for easy maintenance, operating valve on the outside of the hopper, automatic tailgate locks with outside lever controls, high-compaction body and a variety of container-handling options for both steel and plastic carts, and you'll understand why the Cobra dominates the mobile refuse collection vehicle industry.

The New Way Viper is an innovative rear-end-loader built for safety and maintenance. It is one of the most popular mid-compaction rear loader bodies on the market today. Larger capacity Viper units are excellent for both residential and commercial work.

New Way's engineering team has increased safety and added value with a design that moves the hydraulic cylinders and the operating valve to the outside of the vehicle's body. This creates a straight line between levers and control rods, making maintenance quick and easy. The operator valve placement eliminates the need to reach into the vehicle body, increasing operator safety.

The Viper also comes standard with automatic tailgate locks with the control handle located on the side of the chassis, thus eliminating the time and effort needed to go back and forth to operate the traditional turnbuckle locks.

With accessories and adapters to accommodate all varieties of residential cart tippers and commercial containers, a rear-view camera and a two-year hydraulic cylinder warranty, this venomous rear loader is sure to paralyze the competition.

The New Way Diamondback packs powerful features into a compact profile. Our smallest rear-load mobile refuse collection vehicle exhibits quality in workmanship and raw materials that differentiates it from the competition. This compact, low-profile mobile refuse collection vehicle with a low load-still threshold has a compaction rate of approximately 800 pounds per cubic yard in the standard unit and up to approximately 1,000 pounds per cubic yard on the high-compaction model.

When searching for quality, affordability, and maneuverability to service residential park collection routes, the Diamondback mobile refuse collection vehicle is the answer. It is available in 6 or 8 cubic yard body capacities, and is adaptable to all residential cart tippers. The Diamondback is lethal to the competition as it comes fully-equipped with a range of standard features that are merely options on most other units, including a rear-vision camera and standard two-year hydraulic cylinder warranty.

Automated Side Loaders

The New Way Sidewinder XTR is an automated side-loader with one-operator efficiency. With a faster compaction rate unrivaled by any other side-load mobile refuse collection vehicle on the market and the industry's strongest frame-mounted collection arm that reaches up to an impressive 12 feet, efficiency is always at the operator's side. The Sidewinder XTR combines the convenience of automated loading with the ability to maneuver in tight spaces to create an ultra-tough, overbuilt side-loading machine.

At the end of the day, the convenient features of the Sidewinder XTR are even more evident.

		<p>Mobile refuse collection vehicle operators appreciate the convenience of being able to easily clean out behind the pack panel with the widest opening access and largest clean-out sump in the industry. Add to that the standard rear-view camera and a two-year hydraulic cylinder warranty, and you can see why the Sidewinder XTR has a solid grip on the competition.</p> <p>The New Way RotoPAC is the first auger-driven organics and municipal solid waste collection vehicle in the world. The ultimate goal of waste management is zero waste being deposited into landfills. With an eye towards the future, New Way is leading the pack with our RotoPAC.</p> <p>Organics on Monday, municipal solid waste (MSW) on Tuesday. Gone are the days of maintaining separate trucks to meet a community's waste management needs. As the first mobile refuse collection vehicle in the world that works equally well with municipal solid waste as it does with organic refuse collection, the dual-purpose RotoPAC is designed for operational flexibility.</p> <p>The RotoPAC's self-cleaning auger not only more efficiently compacts organic materials - such as grass clippings and food waste - but will automatically reverse in the rare event of a jam. The 23,000 pounds of auger torque makes quick work of compaction and self-cleaning, which eliminates downtime to clean out behind a pack panel. The automated arm has a 12-foot reach and can easily manage up to 500 pounds at maximum extension.</p> <p>Add to that a 27 cubic yard body, the highest legal payload in the industry at 25,000 pounds, reduced hydraulic cylinder maintenance due to the auger, and a liquid-tight hopper up to 40 inches high, and you have the most innovative, adaptable, and futuristic mobile refuse collection vehicle available on the market today. The RotoPAC is available in sizes ranging from 14 to 27 cubic yards.</p> <p>Satellite Side Loader</p> <p>The New Way Mamba is a fiercely-fast and agile side loader. This satellite side loader slithers its way into residential refuse collection routes that other mobile refuse collection vehicles cannot and provides the freedom to load from either side of the vehicle. With its slender body construction, the Mamba plays a vital role and has the ability to transfer compacted materials to larger rear loaders.</p> <p>Available in fixed-body mount, the Mamba also features cart tipper and barrel dumper options, giving Members the ability to customize a side-loader machine that is sure to strike fear into the competition.</p>
9	What are your company's expectations in the event of an award?	<p>In the event of an awarded contract, members of the New Way team will travel to Minnesota within 45 days of an award to initiate further training on the new agreement and formally launch the contract. The remainder of our organization will be subsequently trained, and updated procedures will be quickly disseminated to our Regional Sales Managers (RSMs) and onward to our Dealer Network. New, discounted pricing will become valid immediately to Members and our new turnkey solution will be quickly implemented.</p> <p>A Sourcewell-awarded contract will allow New Way Trucks to continue to provide Members with great products at a discounted price to our many existing municipal customers, grow our municipal base, and open the door to new opportunities in the educational space.</p>
10	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	<p>New Way Trucks is the cornerstone of the McLaughlin Family Companies, a rapidly expanding central-Iowa based group of companies focused on refuse, recycling, and veterinary equipment manufacturing and retail product distribution for new and used automobiles and automotive products. The company has consistently experienced annual double-digit growth, and now employs nearly 550 people in Central Iowa. This growth is expected to continue as the company is committed to expanding manufacturing capacity to meet an ever-growing demand for its product line. On average, New Way has experienced a 20 percent per year growth on orders received and units built over the past three years.</p>
11	What is your US market share for the solutions that you are proposing?	<p>New Way Trucks holds an approximate 15 percent market share in the US for mobile refuse equipment. Our Dealer Network lays the cornerstone for our entire organization, covering every state in the nation and all of Canada. Although Sourcewell focuses on the USA and Canada, New Way also has a global presence through our international Dealer Network, with our equipment currently on five of seven of the world's continents.</p>
12	What is your Canadian market share, if any?	<p>According to our best estimates, New Way currently has a 20 percent market share in Canada. Canada is also home to our RotoPAC manufacturing operation. With 5 dealerships in 13 locations covering the entirety of Canada, our presence in Canada is poised to expand.</p>
13	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	<p>No. New Way Trucks is a financially stable organization with continued growth year after year. We are the largest privately held manufacturer of refuse equipment in North America and rank in the top 3 of all manufacturers of our type.</p>

14	<p>How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.</p> <p>a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?</p> <p>b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?</p>	<p>Both New Way's sales force and Dealer Network cover all of the U.S. and Canada. Our sales force is comprised of all New Way employees, whereas our trusted dealers and their representatives are employees of their respective dealerships.</p> <p>Domestically, the New Way Dealer network is made up of 36 privately owned dealerships with 83 separate locations across the United States. In Canada, our Dealer Network is five dealerships strong and spans 13 locations. This North American network includes hundreds of employees dedicated to showcasing the New Way brand. To support its customers and extensive Dealer Network, New Way Trucks has a broad sales, marketing, and service organization made up of New Way employees. Ten Regional Sales Managers (RSMs) are responsible for our North American sales territories and provide direct dealer and end-user product support. These RSMs are responsible for training, educating, and demonstrating our products to end-users and dealers. They also assist with price quoting, order development, and support both during and after the product sale. Our Service, Warranty, and Parts teams provide after-sales support to both dealers and end-users. Field Service teams provide on-site technical support and training to our end users and Dealer Network.</p> <p>New Way certified field service technicians are available to Members. These field service technicians provide service and support at Dealer and Member locations to assist with any maintenance needs that arise.</p> <p>The New Way Dealer Network is the first line of defense for any parts or service issue. Each dealer maintains an inventory of stock parts and a team of service technicians are available to support Members when necessary.</p>
15	<p>If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.</p>	<p>The American National Standards Institute (ANSI) is the governing body for refuse equipment specifications and requirements in North America, and is administered by the National Waste and Recycling Association (NWRA). New Way is represented on all ANSI committees and is actively involved in establishing new equipment safety protocols and equipment specifications for our industry.</p> <p>New Way is also actively involved with the NWRA including holding senior-level board seats on both the 10-person Board of Trustees and the 11-seat Supplier Board of Governors. In addition, our manufacturing facility is certified by the Occupational, Safety, and Health Administration (OSHA).</p>
16	<p>Provide all "Suspension or Disbarment" information that has applied to your organization during the past ten years.</p>	<p>New Way Trucks has not been suspended or disbarred from participating in any government contracts since the company's inception.</p>
17	<p>Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.</p>	<p>Mobile Refuse Collection Vehicle Rental Program: New Way is a diversified provider of municipal equipment. As part of New Way's offering, we also provide rental options through New Way FleetForce - the only direct-from-manufacturer rental operation in the industry. New Way FleetForce provides both short and long-term rental solutions for all the equipment we manufacture. A rental program is a great solution for Members looking for different finance options to acquire the same great New Way Truck.</p> <p>Work Ready Vehicle Program: The New Way Trucks Work Ready Vehicle Program is designed to meet Members' immediate needs for solid waste collection vehicles. New Way regularly builds standard, well-equipped vehicles that provide immediate solutions for Members that desire quicker turnarounds.</p>

Industry Recognition & Marketplace Success

Line Item	Question	Response *
18	Describe any relevant industry awards or recognition that your company has received in the past five years	<p>New Way is extremely active in the North American solid waste industry and has been recognized by both the NWRA and Solid Waste Association of North America (SWANA) throughout the years. As mentioned in item seven, our founder, John McLaughlin is a member of the NWRA Hall of Fame.</p> <p>2019 NWRA member of the year Don Ross, New Way Vice President of Sales & Marketing. Though it falls outside of the suggested 5-year window, Don is also the recipient of the 2008 Solid Waste Association of North America (SWANA) Distinguished Service Award.</p> <p>2018 Waste360 40 under 40 Johnathon McLaughlin, New Way Executive Vice President</p> <p>2017 NWRA member of the year Mike McLaughlin, New Way Chief Executive Officer</p> <p>2016 SWANA Collection & Transfer Technical Division Director, Don Ross, New Way VP of Sales & Marketing</p>
19	What percentage of your sales are to the governmental sector in the past three years	New Way Trucks serves both the private and public sectors of the industry, however the majority of our customers are government entities. In the past three years alone nearly 60 percent of New Way sales were to the public sector.
20	What percentage of your sales are to the education sector in the past three years	Less than five percent of New Way sales is currently to the education sector, however New Way is proud to list a number of major universities as customers. This list includes Harvard University, Pennsylvania State University - University Park, The University of Missouri at Columbia, Bucknell University, The University of Minnesota - Twin Cities, Iowa State University, The George Washington University (DC), Georgia State University, and The Ohio State University. A number of other educational institutions are New Way customers, including the Jurupa Unified School District (CA), Long Island Unified (NY), San Ramon Valley Unified School District (CA), Atascadero Unified School District (CA), and the Long Beach Unified School District (CA), to name just a few.
21	List any state or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	New Way currently holds a contract with the Houston-Galveston Area Cooperative, however sales via this cooperative account for less than one percent of annual total units sold.
22	List any GSA contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	New Way is listed as a manufacturer on GSA contract #47QMCA18D000E, held by our dealer, Maryland Industrial Trucks. Through this contract New Way equips military bases around the globe with refuse collection equipment. Sales via this contract have accounted for less than five percent of annual total units sold.

References/Testimonials

Line Item 23.

Entity Name *	Contact Name *	Phone Number *
City of Sacramento, California (Sourcewell Member #18730)	Hector Barron - Public Works Director	916-808-8300
City of Danville, Illinois (Sourcewell Member #2185)	Carl J. Carpenter - Director of Public Works	217-431-2287
Emerald Coast Utilities Authority (Sourcewell Member #19660)	Randy Rudd - Director of Shared Services	850-698-4676
City of Greenville, South Carolina (Sourcewell Member #4052)	Dave Derrick - Assistant Director of Public Works	864-467-4345
City of Savannah, Georgia (Sourcewell Member #28141)	John Sawyer - Public Works Director	912-651-4241

Top Five Government or Education Customers

Line Item 24. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
City of Sacramento, California	Government	California - CA	The City of Sacramento's Recycling and Solid Waste department has been a regular and consistent New Way customer for many years. California's capital city provides waste collection services to more than 128,000 residential customers, and New Way Trucks are trusted with the collection and disposal of all refuse and recycling materials.	New Way has built 49 mobile refuse collection vehicles for the City of Sacramento over the past 3 years, with 16 more currently on order. Our relationship goes back further than that, as there are dozens more New Way Trucks in the City's fleet.	\$7,966,496.98

City of Kansas City, Missouri	Government	Missouri - MO	A relatively new Sourcewell Member, Kansas City is one of the fastest-growing and dynamic municipalities in the Midwest. As a result of recently privatizing collection efforts, the city provides one of the most cost-effective trash and recycling collection services in the nation. Residents of Kansas City are not charged a monthly fee for trash collection service, but rather the service is funded from general tax dollars. Currently, Kansas City's Public Works Department is evaluating its current solid waste management process and is developing a Long-Term Solid Waste Strategic Management Plan, a plan that New Way is honored to be included in.	The city of Kansas City, Missouri's most recent New Way order was for 30 units.	\$2,047,314
City of Greenville, South Carolina	Government	South Carolina - SC	The Garbage & Recycling division of the City of Greenville, South Carolina uses New Way Trucks for the collection and disposal of residential solid waste. New Way Trucks contributed to the city's Fleet Services Division earning a #11 ranking on the NAFA Fleet Management Association's 2017 Top 100 list.	The City of Greenville's most recent New Way order was for 5 mobile refuse collection vehicles. Like many of our valued municipal partners, Greenville is a repeat customer.	\$1,202,697.90
Emerald Coast Utilities Authority (ECUA)	Government	Florida - FL	Among other services, the Emerald Coast Utilities Authority provides solid waste, recycling, and yard trash collection to residential properties within the unincorporated area of Escambia County, Florida. New Way is proud to have provided mobile refuse collection equipment to Florida's oldest county in an effort to keep a beautiful area of the country in pristine condition.	ECUA has bought 8 New Way Trucks within the past year, bringing the number of New Way mobile refuse collection vehicles in their fleet to an even 20. Through discussions with ECUA leadership, we are expecting orders anywhere from thirty to forty vehicles in the near future. Ten are on order currently, with more purchases programmed for 2020.	\$1,113,729.40
City of Savannah, Georgia	Government	Georgia - GA	The City of Savannah's Department of Refuse Disposal provides solid waste processing and disposal services for all City departments, Savannah residents, and paid subscribers residing in the unincorporated areas of Chatham County, Georgia. Savannah has been a national leader in handling waste in the management-by-component approach in which different types of waste have different handling characteristics and are re-used, recycled, processed, or disposed of accordingly. New Way is lucky to have been part of such an innovative approach to managing municipal solid waste.	Yet another repeat customer, the City of Savannah's latest order was for 6 New Way Trucks. With over 50 New Way Trucks in the City's fleet, we are glad to have played a part in keeping one of the nation's most picturesque cities beautiful for so many years.	\$519,650.52

Ability to Sell and Deliver Service Nationwide

Describe your company's capability to meet the needs of Sourcewell Members across the US, and Canada if applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
25	Sales force.	New Way is proud to employ 10 Regional Sales Managers (RSMs) that cover all of the North American continent. Our RSMs are strategically located within their territories to provide immediate response to customer inquiries. New Way proudly boasts the largest sales team of any refuse equipment manufacturer in North America. Our RSMs are supported by three sales assistant, a sales order supervisor, and two marketing specialists located at our primary manufacturing facility.
26	Dealer network or other distribution methods.	New Way's Dealer Network is the cornerstone of the entire organization. Our expansive Dealer Network is able to service every state in the United States and all of Canada. Our 36 U.S. dealers have 83 locations throughout the country, and our 5 Canadian dealers have 13 locations throughout Canada.
27	Service force.	<p>New Way supports our dealer service programs with both factory-based and field service teams. Along with an extensive parts department, our factory-based service department operates like a call center by providing technical support to our dealers' service departments as well as our end users. New Way's four field service representatives are regionally located in Florida, Arizona, Missouri, and Iowa to provide on-site technical support for critical out-of-service issues and to support our factory-based service team with on-ground intelligence. Additionally, most dealers have their own service programs and provide field service support to customers.</p> <p>The New Way Parts Department - centrally located in Carroll, Iowa, has 3 knowledgeable call center support staff, 1 Internet salesperson, and 5 Shipping and receiving personnel to handle any replacement parts needs for Members in an efficient, professional, and timely manner. We have the ability to ship parts anywhere in the world with our logistics partnerships. Due to our close relationship with New Way's production plant, lead times for uncommon parts are very low.</p> <p>Our Dealer Network is the first line of defense for any parts and services inquiries. Each of our dealers currently stock parts and have several service technicians immediately available to provide assistance where needed.</p>
28	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	<p>New Way's service department is led by an experienced service manager and has two in-house service technicians and four field service technicians. Our two in-house technicians are always available by phone, so our response time is usually immediate. Our field service technicians are also available by phone but much of the time are on-site at customer or dealer locations as needed. In addition, the New Way controls, hydraulic and mechanical engineering teams are also available to assist the service team.</p> <p>To assure customer satisfaction each New Way service team member takes full ownership of each call and visit following up to complete resolution.</p> <p>Our parts department is able to provide immediate response to our customers' needs. New Way constantly works with our dealer support network to provide timely customer service out in the field as well. All dealers have access to the full New Way products parts catalog and keep the most common parts in stock for immediate delivery in order to support members and their New Way equipment. If a dealer doesn't have a part in stock, New Way ships globally! Based in the central United States, parts can be available anywhere in the continental US overnight.</p> <p>New Way's direct rental company, New Way FleetForce, is able to provide pre-positioned rental vehicles across the nation. Rental vehicles are also available for both long and short-term rentals for contract changes, seasonal leaf collection, emergency clean-up and disaster recovery, and other short or long-term refuse collection projects.</p> <p>Because New Way FleetForce rentals are immediately available, they are ideally suited to aid in natural disaster recovery operations. New Way Trucks have aided with storm clean-up efforts in both the Houston area following Hurricane Harvey and in Puerto Rico following Hurricane Maria.</p>
29	Identify any geographic areas of the United States that you will NOT be fully serving through the proposed contract.	New Way has mobile refuse collection vehicles in all 50 states, and is well-equipped to provide refuse equipment solutions to every state in the country. There is nowhere that we won't service nationwide.
30	Identify any Sourcewell Member sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	Through our national presence and extensive dealer network, New Way Trucks is able to serve all Sourcewell Member sectors.
31	Define any specific contract requirements or restrictions that would apply to our Members in Hawaii and Alaska and in US Territories.	There are no restrictions in Alaska, Hawaii, or any US Territories. New Way vehicles are currently in service throughout Alaska, Hawaii, and all US Territories.

Marketing Plan

Line Item	Question	Response *
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	<p>Sourcewell is and will continue to be a key feature in the entire New Way sales and marketing program. New Way dedicates a page on our website - newwaytrucks.com/sourcewell - to our partnership with Sourcewell. For the past five years, New Way has included the NJPA/Sourcewell contract information in all of its marketing efforts including a logo on all of our product brochures, in all dealer communication including electronic newsletters, and at all events and conferences. We have also partnered with Sourcewell staff to present the benefits of being a Sourcewell Member at the New Way semi-annual dealer summit event.</p> <p>Additionally, New Way will continue to participate in Nationwide Sourcewell training events. New Way Trucks is also prepared to co-sponsor local, regional, and nationwide trade shows with our Dealer Network - which all focus on our products and partnership with Sourcewell.</p> <p>Attached for your review are samples of our marketing materials. Product literature is available for all New Way products.</p>
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	<p>New Way is an industry leader in social media strategy & digital media execution. Our official accounts have over 3,700 page likes on Facebook, 500+ twitter followers, 250+ YouTube subscribers, and 1,000+ instagram followers.</p> <p>New Way Trucks is also an industry leader in online presence, as our advanced and comprehensive website has averaged over 12,750 pageviews every month throughout the last calendar year. Within the site is a password-protected dealer portal - a great resource for product specifications, company news, publicly available dealer contact information, and Sourcewell pricing and contract information for dealer use.</p> <p>Our on-site Research & Development Department is constantly striving to make data-driven decisions to improve the refuse bodies we manufacture. In turn, these product updates are marketed through both traditional and digital means.</p>
34	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	<p>A Sourcewell-awarded contract represents a long term partnership between well-respected organizations. This partnership is made stronger by the participation of its members and engagement of its vendors and Sourcewell represents the conduit between these entities. For the contract to be successful, both parties should help promote its value. A vendor such as New Way needs Sourcewell to connect us to its members while simultaneously promoting the competitive nature of the procurement tool, the high-quality, industry leading vendors it selects, and the ease of use of its program. At the same time, a vendor such as New Way, with its large North American footprint, vast dealer network, and industry-leading municipal customer base, should showcase its Sourcewell-awarded contract as the cornerstone of its municipal sales program. No other competitively procured agreement has the reach, ease of use, and cost savings of a Sourcewell-awarded contract, and New Way's team will promote and demonstrate that value through all of its sales and marketing channels, as it does today.</p> <p>New Way Trucks highly values Sourcewell's continued participation in our semi-annual dealer summit and training programs that bring together and support Members and Vendors.</p> <p>Sourcewell is already a large part of the sales process at New Way Trucks. We prominently place the Sourcewell logo and awarded contract number on product literature, marketing collateral, eNewsletters, and our website. Our New Way Dealers are very well-versed in doing business within the confines of the Sourcewell Contract. New Way will continue to exhibit our partnership with Sourcewell at local, regional, and national training events and tradeshow. Sourcewell will remain a key fixture in New Way's sales process.</p>
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	<p>Since 90 percent of our mobile refuse collection vehicles are specially customized for our customers, we do not currently offer an e-procurement ordering process.</p>

Value-Added Attributes

Line Item	Question	Response *
36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell Members. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	<p>As mentioned previously, New Way regularly hosts Dealer Summits and nationwide training events aimed at informing and educating both our Dealer Network and Members on how to best care for our New Way Trucks. We also host and broadcast at-factory service events and vehicle updates. We'll even go out to a Member location and train them on the product during time-of-sale and throughout the product life cycle. We proactively train members to show how a New Way solution will work better for them than their current product. To do this effectively, we always have a fleet of new demo vehicles across the United States and Canada available for demonstration to Members.</p> <p>In addition to our regional and at-factory sessions, New Way provides standard on-site delivery maintenance training to the Member through our Dealer Network.</p>

37	Describe any technological advances that your proposed products or services offer.	<p>New Way is constantly innovating, and technological advances are too numerous to list. However, two significant advances include the following:</p> <p>Introduced 6 years ago, the New Way RotoPAC is the first auger-driven organics collection vehicle in North America. It is also the first mobile refuse collection vehicle that works equally as well with municipal solid waste as it does with organic refuse collection. Additionally, it is the first mobile compactor to offer 23,000 pounds of torque in a screw-type auger.</p> <p>In early 2018, New Way teamed with BYD - an international leader in battery-electric automobiles - to deliver the first 100 percent battery electric Class 8 rear loader to Recology Cleanscapes in Seattle, Washington. We are proud to have aided in developing the most advanced mobile refuse collection vehicles in the world and to have played such a major part in effecting positive, sustainable change. New Way Trucks is currently working with BYD on other 100 percent battery-electric configurations, including a fully-automated side load mobile refuse collection vehicle.</p> <p>New Way's latest body features are designed to make routine service easier than ever. To keep vehicles running in top form, periodic maintenance is required, and our 20-person engineering department is making that easier through thoughtful design.</p>
38	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	<p>Aside from offering a compressed natural gas fueling system on any of our product models, resulting in cleaner emissions, New Way participates in other environmentally-friendly initiatives at our manufacturing facility. We monitor stormwater on an annual basis. We also participate in a filter program with a local landfill to ensure that we carry permits for proper disposal. In addition, we contract with Safety Kleen to dispose of paint waste in an environmentally-responsible manner. Finally, the air quality in our factory is tested twice per year, once in the summer and once in the winter. During this process, we analyze all areas of production to collect several readings to assure that our employees are breathing clean air.</p>
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	<p>Alternative fuels continue to be a focus. That's why New Way incorporates fuel delivery systems into our truck bodies. Additionally, New Way teamed with BYD - an international leader in battery-electric automobiles - in early 2018 to deliver the first 100 percent battery electric Class 8 rear loader to Recology Cleanscapes in the Pacific Northwest. The BYD Chassis is the first of its kind in the United States, and New Way is proud to have made this project a reality. A number of units are currently on order in different configurations, and we are excited and honored to be at the forefront of the battery-electric movement as an alternative to traditionally fueled vehicles.</p> <p>More than 25 percent of all New Way mobile refuse collection vehicles are built to be fueled with compressed natural gas. Cleaner emissions, fuel savings, and whisper quiet operation are just a few reasons why so many of our clients are opting to make the transition to mobile refuse collection vehicles fueled by Compressed Natural Gas. CNG systems are available on most New Way models, and we continue to work with fuel providers to make the waste industry more environmentally friendly.</p>
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	<p>New Way is a family-owned company and, as a result, is not eligible for these certifications. However, New Way supports the National Waste & Recycling Association women's council through active engagement and generous contributions to the association. We are proud to have representation on the NWRA Women's Council, and we are honored to employ several active-duty U.S. military members and veterans.</p> <p>Southern Sewer Equipment Sales, one of our New Way Dealers in Florida, is a 51 percent female owned, state-certified MBE. It is also certified by several cities and counties with certification pending in others.</p> <p>Envirotech Equipment Company, our New Way Dealer for the state of Wisconsin, is a certified woman-owned business located in Lannon, Wisconsin.</p> <p>Guthrie Sales & Service, our New Way Dealer that serves northwest New York State, was founded in 2015 and is currently woman-owned.</p>

41	What unique attributes does your company, your products, or your services offer to Sourcewell Members? What makes your proposed solutions unique in your industry as it applies to Sourcewell members?	<p>Dealer Network</p> <p>New Way Trucks is an industry leader unlike other mobile refuse collection vehicle manufacturers in many ways. Most importantly, we've got the strongest and most well-respected Dealer Network in the industry. We're also proud to boast the widest, and continually expanding, product lineup in the mobile refuse collection vehicle manufacturing industry. Additionally, New Way is home to the only direct-from-manufacturer rental company, New Way FleetForce, in the industry. Our competitors use third parties to rent and lease their vehicles.</p> <p>Customization</p> <p>New Way Trucks believes that all solid waste is local and although waste collection may be similar in different areas of the country, it takes on its own unique character, depending on where it occurs. As a result, each New Way Truck takes on its own unique personality and is customized for that specific local waste collection need.</p> <p>As the largest privately-held manufacturer of refuse bodies in North America, we are proud to offer the most customizable bodies available on the market today. 90 percent of our mobile refuse collection vehicles leave our manufacturing facilities specially customized for our valued customers. We are also the fastest-growing company - public or private - in the entire solid waste industry. New Way Trucks was the first North American refuse manufacturer in China and was a vital part of the 2008 Beijing Olympics, where more than 270 New Way Trucks were used to service one of the largest international sporting events in the world.</p> <p>Local Partner - Global Reach</p> <p>We have the ability to ship parts anywhere in the world with our logistics partnerships. All dealers have access to the full New Way products parts catalog and keep the most common parts in stock for immediate delivery in order to support members and their New Way equipment. In the rare case of a dealer being out of a stock part, New Way ships globally! Based in the central United States, parts can be available anywhere in the continental US overnight.</p>
42	Identify your ability and willingness to provide your products and services to Sourcewell member agencies in Canada.	Through our 5 dealer partners across 13 locations in the country, New Way is proud to offer all our mobile refuse collection vehicles and service capabilities to Canada in its entirety.

Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
43	Do your warranties cover all products, parts, and labor?	<p>New Way manufactured replacement parts, components, and assemblies are sold under a Limited Warranty to be free from defects in workmanship or material for a period of twelve (12) months. This is a part replacement only warranty and the item must be returned to the New Way Dealer for exchange. The labor and shipping cost to replace the parts shall be the responsibility of the customer. There is no warranty on expendable items, wear components, or used parts.</p> <p>Extended warranties are available on all of our current bodies and turnkey chassis. More information about extended warranties can be found on our price sheets and via the chassis' Original Equipment Manufacturer (OEM).</p> <p>Sourcewell Members will register their New Way warranty cards. This process is handled via an easy online form that a Member's local New Way Dealer can fill out.</p> <p>Parts only warranty (see section III.d of attached warranty statement) will apply for distributor or customer installed accessories that have been purchased through Scranton Manufacturing Company, provided part failure was not due to improper installation, use, or neglect. Damage caused by incorrectly installed field accessories may void portions or all of the unit's warranty.</p> <p>When a warranty service is requested, the distributor shall:</p> <ul style="list-style-type: none"> -Verify warranty eligibility of the machine to be serviced per previous sections -Diagnose the problem to determine that the service is warrantable -Ensure that the parts necessary to perform the repair are available -Provide the necessary repair services <p>Complete and submit the Warranty Request Form</p> <p>For more on the Warranty Request Form, see sections V.b and V.c of the attached warranty statement</p>

44	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	<p>New Way's warranty shall not apply to equipment that has been subject to misuse, negligence, or accident, or which has been repaired or altered without New Way's prior knowledge or consent. New Way will not be responsible for warranty repairs made in the field by personnel other than from New Way or an authorized New Way agent unless previously authorized by New Way.</p> <p>New Way Trucks are designed to operate only with the OEM products used by New Way. This limited warranty will be void if the New Way products are modified other than as done at New Way's factory or at a New Way authorized dealer unless authorized by New Way.</p> <p>Use of parts and assemblies from another manufacturer as substitutes for OEM products will also void the limited warranty. There will be no warranty on used parts.</p>
45	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Travel time and mileage are not subject to warranty labor reimbursement.
46	Are there any geographic regions of the United States (and Canada, if applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell Members in these regions be provided service for warranty repair?	We have warranty service coverage in all areas covered under the Sourcewell contract. Service requests will be covered by the local authorized dealer or their designated service center.
47	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	<p>In the case where a chassis is provided, New Way's warranty covers the vehicle's body only. The OEM is responsible for covering the warranty for a chassis.</p> <p>New Way's warranty statement does not cover other manufacturers' goods. New Way warrants the packer body assembly for a standard base period of one (1) year from date of delivery (see section III.a of attached warranty statement). This limited warranty applies to body components as defined below to be free from proven defects in material and workmanship. Wear parts (pins, bushings, chain assemblies, door and gate seals, wear pads, etc.), and normal wear and tear are excluded. Labor repair cost may also be covered, (see section IV.g of attached warranty statement). The body assembly is defined as the following:</p> <ul style="list-style-type: none"> -Arms (front loaders and side loaders) -Packer or Eject Panel -Tailgate -Electrical components -Factory installed aftermarket parts (see section IV.a of attached warranty statement) -Hydraulic components not including cylinders (see section IV.d of attached warranty statement) -Paint <p>Base Hydraulic Cylinder Warranty</p> <p>New Way warrants all hydraulic cylinders for a standard base period of two (2) years. This limited warranty applies to cylinder defects in material and/or workmanship only. See section IV.c of attached warranty statement for details. During the first year, replacement labor (see section IV.g of attached warranty statement) and shipping cost to the authorized distributor are covered. At the start of the second year, replacement labor and shipping costs are not covered by New Way. Optional three (3) or five (5) year extended warranties for hydraulic cylinders are available.</p>
48	What are your proposed exchange and return programs and policies?	<p>In the case of catastrophic failure of one of our bodies that is deemed to be the fault of our manufacturing process, New Way would offer a replacement at our expense.</p> <p>Parts may be returned by following the procedure outlined in section VI.a of the attached warranty statement.</p>
49	Describe any service contract options for the items included in your proposal.	Service contracts are not available at this time, however optional extended warranties are available at the time of order.

Payment Terms and Financing Options

Line Item	Question	Response *
50	What are your payment terms (e.g., net 10, net 30)?	Net 30 Days
51	Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?	<p>New Way offers a number of financing options, including Sourcewell's National Cooperative Partner program.</p> <p>Leasing through New Way FleetForce - As part of New Way's offering, we also provide rental options through New Way FleetForce. As the only direct-from-manufacturer refuse hauler renter in the industry, New Way FleetForce provides both short and long-term rental solutions for all the equipment we manufacture. This includes our full line of Front Loaders, Rear Loaders, Automated Side Loaders, and our Satellite Side Loader. A rental program is a great solution for Members looking for different finance options to acquire the same great New Way product. New Way FleetForce offers various rental contract options, ranging from as short as one week to a multiple years-long rental contract. Through maintaining a rental offering of the newest and most productive waste collection vehicles, New Way FleetForce has the volume to meet Members various needs and can coordinate the delivery rental units directly to Members in a timely manner. In most cases, delivery can happen immediately.</p> <p>Rentals are a desirable option for many haulers and especially for Members that represent municipalities. Leasing allows Members to:</p> <ul style="list-style-type: none"> -Easily begin a new collection route due to annexation without the typical up-front investment of purchasing. -Start a new route or relationship without the possible strain on cash flow. -Quickly replace a fleet unit that goes down unexpectedly or is out of service. -Manage an emergency clean-up situation where time is of the essence or a temporary expansion of service may be necessary - such as seasonal leaf and brush collection. -Take on a brand new route with a quality New Way waste collection unit after determining which model is best for the situation.
52	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell Members' purchase orders.	<p>New Way's Sourcewell order procedure has been streamlined into a simple 5-step process.</p> <ol style="list-style-type: none"> 1. A Member searches the New Way website or contacts a local New Way dealer for a mobile refuse collection vehicle that meets their unique specifications. 2. The New Way Dealer visits the Sourcewell website to verify Sourcewell Membership and develops a New Way Trucks Dealer quotation to the Member's specifications utilizing the Sourcewell Contract's discounted pricing and sends to the Member for approval. 3. The Member approves the quotation and issues a purchase order to the New Way Dealer, who subsequently submits a dealer order to New Way to start production. 4. Once complete, the mobile refuse collection vehicle is shipped to the New Way Dealer for pre-delivery inspection (PDI), and a delivery appointment is coordinated with the Member. 5. The mobile refuse collection vehicle is moved to the Member's location, where the New Way Dealer conducts operator training and the Member takes delivery of its New Way mobile refuse collection vehicle.
53	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell Members for using this process?	We do accept the P-card procurement and payment process. There is a 3% processing fee associated with all P-card purchases.

Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *
54	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	New Way Trucks maintains individual MSRP/retail price lists for each of our equipment product offerings. We will offer a four (4) percent discount off MSRP/retail price to Sourcewell Members under this contract. Please see our pricing attachment for all catalog pricing of our MSRP/retail equipment.
55	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	New Way Trucks is offering all Members a four (4) percent discount off its retail or list price on all of our mobile refuse collection vehicle models.
56	Describe any quantity or volume discounts or rebate programs that you offer.	New Way Trucks is happy to offer negotiable volume discounts on large orders. New Way does not offer a rebate program at this time.
57	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	New Way Trucks provides the following solutions: 1) Members have the option to purchase a chassis as a sourced good. In fact, New Way Trucks currently has over 550 chassis in stock from the top manufacturers in the industry. We are proud that our chassis inventory allows us to boast of the largest supply of ready vehicles in North America. 2) On the rare occasion that one of our work-ready chassis is not what a Member wants, we have the resources to locate the correct chassis for a Member. Due to our strategic partnerships with every major chassis manufacturer, we can purchase as many chassis as a Member desires at a competitive market price that is advantageous to the Member. Due to the level of customization that we provide, it may become necessary to source a 'good' (chassis) from another provider. In that rare instance, the sourced good is considered cost-plus.
58	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	Items such as pre-delivery inspection, installation, set up, mandatory training, and initial inspection are all free of charge and completed prior to the Member taking delivery.
59	If freight, delivery, or shipping is an additional cost to the Sourcewell Member, describe in detail the complete freight, shipping, and delivery program.	New Way Trucks provides a few delivery options to Members. The Member can choose between picking a completed mobile refuse collection vehicle up at one of our manufacturing facilities, having the completed vehicle delivered to an authorized New Way Dealer, or having the completed vehicle delivered directly to the Member's location. We will work with the Member during the order process to identify the right choice. Freight is an additional sourced charge. New Way Trucks will always offer competitively procured freight costs to Members.
60	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Our Alaska and Hawaii New Way Dealers have years of experience in coordinating the delivery of New Way Trucks. In order to make it as easy as possible for Members in both states, our dealers will leverage their existing freight networks to coordinate timely and competitively-priced deliveries. Similarly, for Members in Canada, our respected Canadian Dealer Network that covers all of Canada will help broker freight and shipping. All freight costs are competitively procured. All freight charges will be passed through to members at a competitively-sourced cost without mark-up.
61	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Our distribution network is unique in that New Way Trucks has the most robust Dealer Network in the United States. To best serve our extensive Dealer Network, New Way Trucks currently has 15 trained drivers delivering our New Way products across North America and also employs the best drive-away delivery companies as needed.

Pricing Offered

Line Item	The Pricing Offered In this Proposal is: *	Comments
62	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	New Way Trucks is providing our Dealer Network with a fixed, not-to-exceed cost below list price at a four (4) percent discount off manufacturer's suggested retail price for use nationwide and in Canada. For the purpose of this contract, all pricing is quoted in United States Dollars for both US and Canadian delivery.

Audit and Administrative Fee

Line Item	Question	Response *
63	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.	<p>Sourcewell orders will be independently tracked as part of the overall New Way Trucks order process;</p> <p>Member Numbers will be verified and compared to the most recent Member list;</p> <p>Order pricing is then verified to ensure pricing does not exceed the current Sourcewell discount and reviewed for potential volume discounts and additional member savings;</p> <p>For dealer-submitted non-Sourcewell municipal, educational, or non-profit orders, New Way Trucks will review the current Member list and notify the dealer if their customer is not a Sourcewell Member;</p> <p>New Way Trucks will provide a quarterly report of all Sourcewell sales along with the proper administrative fees for all orders reported</p>
64	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	New Way Trucks will provide Sourcewell with a Direct Sales Administrative Fee of 1.5 percent. The fee will apply to all currently-priced contract goods. The fee will not apply to non-contract priced goods such as freight, sourced goods, training, etc.

Industry Specific Questions

Line Item	Question	Response *
65	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	New Way will track the total number of units quoted, units sold, overall sales figures, and lead time. We will also generate and track new Sourcewell Membership sign-ups done through our Dealer Network throughout the term of the contract.

66	If your proposal does not include the chassis as a turnkey solution, propose, in detail, the process you or your dealer will follow to assist the Sourcwell member to acquire the chassis.	<p>To meet more pressing Member needs, our proposal does include the chassis as a turnkey solution. This simple six (6) step process is laid out below.</p> <ol style="list-style-type: none"> 1) A Member searches the New Way website eShowroom or contacts a New Way dealer for a work-ready mobile refuse collection vehicle that meets their unique specifications. 2) The New Way Dealer verifies specifications and contacts our Sourcwell ready vehicle program manager for vehicle availability. 3) Once a vehicle is located, the New Way Dealer reviews specifications with the Member and quotes price based on not-to-exceed contract pricing. 4) The Member approves the quotation and issues a purchase order to the New Way Dealer, who subsequently submits a dealer order to New Way. 5) The work-ready mobile refuse collection vehicle is shipped to the New Way Dealer for pre-delivery inspection (PDI), and a delivery appointment is coordinated with the Member. 6) The ready vehicle is then moved to the Member's location. When it arrives, the New Way Dealer conducts operator training and the Member takes delivery of its New Way work-ready refuse truck. <p>Through New Way, we are proud to offer work-ready refuse vehicle solutions for immediate sale. Members are welcome to choose between these work-ready solutions or a more customizable option, whichever choice better meets a Member's desires. New Way's current work-ready trucks are always in production and are constantly available. They are featured and advertised on our eShowroom website, accompanied by easy-to-read specification sheets, detailed photographs, and professionally-shot videos. This helps a Member more easily find what inventory is immediately available and ready for purchase. We also have trucks currently working in our Demonstration Truck line that are aggressively priced and ready for immediate sale. We even have off-rent trucks available for purchase as well.</p>
67	Explain key designs or processes your company takes to provide and promote safe operation of your equipment.	<p>New Way's engineers study ergonomics throughout our production process. We strive to have the safest working environment for both our employees and the end user when interacting with our mobile refuse collection vehicles. We cover all operational hazards with an exhaustive list of safety features and engineering controls, such as interlocks, guarding, signage, and recommending personal protective equipment when necessary.</p> <p>We also provide thorough operators manuals and require New Way Dealers to complete final walk-throughs with end users that aim to promote the safest operation of our New Way Trucks as possible. Everything we do is done with operator safety and ergonomics in mind, and we continue to take a proactive approach to safety improvements that are frankly too numerous to count. Whether it be rear-vision cameras, automatic tailgate latches, internal hydraulic cylinders to reduce external pinch-points, integrated strobe-light safety systems, safety sensors, or our largest standard riding steps in the industry, New Way Trucks leads the pack as one of the most innovative and safety-driven manufacturers for mobile refuse collection vehicle operators in the nation. Our research & development and engineering departments are constantly making improved safety integrations in an effort to keep our mobile refuse collection vehicles the safest industry-wide.</p> <p>As we outlined in item 15, New Way is leading the industry by having representation on all American National Standards Institute (ANSI) committees. We are also actively involved in establishing new equipment safety protocols for the refuse industry both with the help of ANSI and internally in our Research & Development department.</p>
68	Explain how your equipment in this category reduces down-time for the purchasing entity.	<p>Before a completed New Way Truck leaves for the purchasing entity's destination, the New Way quality department must complete a thorough internal quality inspection checklist. In addition, final product testing is required before a mobile refuse collection vehicle is shipped out to the purchaser. A standard walk-around and demonstration on initial delivery to the Member must also be completed.</p> <p>At all times, at least four New Way certified field technicians and trucks are available to help with uptime in the field as well. New Way is proud to provide service and inspections in the field to assure uptime and to help with any maintenance issues that may arise.</p>
69	Describe how the equipment you propose simplifies the operation for end-users.	<p>By providing the most robust product line in the industry, Members are able to get exactly what they need. New Way proudly provides more customizable options than any other mobile refuse collection vehicle manufacturer in the United States and Canada. 90 percent of the mobile refuse collection vehicles that we manufacture are customized in one way or another. Our customization options available to end-users are the most competitive in the refuse industry. Once delivered, our vehicles are ready to operate and require no additional modifications for refuse collection.</p>

70	Provide examples from your product offering that are unique in the industry.	<p>As the largest privately-held mobile refuse collection vehicle manufacturer in North America, another feature that sets New Way apart in the industry is that we offer the most robust product line available. Members are able to choose from mobile refuse collection vehicle sizes as small as 6 cubic yards to as large as 43 cubic yards.</p> <p>We are also receptive to our end-users' needs, as 90 percent of our vehicles leave our plant having been customized in some way, shape, or form. New Way is also home to the only direct-from-manufacturer rental company (FleetForce) in the industry. Members are not required to work through a third party for a rental mobile refuse collection vehicle.</p> <p>New Way Trucks also offers the RotoPAC, the first automated, auger-driven organics and municipal solid waste collection vehicle in the world.</p> <p>It is the most versatile collection body available today. The RotoPAC is also the first mobile compactor of its kind to offer 23,000 pounds of torque in a screw-type auger for an impressive 1,000 pounds per cubic yard compaction rate. The automated side-loader also offers the best legal payload in the industry, easily handling up to 13 tons of organic or municipal solid waste. The RotoPAC's hopper displacement also ranks 20 percent higher than any other automated side load system, at 7 cubic yards per minute. Finally, with a wheelbase 24 inches shorter than conventional side loaders, the RotoPAC is able to get you into, and out of, the tightest spaces with relative ease.</p> <p>The arm of our Sidewinder XTR Automated Side-Loader is the smoothest operating, most durable arm in the mobile refuse collection vehicle industry.</p>
71	If an hybrid/electric chassis option is not a part of your product offering, provide information on when a hybrid/electric option may be part of your offering.	<p>New Way Trucks is proud to offer Members battery-electric options. In early 2018, we teamed with BYD - an international leader in battery-electric automobiles - to announce the first 100 percent battery electric Class 8 rear loader to Recology Cleanscapes in the Pacific Northwest. The BYD Chassis is the first of its kind in the United States, and New Way is proud to have made this project a reality.</p> <p>A number of units are currently on order in different configurations, and we are excited and honored to be at the forefront of the battery-electric movement as an alternative to traditionally fueled vehicles. Through our working relationship with BYD we aim to further integrate our products into the electric vehicle space to provide a better, greener, overall mobile refuse collection vehicle.</p> <p>Although pricing was not available at the time of this proposal, Members can expect the same four (4) percent discount as soon as it is made available. By our estimates, this will occur in the first quarter of 2020.</p>
72	Describe any safety innovations on your equipment that are either exclusive or that you have introduced into the marketplace.	<p>The American National Standards Institute (ANSI) is the governing body for refuse equipment specifications and requirements in North America, and is administered by the National Waste and Recycling Association (NWRA). New Way is represented on all ANSI committees and is actively involved in establishing new equipment safety protocols for our industry. As industry leaders, we help shape the safety innovations of the future. For example, New Way was one of the first manufacturers to make rear-vision cameras - a chief safety measure in the refuse industry - standard on our mobile refuse collection vehicles over a decade ago.</p> <p>The integration of a New Way body with its chassis is one of the most critical safety and performance related processes. New Way works exhaustively behind the scenes with every major truck chassis manufacturer to seamlessly integrate the body and chassis as a single refuse collection vehicle instead of simply a chassis and body like many of our competitors. The relationships between New Way and its chassis manufacturers is emblematic of the final marriage of body and chassis; that is a fully integrated, pre-engineered, fully-validated chassis and body combination. The chassis come ready for immediate mounting, with no cutting and splicing of wires, in many cases the vehicle's frame and controls are fully integrated to provide as safe of an operator experience as is available today. This process reduces the complexity of wiring and routing, reduces weight, mitigates electronic mishaps, and makes routine maintenance easier, faster, and cheaper for the Member. Additionally, integration makes operating the mobile refuse collection vehicle more ergonomic, thus increasing driver productivity and decreasing driver fatigue. All of these features combine to make drivers' jobs easier and more comfortable, which results in higher driver retention rates. Higher retention means more experienced operators that are more adept at not only keeping themselves safe, but those on the road around them as well.</p>

Exceptions to Terms, Conditions, or Specifications Form

Line Item 68. NOTICE: To identify any exception, or to request any modification, to the Sourcwell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcwell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
 2. Documents should NOT have a security password, as Sourcwell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcwell.
 3. Sourcwell may reject any response where any document(s) cannot be opened and viewed by Sourcwell.
 4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."
- [Financial Strength and Stability](#) - Sourcwell RFP Financial Strength and Stability.zip - Thursday September 12, 2019 14:25:07
 - [Marketing Plan/Samples](#) - Sourcwell RFP Marketing Plan & Samples.zip - Thursday September 12, 2019 14:24:11
 - WMBE/MBE/SBE or Related Certificates (optional)
 - [Warranty Information](#) - 128126 NWT Standard Warranty Policy.pdf - Thursday September 12, 2019 14:25:49
 - [Pricing](#) - NWT Sourcwell RFP 091219 Pricing.zip - Thursday September 12, 2019 15:58:21
 - [Additional Document](#) - NWT Sourcwell RFP 091219 Additional Docs - Transmittal Letter and Supporting Document.zip - Thursday September 12, 2019 14:29:48

Proposers Assurance of Comp**PROPOSER ASSURANCE OF COMPLIANCE****PROPOSER'S AFFIDAVIT**

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to Sourcewell member agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of Sourcewell, or any person, firm, or corporation under contract with Sourcewell, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
3. The contents of the Proposer's proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer and will not be communicated to any such persons prior to the official opening of the proposals.
4. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted and included with the Proposer's Proposal.
5. The Proposer will, if awarded a Contract, provide to Sourcewell Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
6. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
7. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
8. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify Sourcewell for reasonable measures that Sourcewell takes to uphold such a data designation.

☒ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Jesse Geeslin, Director of Sales for New Way FleetForce

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

☐ Yes ☒ No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Mobile Refuse Vehicles_Addendum 3 Mon August 19 2019 10:58 AM	<input checked="" type="checkbox"/>	--
Mobile Refuse Vehicles_Addendum 2 Fri August 16 2019 02:42 PM	<input checked="" type="checkbox"/>	--
Mobile Refuse Vehicles_Addendum 1 Fri August 9 2019 09:45 AM	<input checked="" type="checkbox"/>	--



AGENDA ACTION FORM

A Resolution Authorizing the Purchase of One (1) 2022 New Holland Boom Mower Utilizing Sourcewell Cooperative Purchasing Agreement

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

Action Form No.: AF-276-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Committee
 Presentation By: R. McReynolds/S. Leonard

Recommendation:

Approve the resolution.

Executive Summary:

It is the recommendation of the committee to purchase One (1) 2022 New Holland Boom Mower from Chattanooga Tractor utilizing Sourcewell Cooperative Purchasing Agreement #110719-CNH for use by Grounds Maintenance Department. The delivery from the dealership to the agency is included in the total price of \$147,500.00.

With Sourcewell, agencies can utilize competitively solicited contracts to help save time and resources while still meeting purchasing requirements. All cooperative purchasing contracts from Sourcewell have been competitively solicited by a lead public agency and meet rigorous cooperative standards and supplier commitments. Each supplier commits to delivering their best overall government pricing so that the City of Kingsport can buy with confidence.

Please see the attached recommendation memo for additional information & Sourcewell Cooperative Contract.

This unit is a fleet replacement.

Funding is identified in Project/Account # 51150085019010

Attachments:

1. Resolution
2. Recommendation Memo
3. Quote
4. Sourcewell Cooperative 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: *gm*

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO CHATTANOOGA TRACTOR UTILIZING SOURCEWELL COOPERATIVE PURCHASING AGREEMENT NO. 110719-CNH FOR ONE BOOM MOWER FOR USE BY THE GROUNDS MAINTENANCE DEPARTMENT

WHEREAS, staff recommends the purchase of one (1) 2022 New Holland Boom Mower from Chattanooga Tractor utilizing Sourcewell Cooperative Purchasing Agreement #110719-CNH for use by Grounds Maintenance Department; and

WHEREAS, the city participates in the Sourcewell cooperative purchasing; and

WHEREAS, Tennessee Code Annotated section 12-3-1205 permits city to participate in a cooperative purchasing agreement for the procurement of equipment; and

WHEREAS, in order to purchase the equipment, a purchase order needs to be issued to Chattanooga Tractor, in the amount of \$147,500.00; and

WHEREAS, funding for this equipment is available in project account 51150085019010.

Now therefore,

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

SECTION I. That the city manager is authorized to execute a purchase order to Municipal Equipment for one (1) 2022 New Holland Boom Mower from Chattanooga Tractor utilizing Sourcewell Cooperative Purchasing Agreement #110719-CNH for use by Grounds Maintenance Department in the amount of \$147,500.00.

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

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

ADOPTED this the 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



FLEET MAINTENANCE DEPARTMENT
City of Kingsport

To: Nikisha Eichmann, Assistant Procurement Manager
From: Steve Leonard, Fleet Manager
Date: August 18, 2022
Re: Fleet Replacement of 2010 and 1694 Purchase Recommendation

It is the recommendation of this office to purchase the Fleet Replacements of Grounds Maintenance unit # 2010 and unit #1694 utilizing Sourcewell Contract pricing of \$147,500.00. The unit bid meets the expectations of the department and will fulfill the requirements of their operational needs. The Sourcewell Contract ID# 110719 allows a municipality to purchase off of the Sourcewell Cooperative pricing. A copy of the Sourcewell Contract is attached.

Item	Quantity	Description	Award to Vendor	Fuel Economy
1	1	2022 NEW HOLLAND BOOM MOWER	Chattanooga Tractor	N/A

These units will be a Fleet Replacements

The units listed below will be replaced and the trade in units will be disposed of utilizing the current approved City process.

The Sourcewell offerings were reviewed by Tim Elsea and Tony Bellamy, and they are in agreement with this recommendation.

Fuel Economy Improvement

00%

No fuel economy improvements would be realized since the replacement units are similar to the current units being operated.

State Contract Number 110719

Replacements

2010	2012 Kubota 4WD Tractor	Hours	2,151
1694	2005 Alamo A- Boom Mower	Hours	N/A

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

Thank you.





Chattanooga Tractor & Equipment

2034 E. Polymer Drive
Chattanooga, TN 37421
Phone: 423.892.5725
Fax: 423.899.2262

Ship To: CITY OF KINGSPORT
FLEET MAINTENANCE
625 WEST INDUSTRY DR
KINGSPORT, TN 37660

Invoice To: CITY OF KINGSPORT ACCTS PAYABLE
415 BROAD ST
KINGSPORT TN 37660

Branch 01 - Chattanooga		
Date 08/19/2022	Time 9:55:33 (O)	Page 1
Account No KINGS004	Phone No	Est No 04 Q04288
Ship Via		Purchase Order
Tax ID No		
Landon Taylor		Salesperson 456

EQUIPMENT ESTIMATE - NOT AN INVOICE

Description ** Q U O T E ** EXPIRY DATE: 09/28/2022 Amount

Stock #: ? Serial #: 147500.00

Hours: 0

TO BE PURCHASED OFF OF CNH INDUSTRIAL AMERICA LLC
SOURCEWELL CONTRACT 110719

*KINGSPORT SOURCEWELL MEMBER ID: 29779

2022 NEW HOLLAND TS6.120: 120 HORSEPOWER DIESEL, 4X4 FRONT
AXLE, 16X8 DUAL POWER TRANSMISSION, ENCLOSED CABIN WITH
HVAC, AIR RIDE SEAT, AND ALL OTHER STD EQUIPMENT.

TIGER BENGAL BOOM MOWER WITH 22 FOOT REACH, 1700 LBS FLUSH
MOUNTED WHEEL WEIGHT, 50 INCH ROTARY HEAD WITH STUMP JUMPER
AND BRUSH KNIVES, ELECTRO-HYDRAULIC JOYSTICK CONTROLLER,
ELECTRONIC BOOM POSITIONING SYSTEM, FRONT GRILLE / PUMP
GUARD, & ROOF MOUNTED FORWARD FACING LED STROBE LIGHT BAR
TURN KEY TRACTOR/BOOM MOWER COMBO: INCLUDES ALL FREIGHT AND
MOUNTING/INSTALLATION DELIVERED TO KINGSPORT READY TO WORK.
INCLUDES 4 HOUR SAFTEY/OPERATION TRAINING SESSION WITH
CHATTANOOGA TRACTOR & TIGER REP

Sale # 01 Subtotal: 147500.00
TOTAL: 147500.00

Subtotal: 147500.00
Quote Total: 147500.00

Authorization: _____

Thank You For Your Business!

**Solicitation Number: RFP#110719****CONTRACT**

This Contract is between **Sourcewell**, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and **CNH Industrial America LLC**, 700 State Street, Racine, WI 53404 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to its members. Participation is open to all levels of governmental entity, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and its Members (Members).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires December 30, 2023, unless it is cancelled sooner pursuant to Article 24. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.
- C. **SURVIVAL OF TERMS.** Articles 11 through 16 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in Vendor's product and pricing list. Unless agreed to by the Member in advance, Equipment or Products must be delivered as operational to the Member's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. LAWS AND REGULATIONS. All Equipment, Products, or Services must comply fully with applicable federal laws and regulations, and with the laws of the state or province in which the Equipment, Products, or Services are sold.

C. WARRANTY. Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Member in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Member.

D. DEALERS AND DISTRIBUTORS. Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized Distributors/Dealers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

Regardless of the payment method chosen by the Member, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Member at the time of purchase.

When providing pricing quotes to Members, all pricing quoted must reflect a Member's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Member's requested delivery location.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Members. Members reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Member will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Member.

B. SALES TAX. Each Member is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, Members must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Members.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number
- Clearly specify the requested change
- Provide sufficient detail to justify the requested change
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change)
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. MEMBERSHIP, CONTRACT ACCESS, AND MEMBER REQUIREMENTS

A. **MEMBERSHIP.** Membership in Sourcewell is open to public and nonprofit entities across the United States and Canada; such as municipal, state/province, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Members that can legally access the Equipment, Products, or Services under this Contract. A Member's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Member's use of this Contract is at the Member's sole convenience and Members reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell membership requirements and documentation and will encourage potential members to join Sourcewell. Sourcewell reserves the right to add and remove Members to its roster during the term of this Contract.

B. **PUBLIC FACILITIES.** Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Member policies and procedures, and all applicable laws.

6. MEMBER ORDERING AND PURCHASE ORDERS

A. **PURCHASE ORDERS AND PAYMENT.** To access the contracted Equipment, Products, or Services under this Contract, Member must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically a Member will issue a purchase order directly to Vendor. Members may use their own forms for purchase orders, but it should clearly note the applicable Sourcewell contract number. Members will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Member.

B. **ADDITIONAL TERMS AND CONDITIONS.** Additional terms and conditions to a purchase order may be negotiated between a Member and Vendor, such as job or industry-specific requirements, legal requirements (such as affirmative action or immigration status requirements), or specific local policy requirements. Any negotiated additional terms and conditions must never be less favorable to the Member than what is contained in Vendor's Proposal.

C. **PERFORMANCE BOND.** If requested by a Member, Vendor will provide a performance bond that meets the requirements set forth in the Member's purchase order.

D. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Member requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Member and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

E. **TERMINATION OF PURCHASE ORDERS.** Members may terminate a purchase order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Member fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal or state laws or regulations prohibit the purchase or change the Member's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Member.

F. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Member's purchase order will be determined by the Member making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Member inquiries; and
- Business reviews to Sourcewell and Members, if applicable.

B. **BUSINESS REVIEWS.** Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to members, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. **CONTRACT SALES ACTIVITY REPORT.** Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcewell Assigned Entity/Member Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Members. The Vendor will submit a check payable to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Members under this Contract during each calendar quarter. Payments should note the Sourcewell-assigned contract number in the memo and must be mailed to the address above "Attn: Accounts Receivable." Payments must be received no later than forty-five (45) calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than thirty (30) days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

- A. **ASSIGNMENT.** Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.
- B. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.
- C. **WAIVER.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.
- D. **CONTRACT COMPLETE.** This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.
- E. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, master-servant, principal-agent, or any other relationship.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Members, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

12. AUDITS

Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract for a minimum of six (6) years from the end of this Contract. This clause extends to Members as it relates to business conducted by that Member under this Contract.

13. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

14. INTELLECTUAL PROPERTY

As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Members against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Members by any person on account of the use of any Equipment or Products by Sourcewell or its Members supplied by Vendor in violation of applicable patent or copyright laws.

15. PUBLICITY, MARKETING, AND ENDORSEMENT

A. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

B. **MARKETING.** Any direct advertising, marketing, or offers with Members must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

C. **ENDORSEMENT.** The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

16. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

17. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

18. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the

remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

19. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. **Notification.** The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. **Escalation.** If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have thirty (30) calendar days to cure an outstanding issue.
3. **Performance while Dispute is Pending.** Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Members as a result of such failure to proceed will be borne by the Vendor.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Member order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

20. INSURANCE

A. **REQUIREMENTS.** At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition). At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for Products-Completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer).

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance.* During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability.*

During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:

\$2,000,000 per claim or event

\$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance.* During the term of this Contract, Vendor will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. **CERTIFICATES OF INSURANCE.** Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. All policies must include there will be no cancellation, suspension, non-renewal, or reduction of coverage without thirty (30) days' prior written notice to the Vendor.

Upon request, Vendor must provide to Sourcewell copies of applicable policies and endorsements, within ten (10) days of a request. Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. **ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE.** Vendor agrees to name Sourcewell and its Members, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance

maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies).

F. SELF-INSURED RETENTIONS. Any self-insured retention in excess of \$10,000 is subject to Sourcewell's approval.

21. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid status on all required federal, state, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Members.

22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota, the United States federal government, or any Member. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

23. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Members that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Members may also require additional requirements based on specific funding specifications. Within this Article, all references to "federal" should be interpreted to mean the United States federal government. The following list only applies when

a Member accesses Vendor's Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708).** Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. § 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction

work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award

covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of three (3) years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

24. CANCELLATION

Sourcewell or Vendor may cancel this Contract at any time, with or without cause, upon sixty (60) days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Termination of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to termination.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz
Title: Director of Operations &
Procurement/CPO
Date: 1/2/2020 | 11:37 AM CST

CNH Industrial America LLC

DocuSigned by:
By: Clinton Jenkins
06E1B885F5184A3...
Clinton Jenkins
Title: Strategic Accounts Manager, North
America
Date: 1/2/2020 | 9:55 AM CST

Approved:

DocuSigned by:
By: Chad Coquette
7E42B8F817A64CC...
Chad Coquette
Title: Executive Director/CEO
Date: 1/2/2020 | 11:51 AM CST

RFP 110719 - Ag Tractors with Related Attachments, Accessories, and Supplies

Vendor Details

Company Name: CNH Industrial America LLC
700 State Street
Address: Racine, WI 53404
Contact: Clint Jenkins
Email: Clinton.jenkins@caseih.com
Phone: 937-218-1701
Fax: 877-764-1369
HST#: 760433811

Submission Details

Created On: Monday September 23, 2019 09:05:28
Submitted On: Thursday November 07, 2019 14:34:33
Submitted By: Clint Jenkins
Email: Clinton.jenkins@caseih.com
Transaction #: 4b43493d-f19b-4219-bf25-a2aa1b7baa73
Submitter's IP Address: 159.61.192.15

Specifications

Table 1: Proposer Identity & Authorized Representatives

Line Item	Question	Response *
1	Proposer Legal Name (and applicable d/b/a, if any):	CNH Industrial America LLC
2	Proposer Address:	700 State Street Racine, WI 53404
3	Proposer website address:	www.cnhi.com www.caseih.com www.newholland.com
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer):	Clinton Jenkins Strategic Accounts Manager, North America Clinton.jenkins@caseih.com 2610 Harmony Court Winona Lake, IN 46590 937-218-1701
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Clinton Jenkins Strategic Accounts Manager North America Clinton.jenkins@caseih.com 2610 Harmony Court Winona Lake, IN 46590 937-218-1701
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Amy Swett Government and Fleet Sales Account Manager 500 Diller Avenue New Holland, PA 17557 Amy.swett@newholland.com 717-355-1686

Table 2: Company Information and Financial Strength

Line Item	Question	Response *
7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	<p>CNH Industrial is a global leader in capital goods that implements design, manufacturing, distribution, commercial and financial activities in international markets. We employ more than 64,000 people in 66 manufacturing plants and 54 research and development centers in 180 countries. Our global presence and broad reach mean that we can capitalize on opportunities for growth and pursue our ambition to become a leader in our sectors.</p> <p>Through our 12 brands we make the vehicles that keep agriculture and industry growing. From tractors and combines to trucks and buses, as well as powertrain solutions for on-road and off-road and marine vehicles, we design, produce and sell machines for work.</p> <p>Prior to CNH Industrial evolving, New Holland and Case IH were separate companies. In 1991 Fiat purchased an 80 percent interest in Ford New Holland and merged it with FiatGeotech to create a huge new industrial equipment entity dubbed N.H. Geotech—though its North American operation kept the name Ford New Holland. The new international behemoth, headquartered in London, instantly became the world's largest producer of tractors and haying equipment, the second largest producer of combines, and one of the largest producers of diesel engines. N.H. Geotech changed its name to New Holland N.V. in January 1993, although the company's North American operation stuck with the Ford New Holland moniker for two more years.</p> <p>In 1999 Fiat Group acquires Case Corporation and merges it with New Holland to create CNH Global, a world leader in farm machinery and construction equipment. In 2013 we became CNH Industrial.</p> <p>Case IH's robust history began in 1842 when Jerome Increase Case founded the Racine Threshing Machine Works in Racine, Wisconsin (our current headquarters). Shortly thereafter, in Chicago, Cyrus McCormick founded the McCormick Harvesting Machine Company which will later become International Harvester. In 1902 J.P. Morgan brokered the merger of the McCormick, Deering, and three smaller brands into the International Harvester Company. Throughout the next several decades, Case and International Harvester (IH) continued to lead the market with products such as the Farmall series of tractors. Millions of Farmalls were sold, cementing IH as an agricultural icon, not just in North America, but globally.</p> <p>The mid to late 1900s both companies experienced mergers and acquisitions. The most relevant took place in 1985 when Case and IH merged to form Case IH. New products were introduced after the merge. Steiger corporation was purchased, handing the new company a unique and well known four wheel drive lineup. Two longstanding tractor lines were created—the Magnum and Maxxum tractors. As the 1900's were coming to an end, Case IH celebrated its 150th anniversary. In 1995 Case IH once again advanced agriculture by bring AFS (Advanced Farming Systems) to the market. AFS was the first platform to use satellites to log and track data in real time in an agricultural application.</p> <p>New Holland's roots can be traced back to 1895, when handyman Abe Zimmerman made his first feed mill at his New Holland, Pennsylvania repair shop. He called his operation the New Holland Machine Company and incorporated it in 1903.</p>

		<p>Meanwhile, across the Atlantic, Italian auto maker Fiat was developing a tractor of its own. That company's efforts resulted in the development of the 702, Fiat's first mass produced tractor, which hit the market in 1919.</p> <p>Approx. 1940, New Holland was purchased by a group of four investors who introducing the world's first successful automatic pick-up, self-tying hay baler. The baler was invented by Ed Nolt and was an instant hit among farmers. New Holland has continued to manufacture updated baler models ever since.</p> <p>In 1947 New Holland Machine Company was acquired by electronics specialist Sperry Corporation, creating the subsidiary Sperry New Holland. In 1952 Claey's unveiled the first European self-propelled combine harvester, becoming one of the biggest combine manufacturers in Europe by the early 1960s. Sperry New Holland bought a major interest in Claey's in 1964. New Holland would go on to revolutionize harvesting equipment in 1974 with the introduction of the world's first twin rotor combine.</p> <p>In 1974 Fiat Macchine Movimento Terra launched a joint venture with American manufacturer Allis Chalmers Corporation, called Fiat-Allis. Fiat finally gained entry into the North American market in 1977, with the acquisition of Hesston, a Kansas-based manufacturer of hay and forage machinery.</p> <p>Ford was also becoming a global force in agricultural equipment. By 1985 Ford Tractor had 9,000 employees and 5,000 dealers, with about one third of each located in the United States.</p> <p>In 1986 Ford purchased Sperry New Holland and merged it with its Ford Tractor Operations to create a new company, Ford New Holland, Inc. By this time New Holland had grown to become one of the best performing companies in the farm equipment business, with 2,500 dealers and more than 9,000 employees of its own, working in 100 different countries. Within months of this merger, Ford New Holland added the agricultural division of Versatile Farm and Equipment Co., an agricultural equipment manufacturer that had been founded in Canada in 1947. The combination of Ford's tractors, New Holland's harvesters, and Versatile's large four-wheel-drive machines created a company that produced a wide spectrum of agricultural equipment.</p> <p>By 1990 Ford New Holland had 17,000 employees, revenue of \$2.8 billion, and plants in the United States, Canada, Belgium, England, and Brazil, plus joint ventures in India, Pakistan, Japan, Mexico, and Venezuela.</p> <p>In 1994 New Holland reported net income of \$355 million on sales of \$4.7 billion. Fiat eventually acquired the other 20 percent of New Holland previously owned by Ford, and in 1995, the 100th anniversary of the New Holland brand name, Ford New Holland was rechristened New Holland North America.</p> <p>Operating as a wholly owned subsidiary of Fiat, New Holland brought in just more than \$5 billion in sales in 1995. By this time, the company-controlled 21 percent of the world market for agricultural tractors, 17 percent of the world market for combines, 42 percent of the market for forage harvesters, and significant shares of the world markets for just about every other category of agricultural or construction equipment.</p> <p>By 1996 New Holland was selling about 280 different products in 130 countries around the world. Globally, 5,600 dealers were selling the company's agricultural equipment and 250 selling construction machinery.</p> <p>For more information on the robust history of CNH Industrial and its brands, please refer to the below following link. https://www.cnhindustrial.com/en-us/know_us/who_we_are/Pages/our_history.aspx</p>
8	Provide a detailed description of the products and services that you are offering in your proposal.	<p>CNH Industrial's two agricultural companies, Case IH and New Holland, will provide comprehensive solutions for the Sourcewell members in North America with our manufactured products. CNHi also partners with industry leaders whose attachments compliments our products which allows an offering of a broader range of solutions to the members. Our products include tractors from 35 HP to 680 HP. The Case IH Steiger Quadtrac, 680 HP is the world's largest, fuel efficient, and most powerful tractor to date. Between our brands, our horsepower range allows us to service the needs of any member. Our implements and attachments solutions are tillage, planting, hay and forage, harvesting, sprayers, mowers, blades, box scrapers, brooms, snowblowers, loaders and backhoes.</p> <p>For members who are on a limited budget dealers can offer rental and demo equipment that has not been retailed and comes with full warranty (less than 250 hrs) or pro-rated warranty (if unit has over 250 hours). The customer will receive the member list discount and demo/lease adjustment based on Rent for sale program rates less any service or clean up fees dealer would have incurred. These programs are attached for your review.</p> <p>Our vast network of CNHi dealers (1,496) will provide local product technical support at the dealership or out on the road to the members along with providing the start-up and operations training compliant with OSHA regulations, which the members need in order to get the maximum performance and maximum efficiencies out of their CNHi products.</p> <p>Our support doesn't stop there, our dealer network is stocked with OEM parts to support the member and to ensure their equipment gets the maximum amount of run time.</p> <p>Our financial services to the members include leasing options and extended warranties which are handled directly at the local dealer with the members.</p>

9	What are your company's expectations in the event of an award?	If CNHi is awarded the Sourcewell contract, we expect to achieve an overall sales growth of 10% in the first year and a minimum growth of 5% per year in the remaining contract years. We recognize our North American growth has not been as we expected, and we are making changes to get our growth back to the level we expect. CNHi announced in September 2019 an initiative "Transform to Win," which puts us on a path of strengthening our position in the marketplace. We are developing a new training and Sourcewell onboarding plan with Government Solutions Team, which requires our target dealers to be trained or re-trained and new dealers to be trained within their first 60 days. GST will be expanding their training to include additional web trainings, beyond the initial training and ride-a-longs to help educate the sales teams and the customers. Sourcewell marketing material is being distributed upon training for use with customers and at shows and events with our brands. Additional emphasis will go into getting our dealers to attend the GTKU's and Universities in order to round out their knowledge of the contract and how to use it to drive the need to the contract. We are also going to target and engage with the government entities to get our Sourcewell contract adopted versus these entities having their own contract.
10	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	CNH Industrial 2017 full year resulted in a net revenue of \$28 billion and a trading profit of approximately \$1440 million, with a trading margin of 5.1% and net income of \$477 million. This year our consolidated revenues grew by 10%, net revenues of Industrial Activities by 11%, and our trading profit by 15% relative to the prior years while reducing our net industrial debt by 46%. Please find attached *2018 CNH Industrial ANNUAL REPORT *2018 U.S. GAAP ANNUAL REPORT *2017 CNH Industrial ANNUAL REPORT
11	What is your US market share for the solutions that you are proposing?	21.5% US
12	What is your Canadian market share, if any?	25% Canada
13	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No
14	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	a) Not applicable b) CNH Industrial is the manufacturer of the equipment offered in this proposal. Our sales and service force is provided through our network of 1496 North American dealers. Though our dealer network, we are positioned to provide North America support for customers for the sale of new units as well as the important post sale support that our parts and service personnel provide. Dealerships are independently owned and operated. CNH Industrial imposes strict contract regulations and standards (Pinnacle), to hold dealers accountable for all interactions a customer has. This includes sales, service, parts, marketing and operations.

15	<p>If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.</p>	<p>CNH Industrial has a focus on quality products, sustainability, and human resources. CNH Industrial does not just hold itself to these standards, but also its suppliers. As a result of ever-increasing customer demands and the level of excellence required by WCM, the focus is on the quality of every aspect of the manufacturing process, which has also led plants to adopt a quality management system compliant with ISO 9001. As at December 31, 2014, there were 57 CNH Industrial ISO 9001 certified plants, equal to 96.5% of revenues from sales of products manufactured at CNH Industrial's plants. The plants are held to a high standard of quality and the safety of CNH Industrial employees are held even higher. Every manufacturing plant has an Environment, Health and Safety (EHS) unit, responsible for dealing with occupational health and safety issues, as well as for providing specialized technical assistance to production managers and to those in charge of all other Company processes. Plant EHS units are coordinated by Regional EHS units, which ensure adherence to the Health and Safety Policy and compliance with all applicable regulations. In addition, Regional EHS units provide specialized assistance for all Company processes that impact safety. The Governance and Sustainability Committee, a subcommittee of the Board of Directors, is informed of the health and safety results published in the Sustainability Report, and makes comments where appropriate. Individual health and safety targets were included in the Performance and Leadership Management system (see also page 31) of both plant managers and of most of the managers responsible for the projects indicated in the 2014 Sustainability Plan. The certification of occupational health and safety management systems as per the OHSAS 18001 international standard covers 54 CNH Industrial manufacturing plants worldwide, and almost 47.8 thousand people. Certifications are awarded by accredited international bodies that are themselves continuously and rigorously monitored by international organizations, such as Accredia and SAS, to ensure and certify their high levels of reliability and operational and procedural standards. In 2014, the occupational health and safety management systems at some non-manufacturing sites were OHSAS 18001 certified, accounting for about 2,200 people at eight different sites and locations. A total of 62 CNH Industrial sites worldwide (manufacturing and non-manufacturing) are now OHSAS 18001 compliant, covering almost fifty thousand people. In 2014, OHSAS 18001 certification was extended to all joint venture plants in which CNH Industrial has at least a 50% interest.</p> <p>CNH Industrial also hold its suppliers to a high standard in regard to both human resources and sustainability. Please see the attached files for CNH Industrial's Sustainability Plan and Supplier Code of Conduct for more information.</p>
16	<p>Provide all "Suspension or Disbarment" information that has applied to your organization during the past ten years.</p>	<p>Not applicable</p>

17	<p>Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.</p>	<p>Case IH Products:</p> <p>Farmall series 30 - 130 HP compact and utility tractors-</p> <p>Maxxum series 116 HP- 145 HP tractors</p> <p>Puma series 150 HP - 240 HP tractors</p> <p>Optum series 271 HP - 300 HP tractors</p> <p>Magnum series 180 HP - 380 HP tractors</p> <p>Steiger series 370 HP - 620 HP articulated tractors</p> <p>Early Riser 1200 and 2100 series planters</p> <p>Precision Disc air drills</p> <p>Flex Hoe air drills</p> <p>Precision Air carts</p> <p>Patriot series sprayers</p> <p>Miller series sprayers</p> <p>Titan floater applicators</p> <p>Nutri-Placer application bars</p> <p>Trident combination applicator (liquid/dry)</p> <p>Axial Flow combines</p> <p>Combine heads (all crops)</p> <p>Module Express cotton pickers</p> <p>Sugar Cane harvesters</p> <p>Tillage: discs, cultivators, rippers, vertical, strip, in-line, chisel plows.</p> <p>Windrowers with heads</p> <p>Hay mowers and conditioners</p> <p>Balers (large square, small square and round)</p> <p>Forage harvesters</p> <p>Forage Blowers</p> <p>Wheel rakes</p> <p>Mergers</p> <p>Loaders</p> <p>Attachments (box graders, lawn mowers, backhoes, snow blowers, roto-tillers)</p> <p>Skid steer loaders</p> <p>Compact track loaders</p> <p>Financial services provided by CNHi Capital (leasing/financing)</p> <p>On sight service</p> <p>Safety training</p> <p>Telematics are offered on most larger tractor models. This offering can help managers understand their equipment to higher level. Managers can monitor where units are, how much idle time has occurred, when service is needed, fuel usage and run diagnostics on the unit with the supporting dealer.</p> <p>New Holland Products:</p> <p>PTO HP</p> <p>Compact Tractors 28 HP to 36 HP</p> <p>Workmaster Tractors 17 HP to 60 HP</p> <p>Powerstar Tractors 50 HP to 100 HP</p> <p>T5 Series Tractors 73 HP to 100 HP</p> <p>T6 Series Tractors 95 HP to 125 HP</p> <p>TS6 Series Tractors 90 HP to 115 HP</p> <p>T7 Series Tractors 110 HP to 210 HP</p> <p>T8 Series Tractors 205 HP to 315 HP</p> <p>T9 Series Tractors 370 HP to 620</p> <p>Telehandlers 119 HP</p> <p>Loaders and Implements for tractors</p> <p>Major and Supporting Hay products</p> <p>Self Propelled Forage Harvester</p> <p>PullType Forage</p> <p>Combine and Heads</p> <p>Seeding</p> <p>Sprayers</p> <p>Material Handling</p> <p>Skid Steer Loaders</p> <p>Compact Track Loaders</p>
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Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *
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18	Describe any relevant industry awards or recognition that your company has received in the past five years	<p>Organization Year Award Product</p> <p>https://www.asabe.org/AE50</p> <p>AE50 2019 Outstanding Innovation Precision Disk 500DS</p> <p>AE50 2019 Outstanding Innovation AFS Soil Command</p> <p>AE50 2019 Outstanding Innovation New Holland Intelligent Trailer Brake System</p> <p>AE50 2019 Outstanding Innovation Axial- Flow 250 Series Combine</p> <p>AE50 2019 Outstanding Innovation IntelliSense</p> <p>AE50 2018 Outstanding Innovation CVX Drive Steiger/Quadtrac</p> <p>AE50 2018 Outstanding Innovation Custom Steer</p> <p>AE50 2018 Outstanding Innovation Gaudian SP310F Front Boom</p> <p>AE50 2018 Outstanding Innovation IntelliTurn Auto End of Row Turn System</p> <p>AE50 2018 Outstanding Innovation Optispray Plus Residue Management</p> <p>AE50 2018 Outstanding Innovation Dynamic Command Transmission</p> <p>AE50 2018 Outstanding Innovation 2100 Series Split Row Lift System</p> <p>AE50 2018 Outstanding Innovation Nutri-Placer 930 HSLD Fertilizer Applicator</p> <p>AE50 2018 Outstanding Innovation Trident 5550 Liquid/Dry Combination Applicator</p> <p>AE50 2017 Outstanding Innovation 4400 Series Corn Head Stralk Roll Spirals</p> <p>AE50 2017 Outstanding Innovation CX Combine Everest Leveling System</p> <p>AE50 2017 Outstanding Innovation IntelliBale ISOBUS Class 3 Automation Round</p> <p>Baler</p> <p>AE50 2017 Outstanding Innovation SmartTrax Flex Technology CX/CR Combines</p> <p>AE50 2017 Outstanding Innovation T7 Enhanced Engine Brake</p> <p>AE50 2017 Outstanding Innovation Aux. Alternator Automation Early Riser Planters</p> <p>AE50 2017 Outstanding Innovation Extended Wear Rotor Axial Flow Combines</p> <p>AE50 2017 Outstanding Innovation Rowtrac Carrier System Early Riser Planters</p> <p>AE50 2017 Outstanding Innovation Tiger-Mate 255 Field Cultivator</p> <p>AE50 2016 Outstanding Innovation Axial- Flow 140 Series Combine</p> <p>AE50 2016 Outstanding Innovation Dual Stream Combine Header Attachment</p> <p>AE50 2016 Outstanding Innovation Flexi-Coil P Series Air Cart</p> <p>AE50 2016 Outstanding Innovation IntelliCruis Feed Rate Control Large Square</p> <p>Balers</p> <p>AE50 2016 Outstanding Innovation Modular/Configurable Rice Concave CX Combine</p> <p>AE50 2016 Outstanding Innovation T7.315 Tractor</p> <p>AE50 2016 Outstanding Innovation T7.290 Tractor</p> <p>AE50 2016 Outstanding Innovation Early Riser 2150 Planter</p> <p>AE50 2015 Outstanding Innovation Ecolo-Tiger 875 Disk Ripper</p> <p>AE50 2015 Outstanding Innovation 12.5 Meter 760CG Varifeed Grain Header</p> <p>AE50 2015 Outstanding Innovation Remote Control Actuator CR Combines</p> <p>AE50 2015 Outstanding Innovation QuickMax Disc Cutterbar Quick-Chang Knife</p> <p>System</p> <p>AE50 2015 Outstanding Innovation Triple-Clean Cleaning Shoe Technology CX5/6000</p> <p>Combine</p> <p>AE50 2015 Outstanding Innovation Flip Up Tall Corn Attachments 4400 Series Corn</p> <p>Heads</p> <p>AE50 2015 Outstanding Innovation Indirect Engine Cooling System 620 Steiger</p> <p>AE50 2015 Outstanding Innovation Intermediate Wing Hinge Precision Disk 500 Drill</p> <p>AE50 2015 Outstanding Innovation Magnum Rowtrac Tractor</p> <p>https://tractoroftheyear.org/</p> <p>Tractor Of the Year Award 2019 Tractor Of the Year Maxxum 145 Active Drive 8</p> <p>Tractor Of the Year Award 2019 Best Design Maxxum 145 Active Drive 8</p> <p>Tractor Of the Year Award 2016 Tractor Of the Year Optum 300 CVX</p> <p>Tractor Of the Year Award 2016 Best Utility T5.120</p> <p>Tractor Of the Year Award 2015 Tractor Of the Year Magnum 380 CVX</p> <p>Tractor Of the Year Award 2015 Best of Specialized T3F Tractor</p> <p>http://ifw-expo.de/exhib/ciame-2019/</p> <p>CIAME 2018 Most Influential Brand NA</p> <p>CIAME 2017 Most Influential Brand NA</p> <p>https://www.wisbusiness.com/2018/cnh-industrial-achieves-wisconsin-green-masters-level-status/</p> <p>Wisconsin Sustainability Award 2018 Green Master Wisconsin Plant</p>
19	What percentage of your sales are to the governmental sector in the past three years	<p>~2.5% Case IH</p> <p>4.5 % New Holland</p>
20	What percentage of your sales are to the education sector in the past three years	<p><1% Case IH</p> <p>1% New Holland</p>
21	List any state or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	<p>CIH Sourcewell</p> <p>2016 \$14,352,145</p> <p>2017 \$19,224,408</p> <p>2018 \$17,725,520</p> <p>CIH H-GAC</p> <p>2016 <\$250,000</p> <p>2017 <\$250,000</p> <p>2018 <\$200,000</p> <p>CIH Buy Board (TX)</p> <p>2016 <\$250,000</p> <p>2017 <\$250,000</p>

2018 <\$200,000

CIH Florida Sherfff Assn.

2016 \$0

2017 <\$300,000

2018 <\$550,000

CIH IA State Contract

2016 <\$750,000

2017 <\$1.1M

2018 <\$750,000

MI State Contract

2016 <\$50,000

2017 <\$20,000

2018 <\$50,000

CIH MO State Contract

2016 <\$850,000

2017 <\$200,000

2018 <\$500,000

CIH SC State Contract \$100,000.00

2016 <\$200,000

2017 <\$300,000

2018 <\$300,000

CIH MN State Contract

2016 <\$300,000

2017 ~\$1.5M

2018 ~3.5M

New Holland Contracts

Michigan State

\$857,105 2018

\$766,756 2017

\$177,388 2016

Pennsylvania State

\$1,630,225 2018

\$814,131 2017

\$646,304 2016

Ohio State

\$522,480 2018

\$704,223 2017

\$938,642 2016

Iowa State

\$126,107 2018

\$83,890 2017

\$1,952 2016

Louisiana State AG & CE

\$787,783 2018

\$2,217,469 2017

\$969,113 2016

Oklahoma State AG & CE

\$267,600 2018

\$364,642 2017

\$167,549 2016

North Carolina State

\$74,502 2018

\$40,515 2017

\$- 2016

South Carolina State

\$57,470 2018

\$152,154 2017

\$202,446 2016

Georgia State

\$94,496 2018

\$171,451 2017

\$85,388 2016

Florida State

\$373,706 2018

\$407,945 2017

		\$207,569 2016 Alabama State \$- 2018 \$- 2017 \$181,741 2016 Mississippi State \$415,336 2018 \$483,303 2017 \$135,116 2016 Buy Board AG & CE \$1,714,910 2018 \$2,025,241 2017 \$639,189 2016 HGACBuy AG & CE \$226,015 2018 \$101,263 2017 \$27,389 2016 NASPO ValuePoint _ AG & CE \$916,116 2018 \$1,033,980 2017 \$725,807 2016 Sourcwell AG & CE \$9,804,511 2018 \$13,077,904 2017 \$12,001,257 2016
22	List any GSA contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	Case IH 2016 <\$700,000 2017 ~1.8M 2018 ~2.5M

Table 4: References/Testimonials

Line Item 23. Supply reference information from three customers who are eligible for Sourcwell membership.

Entity Name *	Contact Name *	Phone Number *
Kitsap County	Keith Swearingen	360-337-4895
Bonney Lake Public Services	Al Young	253-447-3101
South Stickney Sanitary District	Jason Gustafson	708-424-6030
Niagara Falls City School District	Earl Smeal	716-286-4243

Table 5: Top Five Government or Education Customers

Line Item 24. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
Cross Keys Leasing - USDA	Government	Virginia - VA	Crop Maintenance/Agriculture use	35	\$3,775,820
ND DOT	Government	North Dakota - ND	Mowing	44	\$3,362,676
Town of Ocean City	Non-Profit	Maryland - MD	Beach clean-up	13	\$3,143,775
Ontario Federation of Snowmobile Clubs	Government	ON - Ontario	Plowing	14	\$1,383,581
Luinenberg Waste Management System Inc.	Non-Profit	Minnesota - MN	Landfill	5	\$1,276,221

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell Members across the US, and Canada if applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
25	Sales force.	CNH Industrial's Field sales force is comprised of employees of the company as well as third party employees of our dealer network who cover the entire US and Canada. Our Field Sales Force are fully focused on the sale of CNH Industrial through our Dealer Networks to our end user. The Case IH Commercial Sales Team is comprised of 6 Regional Sales Directors, 48 Territory Sales Managers, 15 Sales Support Managers, New Holland Agriculture Field Sales is made up of 6 Region Sales Directors, 45 Territory Business Managers, 5 Dealer Sales Support Specialists, 4 Product Sales Specialty Managers, 26 Marketing, Product, Technical, and Specialty Field Managers. Each independent CNH Industrial dealer supports its local customer base with its own sales, product support and service personnel. We have approximately 7,480 dealer sales representatives supporting our products across all market segments.
26	Dealer network or other distribution methods.	Case IH and New Holland Agriculture has a dedicated dealer network comprised of 1496 locations strategically placed across North America. Each one of these locations is fully dedicated and trained to sell and support Case IH and New Holland Agriculture products covered in this RFP. Our independent Dealer network is primarily located in rural North American communities. Many of the principals, their staff and customers hold positions on their local city, village, township, county boards, school boards and positions within their churches, non-profit camps and Fair Boards, and non-profit organization, such as Scouts, 4-H, Ducks Unlimited, etc. The efforts and plans of GST to engage and train the CNHi dealer network from the top down carries the value of our Sourcewell contract through to these community officials who need to purchase equipment efficiently. CNH Industrial supports our authorized dealer networks with 70 professional Field Service Managers. Each CNH Industrial dealership is staffed with parts and service personnel trained to support the products in their sales area of responsibility. The CNHi dealer network supports the continental United States, Hawaii, Alaska and Canada. Dealer service personnel are factory trained as well as have access to "ASIST", a technical database that helps technicians quickly diagnosis product failures through the experience of the CNHi technical advisors and fellow dealers. All core CNHi products are further supported by the Customer Care contact phone numbers Case IH 1- 844-522-7344, New Holland Agriculture 1-888-365-6423.
27	Service force.	CNHi Field service force is comprised of employees of the company as well as third party employees of our dealer network who cover the entire US and Canada. Our staff and our dealer technicians are required to meet annual service training requirements through our Company provided on-site training, our service schools and our on-line technical training programs. Our Field Service force are fully focused on the service of CNHi through our Dealer Networks to our end user. The Case IH Commercial Service Team is comprised of 6 Regional Service Directors, and 38 Field Service Managers. New Holland Agriculture Field Service is made up of 1 Service Director, 6 After Sales District Managers, and 32 After Sales Business Managers. Each independent CNHi dealer supports its local customer base with its own sales, product support and service personnel. We value their position as the local support to the members and provide them with the tools, training and support to help provide the member with a well-rounded team.
28	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	CNH Industrial has a strong focus on uptime for all applications of our equipment. Uptime is not only the company's focus, but also our dealer networks. Customer service begins with our strong parts depot network. Throughout Canada and the United States, CNH Industrial supports its customers with 11 parts depot that are strategically located for optimum logistical support. Dealers are held to high standards through our Pinnacle parts and service program. CNH Industrial constantly monitors fill rates of parts throughout our network, benchmarking at 98.5% fill as a KPI (Key Performance Indicator). Should a part be unavailable in a reasonable time frame for the task at hand, other resources are deployed. One such resource is BDA (Break Down Assistance). When triggered, BDA escalates the part needed to an "emergency" status. This status allows for the part to be delivered in from anywhere globally, utilizing our 45 non North American depots. Another resource is our ability to supply a "loaner" machine to the customer at no charge, or reduced rates. This ensures that, even if a part is overseas, and the time to fix the unit is not satisfactory for the customer, they will have uninterrupted uptime. CNH Industrial is also beginning a 3D printing of parts to be on the leading edge of technology and deliver best in class experiences for our customer base.
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	CNH Industrial will service all geographic areas of the United States and Canada.
30	Identify any Sourcewell Member sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	CNH Industrial will fully service all government, education, not-for-profit and any other eligible entities. No other contracts limit CNH Industrial ability to promote the Sourcewell contract.
31	Define any specific contract requirements or restrictions that would apply to our Members in Hawaii and Alaska and in US Territories.	CNH Industrial will serve the entire U.S. including Hawaii, Alaska and Canada in all market segments. The shipping and delivery expense calculation method will be used for offshore transactions as well as Alaska and Hawaii.

Table 7: Marketing Plan

Line Item	Question	Response *
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	CNHi will promote the Sourcewell contract to our CNHi Sales Managers, government dealer sales teams of over 2,000, and our customers. Our Sales Managers will attend their dealers training to help promote and work through a process on how to ensure full support at the onset of a potential Sourcewell sale. GST will conduct the training, our CNHi government team is involved as well as our Sourcewell contract manager. We want our dealers to have the vast amount of support and success while being trained on the contract. We also go to Canada and train on the Capital Purchasing Program offered by the Trade division of the Rural Municipality of Alberta (RMA). All training is free to the dealers and goes through our Web University for tracking and awarding the teams for their participation. We work with Sourcewell and RMA to provide marketing materials to the dealers. The marketing materials are also used by the dealers for customer visits, shows and other events where our brands and the contract are being promoted. We plan to develop Sourcewell sales goals within CNHi and the dealers. We are going to add emphasis to getting our sales teams to the GTKU's and Universities. We are going to raise the level of the Sourcewell contract exposure in the dealerships by providing Sourcewell marketing material along with our materials. The Sourcewell contract will have a heavy focus as GST makes sales calls and attends shows and events with our dealers to educate and train our teams and our customers. We have developed pages in our internal dealer portal and process documents outlining the processes in the US and Canada to show our dealers the entire process and how simple it is to use the contract.
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	<p>CNH Industrial incorporates several uses of technology, digital data, social media and data to drive market awareness, target prospective sales, train our teams and customers, and perform community outreach. CNH Industrial has dedicated websites for both New Holland and Case IH products and services. These websites allow prospects to build equipment to their specifications, locate dealers and have direct contact information to each brands government representative. Our social media presence spans from Instagram, Facebook, Twitter and LinkedIn. We follow, like and share Sourcewell media along with other industry leaders to promote a full support system to our teams, dealers and the community. These media platforms help keep our brands at the top of the minds of our prospects, current customers and the community.</p> <p>CNH Industrial also utilizes data from Association of Equipment Manufacturers (AEM) on governmental and non-profit sales. This data provides sales activities and allows the company to pinpoint high-density sales areas. The data also allows us to understand our effectiveness in the marketplace in comparison to our top competitors. By analyzing this data, we can shift strategies and continue to focus where we are successful.</p> <p>Another source of data acquisition is from our government bid services. The company invests in these services to gain a competitive advantage and to help us direct opportunities to the Sourcewell contract. The services allow us to see the members future requirements, prior to the requirement hitting the street. By understanding the member's needs, our dealer network can reach out and build relationships and offer the Sourcewell contract as a solution to fulfilling the members bid process.</p> <p>Finally, we conduct training and post videos online to reach a maximum audience within our network to keep our teams "in the know" as quickly as possible. Our first measure of offense is to get information out quickly in order that the members always have the most current information. GST along with our Government Sales Managers work with our teams daily through these trainings, videos and emails to help them understand their market and the opportunities that exist.</p>
34	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	<p>CNHi expects Sourcewell to promote the contract by allowing members to easily locate our contract through the landing pages on the Sourcewell website, through publications, social media, digital media, shows and events. We would also like to see Sourcewell's continued involvement in more state adoptions of the contract in the US and Association adoptions in Canada. Promoting the contract through the GTKU's and Universities, we have realized, is an excellent value Sourcewell provides to the promotion and education efforts. Being able to utilize the contract manager for trainings is of great value as well. Communicating how the contracts are being adopted and by whom is another important role Sourcewell can provide. The annual H2O conference is an excellent networking opportunity for the vendor teams to come together and share lessons learned, wins and best practices and we hope those continue. Our expectation of Sourcewell when members inquire directly is to take the opportunity to thank them and appreciate them and the needs they have, answer any questions the contract manager can answer and provide our contact information to the member. We would like our CA to follow up with an email or call to us on who called, their contact information and what they needed. This allows us to continue the sales process by reaching out to them as this will show the member, they have a team with Sourcewell and CNHi in which they can count on for solutions.</p> <p>We plan to integrate the contract in our renewed training efforts with our North American CNHi and dealer sales teams. We will plan time to discuss our Sourcewell contract at sectional and regional CNH dealer and sales meetings. Our focus is going to be on education, training and more marketing material given out to customers as well as we plan to be more visible to the members in this market segment; government, education and non-profits. We are placing a focus on our business in Canada and working with an industry leader on government mowing attachments which will give us additional products in this market area. We believe we are fully integrated within our ordering process as we have written processes on how to place Sourcewell orders through our dealer and CNHi systems which will be included in the training of the teams.</p>
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	<p>Not at this time. Our contract is awarded through our dealer level and this places too many variables. We have had conversations with NASPO to see if there is a way to work on an industry standard. Some of the states have already started going to the e-procurement system but with our highly configured products, it is difficult to work within their perimeters. We are willing to work with Sourcewell and the team you have put together to come up with a process for e-procurement. Whether this be through an EDI system or finding a company that has already created a process.</p>

Table 8: Value-Added Attributes

Line Item	Question	Response *
36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell Members. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	<p>CNH Industrial holds Product Training and Customer Experience Events throughout the year. Any dealer, current customer or potential customer can attend these events.</p> <p>At the corporate training facilities or the servicing dealer level, Operator and Maintenance training can be specifically structured for the customer. The servicing dealer provides base machine operation and maintenance training as part of the purchase and delivery. Additional training can be purchased through the local dealer.</p>
37	Describe any technological advances that your proposed products or services offer.	<p>One of CNH Industrials most recent technological advancements resides in the AFS (Advanced Farming System)/Performance Land Management (PLM) platforms. Installing these systems onto the equipment allows for several advantages</p> <ol style="list-style-type: none"> 1) Machine location 2) Machine telematics (idle time, work time, data transmission) 3) Remote diagnostics (software updates etc) 4) Data mapping (fuel, as applied mapping, etc) 5) Self steering <p>Along with AFS/PLM, CNH Industrial products can be equipped with CVT transmissions. This technology allows for infinite ranges of speed including .00001 MPH to top speed. Slow speeds are desirable in mowing applications and many other operations commonly used in the government sector.</p>
38	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	<p>For the last nine years CNH Industrial has received the highest score from Dow Jones Sustainability Indices (DJSI) in the areas of: Environmental Policy & Management System, Operational Eco-Efficiency (environmental dimension) as well as Social Reporting, Human Rights and Human Capital Development (social dimension), Code of Business Conduct and Supply Chain Management (economic dimension). These awards come from CNH Industrials initiatives involving alternative fuel sources such as methane, compressed natural gas (CNG), liquefied natural gas (LNG), and ethanol. Each of these resources reduces machine CO2 emissions. In addition to this, alternative fuels such as methane and ethanol allow operations to become "circular economies". This means what was once seen as waste or by product, is now seen as a renewable energy source.</p>
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	<p>In addition to the green initiatives listed in section 38, CNH Industrial continues to support conservation efforts with third parties. For almost a decade, the company has supported the National Association of Conservation Districts (NACD). CNH Industrial is the largest donor to the NACD and is the primary sponsor of their annual meeting. The NACD and CNH Industrial's partnership ensures education and activities focus on the sustainability of agriculture through the stewardship for the land and the protection of its quality soil and water, all needed to secure the resources to feed a growing world population with safe food sources. https://www.nacdnet.org/news-and-events/annualmeeting/2019-annual-meeting-auction/</p> <p>All CNH Industrial engines comply with U.S. EPA (EPA emission standards part 1039) and Canadian regulations.</p>
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	<p>CNH is proud to partner with Small Business, Veteran Owned, Women or Minority Owned, Native American Owned and other Disadvantaged Business Enterprises. One of our GSA contract holders, Federal Contract Corp, is a Certified HUBZone Vendor, Veteran-Owned Small Business, Service-Disabled Veteran-Owned Small Business and SBA Certified Small Business.</p> <p>https://federalcontractscorp.com/about/</p> <p>Monroe Tractor in NY is Woman Owned. https://www.monroetractor.com/about/</p> <p>Yukon Equipment in AK is Native Owned. It was established under the Alaska Native Claims Settlement Act of 1971. https://yukoneq.com/about-us/</p>

41	<p>What unique attributes does your company, your products, or your services offer to Sourcewell Members? What makes your proposed solutions unique in your industry as it applies to Sourcewell members?</p>	<p>CNH Industrial is dedicated to our Clean Energy Leader® strategy, launched in 2006, which promotes the use of renewable fuels, systems to reduce emissions, technological tools, and sustainable agricultural practices. Our brands are designed and built to deliver efficient power and agronomic advantages to increase yields and limit the cost of inputs. Our brands represent more than 175 years of expertise in the industry. We are recognized today as a global leader in powerful, reliable and highly efficient equipment that helps our members meet the challenges of modern-day tasks. We have more than 400 models in over 100 product lines which speaks to understanding member needs and providing them with the correct solution. This is accomplished by our strong dealer network and our CNHi field teams working together to help our members define their needs and offer the "right solutions" package. Our dealers are measured on technical, financial and sales performance levels and maintaining certifications to back up these performance levels. Our focus is to align with the members focus; purchasing the right equipment and efficiency of operation while controlling costs. A few other great attributes CNHi offers above our competitors is around data and demos. We offer an open platform for data and do not lock out different data points as our competitors do. The purchase of AgDNA allows our machines to communicate with multiple data sources and brands. This allows the members to have one point of data communications for all their brands. This is especially important at the university level where multiple brands are typically present. These data points are used in calculating yield, for maintenance tracking, usage tracking and many other pieces of information required to operate their fleets effectively.</p> <p>Our unique demo program will be available to the members under this proposal. A member can use the product in advance and receive additional discounts if they chose to purchase the product. This allows the member to make sure they are getting the right product for the job at hand.</p> <p>Our partnership with Government Solutions Team (GST) will continue to have an impact on the members through the education and speaking opportunities they are afforded during our meetings and events as well as during events taking place at all levels throughout North America which they are invited to attend. Their vast array of knowledge and experience working with members in this sector compliments our teams in the field in getting the Sourcewell contract discussed and utilized. It is their level of knowledge of the principles of the contract and knowing how to talk to the members that makes their training "Plan, Prepare, and Expect to Succeed with Your Sourcewell Contract" well-received. Their ability to speak with members as a third party has been of great value in successfully helping members understand how to utilize the contract.</p> <p>New Holland has been pushing the boundaries of innovation in clean energy solutions for more than a decade through its Clean Energy Leader strategy. It was the first manufacturer to offer 100% compatibility with Biodiesel back in 2006. In 2009 it developed the world's first hydrogen tractor concept, NH2™ proving the feasibility of this zero-emission technology for the future. This was a key element of the brand's Energy Independent Farm™ concept, launched at the same time.</p> <p>New Holland continued to explore alternative fuels that would deliver reduced emissions and lower running costs. In 2012, it created its first propane fueled tractor prototype and is now developing the T6 Propane Power tractor in partnership with the Propane Education & Research Council (PERC).</p> <p>In 2013, New Holland presented its first T6 Methane Power tractor prototype, which it has been developed further and tested with customers. The 6-cylinder NEF methane engine delivers 180 hp and 740 Nm: the same power and torque as its standard diesel equivalent. It has the same durability and service intervals, and generates up to 30% running cost savings. The innovative tank design, using a composite layered tubular structure, enables a full day's autonomy in line with an equivalent diesel model.</p> <p>In real field conditions, the methane powered concept tractor produces at least 10% lower CO2 emissions and reduces overall emissions by 80% compared to a standard diesel tractor. Its environmental performance further improves when fuelled by biomethane produced from crop residues and waste from farm-grown energy crops, which results in virtually zero CO2 emissions.</p> <p>The New Holland methane powered concept tractor closes the virtuous cycle of the Energy Independent Farm™. It combines visionary design concepts with advanced technologies, extended connectivity and reliable powertrain technology that are already available, fuelling innovation to offer a glimpse into a sustainable future of efficient and productive farming.</p>
42	<p>Identify your ability and willingness to provide your products and services to Sourcewell member agencies in Canada.</p>	<p>CNH Industrial has been selling and servicing members in Canada through our Sourcewell contract since 2015. We produce a Canadian version of our price book in Canadian dollars and offer our full array of products and services through our network of local dealers across the provinces. Our Canadian financing and leasing teams are Canadians living in Canada. This ensures the members are working within the Canadian rules and regulations. With the assistance from Sourcewell, RMA and GST, we are expanding our marketing and training efforts and our overall CNHi and dealer presence throughout Canada and look to grow the use of the contract as a result of this effort. We are representing Sourcewell at the Canadian Public Procurement Forum meetings in Toronto Nov 3-6, 2019.</p>

Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
43	Do your warranties cover all products, parts, and labor?	All materials and labor are covered as described in the brand's Warranty Statements. Please see Warranty attachment.
44	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	If scraper applications are to be performed in construction/commercial, the tractor must be ordered as a "scraper unit" from the factory, otherwise some restrictions on warranty may arise.
45	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	No, this proposal does not cover technician travel time or mileage for warranty repairs. The member and the dealer may work out other arrangements outside of this proposal.
46	Are there any geographic regions of the United States (and Canada, if applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell Members in these regions be provided service for warranty repair?	No. Authorized CNH Industrial equipment dealers warranty repair centers are available in all geographic regions of the U.S. and Canada. Sourcewell members will work with their local dealer for warranty repairs.
47	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	All CNH Industrial branded equipment (New Holland/Case IH) are warranted by CNH Industrial. Any attachment/accessories not brand CNH Industrial (New Holland/Case IH) will be warranted according to the original equipment manufacturer according to their policies.
48	What are your proposed exchange and return programs and policies?	<p>CNH Industrial's responsibilities include, but are not limited to:</p> <ul style="list-style-type: none"> • Deliver a unit that is free of defects in material and workmanship • Reimbursement costs for repairs that are the result of defects in material and workmanship • Provide warranty payment to dealers per policy in a timely manner • Provide service information to dealers via the Technical Help Desk (THD) and eTIM • Identify product deficiencies and corrective action by Product Improvement Programs • Make determinations of premature wear • Provide operators manuals • Deliver a "work-ready" product, but not application ready (roll-on / roll-off product) <p>If for any reason defects/failures arise, CNH Industrial will take corrective actions under the warranty policy. Returns/Exchanges are not allowed.</p>
49	Describe any service contract options for the items included in your proposal.	<p>Base Warranty is the factory warranty provided to the customer at no additional cost for a specific period of time covering the complete machine.</p> <p>Extended Warranty is an extension of the base warranty coverage on specific components provided to the customer at no additional cost.</p> <p>Each of the above warranties vary in hours/term length by product. Please see attached "warranty" file for a complete list of equipment coverage.</p> <p>Purchased Protection Plan (PPP) is available for purchase through CNH Industrial Capital. PPP provides coverage beyond the manufacturer's base warranty period for new and/or used equipment. The duration and type of PPP warranty will depend on the purchased coverage. If the plan lists a month / year limit and a machine hour limit, the plan expires when the first of those limits is reached.</p> <p>PPP purchased during the manufacturer's base warranty period.</p> <ul style="list-style-type: none"> • PPP period (duration and/or hour limit) includes the manufacturer's base warranty period. • PPP coverage begins upon the expiration of the manufacturer's base warranty period.

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *
50	What are your payment terms (e.g., net 10, net 30)?	Payment terms are Net 30, after receipt of invoice.
51	Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?	Financing options and leasing solutions are available from CNH Industrial Capital America LLC. Sourcewell members should contact the local CNH brand construction equipment dealer to see what options are available.
52	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell Members' purchase orders.	Our dealer network will be handling the sales from Sourcewell members and our dealers will be quoting the unit as well as receiving the payment from them. As our dealers are working with their customers they will determine if the local agency is a Sourcewell or Canadian Association member. If they need to sign-up, our dealers are educated in the application process and can help them complete the membership application as well as they have our internal support and support from GST, RMA and Sourcewell to assist. Our dealers are aware of the Sourcewell contract pricing and the discount structure that needs to be passed to their customers. This information is published on our Dealer Portal as well as provided in writing and focused on during all trainings. They will work up a quote to the Sourcewell member. All documents will have the Sourcewell member number, the CNHi contract number and our equipment VIN number in order to maintain a good audit trail for the member. Once the member approves the quote the dealership will order the equipment. When the equipment arrives, the dealership will prep the unit and deliver it to the customer. The dealer will review operating instructions with the customer and fill out the warranty registration. The agency pays the dealer for the purchase. The Dealership settles the equipment and uploads the purchase order, invoice and authorization letter into the settlement system, which contains the member number, contract number and VIN number for auditing purposes. Each quarter the CNH Government Manager will run a Sourcewell report on all sales. The government manager will verify that the dealership information (from the settlement system) is correct and complete and then file a quarterly sales report and pay the administration fee to Sourcewell.
53	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell Members for using this process?	Acceptance would be at the local dealer's discretion.

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *
54	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Each product will be discount off standard list price. Please see attached "Discount Matrix". Freight for Sourcewell members is FOB CNH Industrial North America plant or import distribution point. Total final price will include discount off of list with freight, setup, surcharge and any other additional costs associated with the final sale.
55	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	CNH Industrial proposed discount off of list will range from 19% to 35%.
56	Describe any quantity or volume discounts or rebate programs that you offer.	CNH Industrial does not offer a volume program or rebate program. Our CNH Industrial dealer are authorized, at the dealer's discretion, to provide additional discounts at the local level.
57	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	Proposed pricing for sourced equipment or services will be "open market". CNH Industrial will provide a quote for each such request. CNH America LLC dealers, at the dealer's discretion, may provide additional discounts at the local level. The preventative maintenance programs will fall into this area of the contract as laid out in number 67.
58	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	Additional cost that may be associated with each transaction may include: 1) Setup/Pre-delivery inspection 2) Surcharges if applicable 3) Additional manuals
59	If freight, delivery, or shipping is an additional cost to the Sourcewell Member, describe in detail the complete freight, shipping, and delivery program.	Freight, both from manufacturing facilities, distribution points, or transfers from other dealers inventory will be added as a separate line item. This cost is FOB, however, CNH Industrial often times subsidizes the cost to remain competitive in the marketplace.
60	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Shipping and delivery expense calculation method will be used for offshore delivery as well as Alaska, Hawaii, and Canada.
61	Describe any unique distribution and/or delivery methods or options offered in your proposal.	CNH Industrial does offer customers the opportunity to "will call" equipment. This allows the customer, if so equipped to do so, to pick up equipment from the manufacturing/distribution points. This can lower overall transaction cost. CNH Industrial can also direct ship equipment to third parties, such as mower companies to have attachments/accessories professionally installed.

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
62	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
63	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.	The dealer is required to submit documents when settling which include the purchase order with the serial number of the machine, invoice and authorization letter. Government Account Manager obtains the PO and serial number for verification of membership and pricing. A quarterly report is then generated for all SOURCEWELL sales.
64	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	CNH Industrial agrees to pay Sourcewell a 0.75% contract fee

Table 14: Industry Specific Questions

Line Item	Question	Response *
65	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	At CNH Industrial, one of the most important KPI's is market share. Each month the government managers run reports from AEM to understand our position in the marketplace. This report includes total government sales, and from that, the percentage of government sales going to Sourcewell is determined. The goal is for this matrix to continue to grow and the percentage of government sales to increase for Sourcewell. A second internal matrix is looking at year over year and quarter over quarter results in sales volume dollars. For instance, 2019 has seen record breaking quarters for Q1 and Q2 in terms of sales volumes with Sourcewell. This shows progress. When analyzed, the quarterly growth can be attributed to growth of the contract usage in Canada. This data then leads us to continue to push harder in that market and focus. CNHi and GST will be setting training and overall market growth metrics in order to keep on track with expected sales growth.
66	Describe any industry-specific quality management system certifications obtained by your organization.	All CNH Industrial manufacturing locations in the U.S. and Canada are ISO 14001, ISO 50001, and OSHA 18001 certified. Please see the attached certifications.
67	Describe any preventative maintenance programs that your organization offers for the solutions you are proposing in this response.	This proposal covers our dealer preventative maintenance programs, as mentioned in number 57, as an "open-market" item as these programs have high variability and one size does not work for all. CNHi has found it is better to allow the local dealer and member to design the best maintenance program to fit the equipment, budgets and service requirements. At CNH Industrial, uptime is a top priority. The company can provide telematics solutions that enable the equipment to feed information to the dealer service department, for any maintenance that may need to be performed. In addition to planned maintenance, the equipment can send warnings to the servicing dealers to allow them to know what the equipment is incurring in real time. This allows for any anomalies to be addressed before a breakdown occurs. CNH Industrial dealers provide customized preventative maintenance programs to address any customer needs. These packages would be charged based on how frequent and how intensive the program is. Dealers also offer customers on site parts and supplies stocking options. These on-site parts storage lockers which contain routine maintenance supplies and are restocked on a monthly basis by the dealer. Having these parts at the customers facilities encourages proper maintenance and maximum uptime, while reducing part searches and travel time to and from the dealer picking up needed parts and maintenance supplies.

Table 15: Exceptions to Terms, Conditions, or Specifications Form

Line Item 68. NOTICE: To identify any exception, or to request any modification, to the Sourcewell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcewell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification

Documents**Ensure your submission document(s) conforms to the following:**

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."

- [Financial Strength and Stability](#) - Financials.zip - Friday November 01, 2019 12:54:57
- [Marketing Plan/Samples](#) - CNHi Marketing Materials.7z - Thursday November 07, 2019 08:03:08
- [WMBE/MBE/SBE or Related Certificates](#) - Certificates.zip - Friday November 01, 2019 14:37:45
- [Warranty Information](#) - CNHi Warranty 2019.pdf - Wednesday November 06, 2019 08:42:00
- [Pricing](#) - Pricing.zip - Thursday November 07, 2019 14:18:15
- Additional Document (optional)

Proposers Assurance of Comp**PROPOSER ASSURANCE OF COMPLIANCE****PROPOSER'S AFFIDAVIT**

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to Sourcewell member agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of Sourcewell, or any person, firm, or corporation under contract with Sourcewell, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
3. The contents of the Proposer's proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer and will not be communicated to any such persons prior to the official opening of the proposals.
4. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted and included with the Proposer's Proposal.
5. The Proposer will, if awarded a Contract, provide to Sourcewell Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
6. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
7. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
8. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify Sourcewell for reasonable measures that Sourcewell takes to uphold such a data designation.

☒ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Clinton Jenkins, Strategic Accounts Manager North America

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

☐ Yes ☒ No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
RFP 110719 - Ag Tractors - Addendum_3 Fri November 1 2019 07:13 AM	<input checked="" type="checkbox"/>	--
RFP110719 - Ag Tractors -Addendum_2 Mon October 21 2019 11:45 AM	<input checked="" type="checkbox"/>	--
RFP110719 - Ag Tractors - Addendum_1 Mon September 23 2019 09:03 AM	<input checked="" type="checkbox"/>	--



AGENDA ACTION FORM

A Resolution Authorizing the Purchase of One (1) CAT 308 Mini Excavator from the Tennessee State Contract

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

Action Form No.: AF-277-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Committee
 Presentation By: R. McReynolds/S. Leonard

Recommendation:

Approve the resolution.

Executive Summary:

It is the recommendation of the committee to purchase One (1) CAT 308 Mini Excavator from Stowers on the Tennessee State Contract # 72872 for use by Streets Maintenance Department. The Tennessee state contracts are available for local government agencies to use. The delivery from the dealership to the agency is included in the price of \$135,077.20.

Please see the attached recommendation memo for additional information & state contract information.

This unit is a fleet replacement.

Funding is identified in Project/Account # 51150085019010

Attachments:

1. Resolution
2. Recommendation Memo w /photo
3. Tennessee State Contract
4. Quote

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: *cm*

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO STOWERS MACHINERY CORPORATION UTILIZING TENNESSEE STATE CONTRACT #72872 FOR ONE CAT 308 MINI EXCAVATOR FOR USE BY THE STREETS MAINTENANCE DEPARTMENT

WHEREAS, staff recommends the purchase of one (1) CAT 308 Mini Excavator from Stowers on the Tennessee State Contract # 72872 for use by streets maintenance department; and

WHEREAS, pursuant to Tennessee Code Annotated section 12-3-1201 city is authorize to purchase goods and services on the same terms and conditions of the Tennessee state contracts; and

WHEREAS, in order to purchase the equipment, a purchase order needs to be issued to **Stowers Machinery Corp.**, in the amount of \$135,077.20; and

WHEREAS, funding for this equipment is available in project account # 51150085019010

Now therefore,

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

SECTION I. That the city manager is authorized to execute a purchase order to **Stowers Machinery Corporation for** one (1) CAT 308 Mini Excavator from Stowers on the Tennessee State Contract # 72872 for use by streets maintenance department in the amount of \$135,077.20.

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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



FLEET MAINTENANCE DEPARTMENT
City of Kingsport

To: Nikisha Eichmann, Assistant Procurement Manager
From: Steve Leonard, Fleet Manager
Date: August 30, 2022
Re: Fleet Replacement of 1895 Purchase Recommendation

It is the recommendation of this office to purchase the Fleet Replacement of Streets Maintenance unit # 1895 utilizing State of Tennessee Contract pricing of \$135,077.20 each. The unit bid meets the expectations of the departments and will fulfill the requirements of their operational needs. The State Contract ID# 72872 allows a municipality to purchase off of the State Contract pricing. A copy of the State of Tennessee Contract is attached.

Item	Quantity	Description	Award to Vendor	Fuel Economy
1	1	CAT 308 MINI EXCAVATOR	STOWERS	N/A

These units will be a Fleet Replacements

The unit listed below will be replaced and the trade in unit will be disposed of utilizing the current approved City process.

The State offering was reviewed by Tim Elsea and Greg Willis and they are in agreement with this recommendation.

Fuel Economy Improvement

00%

No fuel economy improvements would be realized since the replacement units are similar to the current units being operated.

State Contract Number 72872

Replacements

1895 2008 Gradall 410 Hours 3,069

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

Thank you.





**STATE OF TENNESSEE, DEPARTMENT OF GENERAL SERVICES
CENTRAL PROCUREMENT OFFICE**

Statewide Multi-Year Contract Issued to:

Stowers Machinery Corp
PO Box 14802
Knoxville, TN 37914-1802

Vendor ID: 0000000916

Contract Number: 0000000000000000000072872

Title: SWC2525 Highway & Heavy Equip

Start Date : November 15, 2021 End Date: November 14, 2024

Is this contract available to local government agencies in addition to State agencies?: Yes

Authorized Users. This Contract establishes a source or sources of supply for all Tennessee State Agencies. "Tennessee State Agency" refers to the various departments, institutions, boards, commissions, and agencies of the executive branch of government of the State of Tennessee with exceptions as addressed in Tenn. Comp. R. & Regs. 0690-03-01-.01. The Contractor shall provide all goods or services and deliverables as required by this Contract to all Tennessee State Agencies. The Contractor shall make this Contract available to the following entities, who are authorized to and who may purchase off of this Statewide Contract ("Authorized Users"):

- a. all Tennessee State governmental entities (this includes the legislative branch; judicial branch; and, commissions and boards of the State outside of the executive branch of government);
- b. Tennessee local governmental agencies;
- c. members of the University of Tennessee or Tennessee Board of Regents systems;
- d. any private nonprofit institution of higher education chartered in Tennessee; and,
- e. any corporation which is exempted from taxation under 26 U.S.C. Section 501(c)(3), as amended, and which contracts with the Department of Mental Health and Substance Abuse to provide services to the public (Tenn. Code Ann. § 33-2-1001).

These Authorized Users may utilize this Contract by purchasing directly from the Contractor according to their own procurement policies and procedures. The State is not responsible or liable for the transactions between the Contractor and Authorized Users.

Note: If "no", attach exemption request addressed to the Central Procurement Officer.

Contract Contact Information:

State of Tennessee
Department of General Services, Central Procurement Office
Contract Administrator: Michael Neely
3rd Floor, William R Snodgrass, Tennessee Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102
Phone: 615-741-5971
Fax: 615-741-0684

Line Information

Line 1

Item ID:

1000197268 Tack Oil Distributor, Generic SWC asset-Weiler- 10% off APCAT- Regions 1,2

Unit of Measure: EA

Line 2

Item ID:

1000172847 Rollers Steel Wheel, SWC 225 Highway Equipment - Caterpillar, Weiler- 27.5% off APCAT- Regions 1, 2

Unit of Measure: EA

Line 3

Item ID:

1000172848 Excavator Boom Truck, SWC 225 Highway Equipment- Caterpillar- 27.5% off APCAT- Regions 1,2

Unit of Measure: EA

Line 4

Item ID:

1000172850 Excavator, Compact, SWC 225 Highway Equipment- Caterpillar- 27.5% off APCAT- Regions 1, 2

Unit of Measure: EA

Line 5

Item ID:

1000172851 Skid Loader Wheel, SWC 225 Highway Equipment- Caterpillar - 26.5% off APCAT- Regions 1, 2

Unit of Measure: EA

Line 6

Item ID:

Skid Loader Track Compact , SWC 225 Highway Equipment- Caterpillar - 26.5% off APCAT- Regions 1,2

Unit of Measure: EA

Line 7

Item ID:

1000197266 Brush Chipper, trailer mounted- Bandit - 12% off APCAT- Regions 1, 2

Unit of Measure: EA

Line 8

Item ID:

Force Feed Loader - SWC Generic Asset - Weiler - 14% off APCAT- Regions 1, 2

Unit of Measure: EA

Line 9

Item ID:

1000171676 Backhoe - SWC225 Heavy Equipment - Generic Asset- Caterpillar- Regions 1, 2 Small- 33% off APCAT Medium - 36.5% off APCAT Large- 34.5% off APCAT

Unit of Measure: EA

Line 10

Item ID:

1000156890 Bulldozer - SWC225 Heavy Equipment - Generic Asset- Caterpillar- Regions 1,2 Small- 30% off APCAT Medium - 28% off APCAT Large - 25.5% off APCAT

Unit of Measure: EA

Line 11

Item ID:

1000156097 Excavator (Track and Rubber Tire) -SWC225 Heavy Equipment - Generic Asset - Caterpillar- 25% off APCAT-Regions 1, 2

Unit of Measure: EA

Line 12

Item ID:

1000171679 Loaders (Articulated Rubber Tire) - SWC225 Heavy Equipment - Generic Asset - Caterpillar - Regions 1,2 Small -= 31.5% off APCAT Medium - 35.5% off APCAT Large- 22.5% off APCAT

Unit of Measure: EA

Line 13

Item ID:

1000156926 Graders, Motorized - SWC225 Heavy Equipment - Generic Asset- Caterpillar- 46% off APCAT- Regions 1,2

Unit of Measure: EA

Line 14

Item ID:

Accessories/Options- Highway - 10% off APCAT

Unit of Measure: EA

Line 15

Item ID:

Parts - Highway - 0% off APCAT

Unit of Measure: EA

Line 16

Item ID:

Accessories/Options- Heavy - 10% off

Unit of Measure: EA

Line 17

Item ID:

Parts - Heavy - 0% off APCAT

Unit of Measure: EA

Line 18

Item ID:

Shop Labor Rate - \$113

Unit of Measure: HR

Line 19

Item ID:

Field Labor Rate = \$124

Unit of Measure: HR

Line 20

Item ID:

Afterhours Labor Rate - \$167

Unit of Measure: HR

APPROVED:

Michael E. Perry

Digitally signed by Michael F. Perry
DN: cn=Michael F. Perry, o=State of
Tennessee, ou=Central Procurement
Office, email=mike.perry@tn.gov, c=US
Date: 2021.11.10 10:57:38 -0600

CHIEF PROCUREMENT OFFICER

BY:

Mike Neely

Digitally signed by Mike Neely
Date: 2021.11.10 10:45:30
-0600

PURCHASING AGENT

DATE



August 9, 2022

Quote for: City of Kingsport

Phone #:423.229.3470

Mobile #

State Contract # 000000000000000000072872

Respond to: Dennis Higdon

Phone (423) 914 - 8237

Email: dhigdon@stowerscat.com

**** Stowers Machinery State Contract Quote ****

Description	2022 List Price
CAT 308 Mini Excavator	\$ 162,580.00
69.5HP Tier 4 Final Engine	\$ -
Enclosed Cab with AC	\$ -
Swing Boom	\$ -
Next Gen Monitor	\$ -
Standard Lights	\$ -
Linkage Bucket with Lifting Eye	\$ -
Heated Air Ride Seat	\$ -
Integrated Radio	\$ -
Rear View Camera	\$ -
Cat Key with Passcode Option	\$ -
Steel Tracks with Rubber Pads	\$ -
Hydraulic Quick Coupler Control	\$ -
Quick Coupler Lines	
Stick Steer	\$ -
Long Stick	\$ -
24" Bucket	\$ 2,382.00
Hydraulic Thumb and Hydraulic Coupler Package	\$ 10,278.00
2022 Total List Price	\$ 175,240.00
Discount of List % per TDOT Contract	27.5%
2022 State Contract Discount	\$ 48,191.00
2022 CAT 308 Sales Price	\$ 127,049.00

Worktools	
36" Bucket	\$ 2,889.00
48" Ditch Cleaning Bucket	\$ 3,299.00
Discount of List % per TDOT Contract	10.00%
Discount \$ From List Per TDOT Contract	\$ 618.80
2022 Cat 308 Worktools	\$ 5,569.20

Summary	
CAT 308 Sales Price	\$ 127,049.00
Worktools Sales Price	\$ 5,569.20
Bucket Pins	\$ 150.00
Prep	\$ 800.00
60 Month/ 3000 Hour Premier Warranty	\$ 1,270.00
Cat Shipping and Storage Protection	\$ 239.00
2022 CAT 308 Sales Price Total	\$ 135,077.20



AGENDA ACTION FORM

A Resolution Authorizing the Mayor to Execute a Memorandum of Understanding with Boys & Girls Club of Greater Kingsport for the Use of Available Space for Kingsport City Schools

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

Action Form No.: AF-280-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Committee
 Presentation By: D. Frye

Recommendation:

Approve the resolution.

Executive Summary:

Kingsport City Schools is in need of additional classroom space to serve its students, particularly those attending Cora Cox Academy. Boys and Girls Club of Greater Kingsport has classroom and ancillary space available for use during school hours at its facility located at 1 Positive Place, Kingsport, Tennessee.

Previously Boys and Girls Club has made arrangements with the city for the use of space at its facility in exchange for financial support which was beneficial to both parties. A similar arrangement would once again be beneficial to the parties by enabling Kingsport City Schools to utilize the available space to better serve its students and in return Boys and Girls Club will receive financial support.

The cost for this space is \$250.00 per day for each scheduled school day which remains in the 2022-2023 school instructional calendar year.

Funding will be from General Purpose Funds 141-7250-821.03-51.

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: *DW*

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING FOR THE USE OF SPACE AT BOYS AND GIRLS CLUB OF GREATER KINGSPORT'S FACILITY BY KINGSPORT CITY SCHOOLS AND TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, Kingsport City Schools is in need of additional classroom space to serve its students, particularly those attending Cora Cox Academy; and

WHEREAS, Boys & Girls Club of Greater Kingsport (hereinafter "B&GC" has classroom and other space available during the school day at its facility located at 1 Positive Place, Kingsport, Tennessee; and

WHEREAS, previously B&GC has made arrangements with the city for the use of space at its facility in exchange for financial support which was beneficial to both parties; and

WHEREAS, a similar arrangement would once again be beneficial to the parties by enabling Kingsport City Schools to utilize the available space to better serve its students and in return B&GC will receive financial support; and

WHEREAS, funding is available in account number 141-7250-821.03-51.

Now therefore,

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

SECTION I. That a Memorandum of Understanding between the City of Kingsport on behalf of its Kingsport City Schools and Boys and Girls Club of Greater Kingsport 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, the Memorandum of Understanding with Boys and Girls Club of Greater Kingsport for the use of space at its facility located at 1 Positive Place, Kingsport, Tennessee, to deliver the Memorandum of Understanding and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said agreement being as follows:

**BOYS & GIRLS CLUB OF GREATER KINGSPORT
MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this 5th day of August, 2022, by and between the City of Kingsport for its Kingsport City Schools (herein called "KCS") and the Boys & Girls Club of Greater Kingsport (herein called "BGCK").

WITNESSETH:

WHEREAS, KCS is in need of additional classroom space to serve its students, particularly those attending Cora Cox Academy; and

WHEREAS, B&GC has classroom and ancillary space available for use during school hours at its facility located at 1 Positive Place, Kingsport, Tennessee (herein "the Facility"); and

WHEREAS, previously the City of Kingsport contributed financial support to BGCK for the construction of this facility as the facility would be of benefit to the City of Kingsport, KCS and its students, and the community as a whole; and

WHEREAS, based on the Parties past mutually beneficial relationship KCS desires and BGCK has agreed to allow KCS to utilize available space at the Facility.

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained and other good and valuable consideration, the Parties do hereby agree as follows:

1. The Parties recognize that the general purpose of this Memorandum of understanding is to establish a general framework for use of the Facility by KCS in exchange for the financial payments by KCS as set forth herein. The Parties recognize that the needs of the Parties may change during the term of this Memorandum of Understanding and therefore adjustments to the space allotted and times of use may need to be made. The Parties agree to exercise good faith in dealing with each other and resolving any issues.

2. BGCK agrees to allow the KCS use of the following spaces (herein called "the Premises") between the hours of 7:25 a.m. and 2:25 p.m. Monday through Friday except as otherwise provided herein:

a. Up to three classroom spaces (mutually agreed upon by KCS and BGCK) suitable for instruction with access to wi-fi;

b. Cafeteria space suitable for meal service and dining;

c. Gymnasium space;

d. Restroom facilities;

e. Secure storage area for KCS staff;

f. Parking facilities for staff and students;

3. As KCS's need for the aforementioned space is for the purpose of student instruction and activities incidental thereto such as meal space and recreation space. KCS will not occupy the Premises during anytime which KCS is not in session, during KCS holidays, or when KCS is closed due to inclement weather, illness, or other unanticipated causes. During any period which KCS does not occupy the Premises for the reasons set forth in this paragraph 3. KCS shall have no obligation to pay for use of the Premises.

4. The term of this Memorandum of Understanding will commence upon execution of this Memorandum of Understanding and will end upon the last day of the 2022-2023 KCS instructional calendar. The Parties may extend the term of this Memorandum of Understanding for the 2023-2024 KCS instructional calendar, which shall be memorialized in writing and signed by both Parties.

5. Either party shall have the right to terminate this Memorandum of Understanding for convenience upon 60 days written notice to the other party.

6. KCS shall pay BGCK TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) per day (herein called "use fee") for each scheduled school day which remains in the 2022-2023 KCS instructional calendar year for so long as this agreement remains in effect. Payment shall be made for the previous 9-weeks use within 30 days of the date upon which the previous 9-weeks ends. Such dates shall be Sept. 30, 2022, Dec. 16, 2022, March 9, 2023, and May 18, 2023). In the event of renewal for the 2023-2024 KCS instructional calendar KCS shall pay BGCK a mutually agreed upon amount not less than TWO HUNDRED AND FIFTY AND NO/100 DOLLARS (\$250.00) per scheduled school day for each school day KCS uses the Premises.

7. The Parties agree the use fee established in Paragraph 5 shall constitute consideration for KCS's occupancy of the Premises as well as remuneration for costs incurred by BGCK for custodial services, utilities, restroom supplies, and all other incidental expenses which BGCK would incur from day to day operation of the Facility even if B&GC realizes an increase in these expenses from KCS's use of the Premises. B&GC bears responsibility for providing essential restroom supplies. KCS bears responsibility for supplying meals for students.

8. KCS will not do or permit anything to be done in or about the Facility or bring or keep anything therein that is not within the permitted use of the Premises or that will in any way increase the existing rate of or affect any fire or other insurance upon the building in which the Premises are located, or any of its contents, or cause a cancellation of any insurance policy covering said building or any part thereof, or any of its contents. KCS will not do or permit anything to be done in or about the Facility that will in any way obstruct or interfere with the rights of other occupants of the Facility, or injure or annoy them or use or allow the Premises to be used for any unlawful purpose. KCS will not cause, maintain or permit by those using the Premises through KCS any nuisance in, on or about the Facility during its use, and will not commit, or allow to be committed, by those using the Premises through KCS any waste in or upon the Facility.

9. KCS will be responsible for providing appropriate supervision at the Premises during its time of use by KCS or by those using the facility through KCS.

10. To the extent permitted by state law KCS will be responsible for repair of damage caused by its use or use by those using the Facility through KCS.

11. KCS will carry liability insurance to the limits of the Tennessee Governmental Tort Liability Act as set out in Tenn. Code Ann. § 29-20-101 et. seq. Any and all claims against City and/or its employees are governed by the provisions of the Tennessee Governmental Tort Liability Act which limits liability to \$300,000.00 for bodily injury or death of any one person in any one accident, occurrence or act, \$700,000.00 for bodily injury or death of all persons in any one accident, occurrence or act, and

\$100,000.00 for injury or destruction of property of others in any one accident, occurrence or act. City does not have the authority to waive its governmental immunity, so the limits of liability in the GTLA apply notwithstanding any provision in this Agreement to the contrary. Additionally, no provision of this Agreement shall act or be deemed a waiver by City of its rights or privileges as a sovereign entity, as waiver can only be made by the Tennessee General Assembly. Nothing herein will be construed to waive KCS's governmental immunity.

12. KCS's Assistant Superintendent - Administration and BGCK President shall be the designated representatives to act under this Memorandum of Understanding for the purpose of arranging for designating classrooms, scheduling times for use of cafeteria and gymnasium space and any other issues that arise. The parties agree to act through these designated representatives.

IN WITNESS WHEREOF, the Parties hereto executed this Memorandum of Understanding on the day and day first above written.

[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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B ROWLETT, III, CITY ATTORNEY



AGENDA ACTION FORM

A Resolution to Amend the Agreement with Energy Systems Group to Change the Scope of Work to Include Kingsport North Gym

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

Action Form No.: AF-279-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Staff
 Presentation By: D. Frye

Recommendation:

Approve the resolution.

Executive Summary:

On November 2, 2021, the city executed an agreement on behalf of Kingsport City Schools with Energy Systems Group, LLC for energy related services engineering and equipment construction.

At that time the defined scope of work did not include the Kingsport North Gym. Due to the structural integrity concerns in the Buck Van Huss Dome, Kingsport City Schools will be utilizing the Kingsport North Gym for the Dobyns-Bennett High School Basketball Teams; therefore, the administration desires to amend the agreement with Energy Systems Group to include the Kingsport North Gym.

Energy Systems Group will include the gym in the agreement and deduct charges for the Buck Van Huss Dome. The cost of the agreement will be an increase of \$103,062.00.

Funding will be from the current energy savings improvement project and the existing Energy Efficient Schools Initiative loan agreement.

Attachments:

1. Resolution
2. Memo

Funding source appropriate and funds are available: *mm*

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*

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

RESOLUTION NO. _____

A RESOLUTION AMENDING THE AGREEMENT WITH ENERGY
SYSTEMS GROUP, LLC, AND AUTHORIZING THE MAYOR TO
EXECUTE ALL NECESSARY DOCUMENTS

WHEREAS, the city executed an agreement on behalf of Kingsport City Schools with Energy Systems Group, LLC for energy related services engineering and equipment construction on November 2, 2021; and

WHEREAS, the administration recommends amending the agreement with Energy Systems Group to include the former Sullivan North High School gym; and

WHEREAS, funding will be from the current energy savings improvement project and the existing Energy Efficient Schools Initiative loan agreement.

Now therefore,

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

SECTION I. That an amendment to the agreement with Energy Systems Group, LLC, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the agreement with Energy Systems Group, LLC, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said amendment being generally as follows:

AMENDMENT NUMBER 1

On November 2, 2021, an Energy Related Services Engineering and Equipment Agreement was entered by and between Energy Systems Group, LLC (hereinafter Company) and the City of Kingsport, Tennessee (hereinafter Owner). The parties now desire to expand the scope of services and other provisions of the Agreement and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties have entered into this Amendment number 1 to the Agreement effective as of the date of its execution by the parties. The terms of the Energy Related Services Engineering and Equipment Agreement are hereby amended to set forth herein.

The work and services to be performed shall change by replacing the Buck Van Huss Dome portion with the Kingsport North Gym as more fully described in Attachment A, attached hereto. Owner agrees to compensate the company for services performed pursuant to Attachment A in the amount of ONE HUNDRED THREE THOUSAND SIXTY TWO DOLLARS AND NO CENTS (\$103,062.00).

Except as hereby amended, all other terms and conditions of the Agreement effective November 2, 2021, shall remain in full force and effect.

[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/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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B ROWLETT, III, CITY ATTORNEY

MEMORANDUM

TO: Board of Education
Dr. Jeff Moorhouse, Superintendent

FROM: David J. Frye, Chief Finance Officer

DATE: September 13, 2022

SUBJECT: Amendment to Agreement with Energy Systems Group, LLC

On November 2, 2021, the city executed an agreement on behalf of Kingsport City Schools with Energy Systems Group, LLC for energy related services engineering and equipment construction.

At that time the defined scope of work did not include the former Sullivan North High School. Due to the structural integrity concerns in the Buck Van Huss Dome, Kingsport City Schools will be utilizing the former Sullivan North High School gym for the Dobyns-Bennett High School Basketball Teams; therefore, the administration desires to amend the agreement with Energy Systems Group to include that facility.

This total project cost is \$209,221.00. The deduction for the Buck Van Huss Dome is \$106,159.00, increasing the agreement a total of \$103,062.00.

Funding will be from the Sullivan North Renovation Project and the Energy Savings Improvement Project.

September 1, 2022

Sent Via Electronic Mail

Mr. David Frye
Chief Financial Officer
Kingsport City Schools

RE: Proposal for new ceilings and an LED lighting system in the former North High School

Dear Mr. Frye:

ESG's team has worked promptly to assess the needs and design options of upgrading the former North High School gym ceiling and lights. The following proposal provides the best combination of speed of implementation, value, lighting quality, aesthetics, and additional design considerations.

Scope of work:

LIGHTING UPGRADES

- Replace (63) metal halide fixtures with new two by four fixtures (to match gym floor) with T5 LED HO direct drive lamps
- Retrofit (48) T5 fluorescent fixtures with new T5 LED technology
- Retrofit (8) T8 two by two fixtures with LED technology
- Replace (8) emergency light fixtures with new LED technology (over stands)
- Install (17) new emergency light systems (gym floor and balcony areas)

CONTROL SYSTEM/ PLAYER INTRODUCTION SPOT LIGHT

- Install a Lutron wireless power packs and wireless switches. There will be a gameday scene, practice scene, and a player introduction scene that will include the center court spot light. Two eight scene controllers will be provided with one mounted permanently in a panel location and one being mobile for game special effects.
- An LED player introduction spot light will be installed with interface to the lighting control system.

CEILING REPLACEMENT

- Demo all ceiling tiles and replaced with new Armstrong bright white fine fissure 2 x 2 tiles
- Sprinkler heads will be addressed with an adaptor system to allow installation with no plumbing changes
- HVAC diffusers and return air grills will be cleaned

All work is turn key and includes demolition, dumpsters, high lifts, installation materials, project management and final system commissioning.



268 Christian Church Road, Suite 1
Johnson City, TN 37615

Turnkey project cost (lighting, controls, ceilings)	\$209,221
Lighting <u>deduct</u> from DB Dome (net of lens mock up and restocking costs)	(\$106,159)
Net change order	\$103,062

Assuming this proposal is acceptable, a formal change order request will be provide for approval with this document as an attachment.

INSTALLATION PLAN

The tentative installation schedule is for the ceiling demo and new tile installation to begin the 12th of September or sooner based prompt approval of the change order. Lighting installation will begin the 12th. It is expected that the total project will be completed over the gym floor first and throughout the balance of the gym by the 7th of October.

ESG greatly appreciates the partnership that we have established with KCS over the past ten years and the confidence you have placed in ESG. On behalf of everyone involved with serving KCS, we sincerely appreciate the opportunity to help address a challenging situation and meet the requirements of this project.

Best Regards,

Russ Nelson

Russ Nelson, C.E.M.
Sr. Business Development Manager
423-534-8242



AGENDA ACTION FORM

A Resolution to Amend the Agreement with Cain Rash West Architects to Include the Former Sullivan North High School Gym

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

Action Form No.: AF-287-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Committee
 Presentation By: D. Frye

Recommendation:

Approve the resolution.

Executive Summary:

In the spring of 2020, a request for qualifications for architectural services for the former Sullivan North HS Renovation was published. The Board voted in May 2020 to use Cain Rash West Architects.

At this time, the administration recommends amending the agreement with Cain Rash West Architects to include the upgrade to the former Sullivan North High School gym in the amount of \$175,000.00, which is 6% of the construction budget.

Funding will be from the Sullivan North Renovation Project GP1733.

Attachments:

1. Resolution
2. Proposal

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CAIN RASH WEST FOR ARCHITECTURAL SERVICES FOR THE FORMER SULLIVAN NORTH HIGH SCHOOL RENOVATION AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, On May 13, 2020, the city entered into an agreement with Cain Rash West (CRW) to provide architectural services for the design renovations to the former Sullivan North High School; and

WHEREAS, the administration recommends amending the agreement with Cain Rash West Architects to include the upgrade to the former Sullivan North High School gym in the amount of \$175,000.00, which is 6% of the construction budget; and

WHEREAS, funding will be from the Sullivan North Renovation Project GP1733.

Now therefore,

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

SECTION I. That an amendment to the agreement with Cain Rash West (CRW) for additional architectural and engineering services for the former Sullivan North High School gym, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the agreement with Cain Rash West for additional architecture services at the former Sullivan North High School and all other documents necessary and proper to effectuate the purpose of the agreement or this resolution.

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

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

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

ADOPTED this the 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B ROWLETT, III, CITY ATTORNEY

DRAFT

AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the «Sixth» day of «May» in the year «Two Thousand Twenty-One with amendment dated September 8, 2022»
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

«City of Kingsport for its Kingsport City Schools» « »
«225 West Center Street »
«Kingsport, TN 37660» « »

and the Architect:
(Name, legal status, address and other information)

Cain Rash West Architects, Inc. (CRW)
«130 Regional Park Drive »
«Kingsport, TN 37660» « »

for the following Project:
(Name, location and detailed description)

Kingsport City Schools Sevier Middle School
2533 N John B Dennis Hwy
Kingsport, TN
Renovation of the former North High School to Sevier Middle School »

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

«See attached Program dated March 16, 2021.»

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

«Renovation of the existing North High School at 2533 N John B Dennis Hwy, Kingsport, TN »

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

«See attached budget dated March 16, 2021 this is the Stated Cost Limitation as set forth in Section 3.1.7.3»

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

«95% Construction Documents/Permit Submission - January 2022 »

.2 Construction commencement date:

«April 2022 »

.3 Substantial Completion date or dates:

«End of May 2023 »

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

«Competitive Bid »

§ 1.1.6 The Architect cannot and does not warrant or guarantee LEED certification.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3. The Owner's Representative is the only person authorized to act on behalf of the Owner and to make changes to the scope of work and Services under this Agreement. Any change to the Owner's Representative shall be made in writing and sent to the Architect:

(List name, address, and other contact information.)

Michelle Ramey, CPPB
400 Clinchfield Street, Suite 200
Kingsport, TN 27660

§ 1.1.7.1 The Owner identifies the following financial representatives:

Owner's Finance Director

David Frye, CFO
400 Clinchfield St. Suite 200
Kingsport, TN 37660

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

(List name, address, and other contact information.)

« TBD »

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Other, if any:
(List any other consultants and contractors retained by the Owner.)

«TBD »

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3. Any change to the Architect's Representative shall be made in writing and sent to the Owner:
(List name, address, and other contact information.)

Dineen West
CRW Architects
130 Regional Park Drive
Kingsport, TN 37660

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

«Spoden & Wilson Consulting Engineers (if required) »« »
«430 Clay Street »
«Kingsport, TN 37660 »

.2 Mechanical Engineer:

«Bedinger Consulting Engineers »« »
«5641 Merchants Center Blvd., Suite A104 »
«Knoxville, TN 37912 »

.3 Electrical Engineer:

«Vreeland Engineers, Inc. »« »
«3107 Sutherland Avenue »
«Knoxville, TN 37939 »« »

§ 1.1.11.2 Consultants retained under Supplemental Services:

«TBD »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. Subject to approval of the Owner's Board of Mayor and Aldermen, the Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Notwithstanding anything to the contrary contained in this Agreement, the Owner's review and approval of any and all documents or other matters required herein shall be solely for the purpose of providing Architect with information as to Owner's objectives and goals with respect to the Project and not for the purpose of determining the accuracy and completeness of such documents, and in no way should any such review and approval alter Architect's responsibilities hereunder and with respect to such documents. Approval or review of any Construction Documents by the Owner shall not constitute and shall not be deemed to be a release of the responsibility and liability of the Architect, its agents, employees, and subcontractors, for Construction Documents that are sufficient for the Owner to complete the construction of the Project nor shall such approval or review be deemed to be an assumption of such responsibility and liability by the Owner for any defect in the Construction Documents prepared by the Architect, its agents, employees, subcontractors, or consultants, it being the intent of the parties that the approval or review by the Owner signifies the Owner's approval or review of only the general design concept of the improvements to be constructed. In this connection, the Architect shall indemnify and hold harmless the Owner, its current and future members of the board of mayor and aldermen, the Owner's officers and employees (hereinafter in this Section

"Owner") from any loss, damage, liability, or expense, including reasonable attorney's fees, on account of damage or destruction to property and injuries, including death, to any or all persons, including invitees and employees of Owner, contractor, Architect, or subcontractors and of all other persons performing any part of the work, to the extent they are found to be caused by a negligent act, error or omission on the part of Architect, its agents, employees and subcontractors,; provided however this indemnification provision shall not be construed as requiring the Architect to indemnify or hold the Owner harmless for any loss, damage, liability or expense on account of damaged property or injuries, including death to any person, which may arise out of or may be caused by any act of negligence or breach of obligation under this Agreement by the Owner. This Section shall survive termination or completion of this Agreement.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The term "Architect" shall mean the firm listed on the first page, including its employees. The Architect shall provide the professional services as set forth in this Agreement and in AIA Document A201-2017 as modified, a copy attached hereto as Exhibit B and by reference made a part hereof. The Architect shall be responsible for the Architect's negligent acts and omissions. The Architect shall provide the professional services set forth in this Agreement. The parties understand that the failure of the Architect to perform its services in accordance with the Standard of Care established in this Agreement shall constitute negligence by the Architect. The Architect shall be responsible to the Owner for all services, acts or performance provided pursuant to this Agreement whether done directly by the Architect or its subcontractors, consultants, and other persons firms or entities (hereinafter "Consultant(s)") retained or hired by the Architect to perform the services pursuant to this Agreement. The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the geographic area of the Project and who are experienced in the design and construction of projects similar in scope and size to the Project (hereinafter "Standard of Care"). The Architect shall require its Consultants to perform their services in accordance with the professional skill and care ordinarily provided by consultants of the same profession in the geographic area of the Project and who are experienced in the performance of such professional service. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall act with reasonable diligence and promptness in representing the Owner and shall confirm that the Owner is reasonably informed as to the status of the Project. When the Owner makes a reasonable request for information, the Architect shall provide such information within a reasonable time. In any agreement between the Architect and its Consultants pertaining to this Project, the Architect shall include a clause in such agreements requiring such Consultant to be bound to the Owner by the terms of this Agreement to the extent of the services provided by the Consultant. Further such agreement shall contain a provision that the Owner is a third party beneficiary to such agreement; provided the Owner shall not be entitled to exercise any third party beneficiary rights prior to the completion of the Project or termination of the Agreement.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's Standard of Care or professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement and until four (4) years after satisfactory completion and termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability including, without limitation, a waiver of subrogation endorsement in favor of the additional insureds, and appropriate endorsements adding the following coverages:

- Premises and Operations Liability;
- Explosion;

- Collapse and Underground Damage Liability;
- Personal Injury Liability (with employee and contractual exclusions deleted);
- Broad Form Property Damage Liability;
- Broad Form Contractual Liability;
- Independent Contractor's Protective Liability; and
- Completed Operations and Products Liability.

Such insurance shall be endorsed to include "The City of Kingsport, Tennessee, its governing body, elected officials, officers, and employees as additional insureds for the full limits of all policies listed herein or otherwise applicable on a primary and noncontributory basis." The form shall be no more restrictive than ISO Form CG 20 10 (Additional Insured - Owners, Lessees, or Contractors - Scheduled Person or Organization). The Architect shall require Consultants to procure and maintain insurance meeting the above criteria. Such insurance shall be no more restrictive than that provided by the most recent version of standard Commercial General Liability Form (ISO Form CG 00 01) without any restrictive endorsements.

§ 2.5.2 Comprehensive Automobile Liability Insurance covering owned, non-owned and hired automobiles with limits of not less than ONE MILLION and NO/100 DOLLARS (1,000,000.00) combined single limit per accident along with any other statutorily required automobile coverage.. Architect shall require all its Consultants providing work for the Project to procure and maintain insurance covering each subcontractor and meeting the above criteria.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. The Architect shall clearly identify all deductibles, retentions, alternative risk transfer, parametric, or insurance-linked securities coverage schemes to include captives, pools, or non-standard insurers, that are not admitted in the State of Tennessee. The Owner shall have final approval over any insurance coverage, form, insurer, or scheme used by the Architect to satisfy this Agreement. The Architect further agrees to pay any and all deductibles and retentions as well as make the FULL limits of all applicable policies available for any claims arising from this agreement notwithstanding any limits described herein. The Owner is not obligated or responsible for any payment or contribution for a claim from this agreement or its obligations.

§ 2.5.4 Workers' Compensation coverage for the full statutory limits of State of Tennessee. Such coverage is required even if it is not compulsory by the State of Tennessee. The Architect shall require its Consultants providing work for the Project to procure and maintain insurance covering each subcontractor and meeting the above criteria.

§ 2.5.5 Employers' Liability with policy limits not less than ONE MILLION and NO/100 DOLLARS Tennessee State required (\$1,000,000.00) bodily injury by accident each accident, ONE MILLION and NO/100 DOLLARS Tennessee State required (\$1,000,000.00) bodily injury by disease each employee, and ONE MILLION and NO/100 DOLLARS Tennessee State required (\$ 1,000,000.00) bodily injury by disease policy limit. Architect shall require its Consultants providing work for the Project to procure and maintain insurance covering each subcontractor and meeting the above criteria.

§ 2.5.6 Professional Liability covering any negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ONE MILLION and NO/100 DOLLARS (\$1,000,000.00) per claim and TWO MILLION and NO/100 DOLLARS (\$2,000,000.00) in the aggregate due to Architect's negligent acts, errors and omissions. Such insurance shall be on a form acceptable to Owner and shall cover Architect for those sources of liability arising out of the rendering or failure to render the services required in the Agreement. Coverage must either be on an occurrence basis; or, if on a claims-made basis, the coverage must respond to all claims reported within four (4) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis. If such policy is a "claims made" policy, all renewals thereof during the life of the contract shall include "prior acts coverage" covering at all times all claims made with respect to Architect's

work performed pursuant to this Agreement. This Professional Liability coverage must be kept in force for a period of four (4) years after substantial completion of the Project. The Architect shall provide and maintain Professional Liability Insurance at all times this Contract is in effect and for a period of four (4) years after Final Completion of the Project with a minimum level of coverage equal to or greater than 20% percent of the Stated Cost Limitation as defined in Section 3.1.7.3 but not less than \$250,000. The coverage provided herein shall contain an endorsement providing thirty (30) days' notice to the Owner prior to any cancellation of said coverage. Said coverage shall be written by an insurer licensed and admitted to do business in the State of Tennessee and acceptable to the Owner.

§ 2.5.7 Additional Insured Obligations. Provide Valuable Papers and Records Coverage with a minimum limit of liability of ONE HUNDRED THOUSAND and NO/100 DOLLARS (\$100,000.00) and Electronic Data Processing Coverage with a minimum limit of liability of FIVE HUNDRED THOUSAND and NO/100 DOLLARS (\$500,000.00). To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5 listing all applicable policies with the full limits and deductible or retention of each as well as include the following: "The City of Kingsport, Tennessee, its governing body, elected officials, officers, and employees as additional insureds for the full limits of all policies listed herein or otherwise applicable on a primary and noncontributory basis."

§ 2.6 The insurance required by this Agreement must be obtained from insurance companies with an A.M. Best rating of at least an A and a Financial Category rating of at least VII. All insurance shall be purchased and maintained with insurance companies lawfully authorized and admitted to do business in Tennessee. The insurance required by this Agreement shall apply on a primary basis, non-contributory with any insurance and/or self-insurance maintained by the Owner. The insurance required by this Agreement shall include a Waiver of Subrogation in favor of the Owner. The Architect or Consultant shall give the Owner thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-required policies. The Architect or Consultant must provide the Owner with a renewal certificate no more than fifteen (15) days after renewal. Except for worker's compensation and professional liability policies all policies shall list the Owner, its officers, officials, agents and employees as "Additional Insured" on forms no more restrictive than the most recent version of ISO Forms CG 20 10 07 04 (Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization) and CG 20 37 07 04 (Additional Insured - Owners, Lessees, or Contractors – Completed Operations) without any restrictive endorsements.

§ 2.7 Compliance with these insurance requirements shall not limit the liability of the Architect or Consultant. Any remedy provided to the Owner by its insurance shall be in addition to and not in lieu of any other remedy, including, but not limited to, as an indemnitee of the Architect or Consultant, available to the Owner. The Owner, and to the extent they are acting in a legal capacity as a representative of the Owner, its officers and employees, shall be named as additional insureds on Commercial General Liability and Comprehensive Automobile Liability Insurance policies.

§ 2.8 Prior to commencing the Work, the Architect or Consultant shall allow the Owner to contact the insurance broker of the Architect or Consultants to provide the Owner any explanatory memoranda confirming coverage and limits which are required in the Agreement, shall upon request of the Owner provide pages or excerpts certified from all such policies of insurances evidencing compliance with the requirements stated in this Article or certified copies of policies and additional insured endorsement(s) complying with the coverage requirements herein. Should the Architect or Consultant fail to obtain, pay for, or maintain any required insurance, such shall constitute a material breach, and the Owner may immediately terminate or suspend this Agreement. In the event of any termination or suspension, the Owner may use the services of another Architect or Architects, and the Owner shall not incur any liability to Architect for such action, In the alternative should a notice of cancellation be issued for non-payment of premiums or any part thereof, or should Architect fail to provide and maintain certificates as set forth herein, Owner may select such coverage and deduct such the payment of such premiums from any sums that are or may become due to Architect. Alternatively, the Owner may seek reimbursement for the payments from the Architect. Any sums

paid by the Owner shall be due and payable immediately by the Architect upon notice from the Owner. Receipt and review by the Owner of any insurance certificates shall not relieve the Architect or its Consultants of the obligation to comply with the insurance provisions of this Agreement. The insurance provisions of this Agreement shall not be construed as a limitation on the Architect's or Consultant's responsibilities and liabilities pursuant to the terms and conditions of this Agreement. The Architect's or its Consultant's failure to comply with the requirements of this Article shall be a material breach of the Agreement and will be cause for immediate termination of the Agreement by the Owner.

§ 2.9 To the extent permitted by law and as further set out in Article 8 herein the Architect assumes full responsibility to the Owner for the negligent acts and omissions of the Architect, its employees, and the Architect's Consultants and employees in connection with this Agreement.

§ 2.10 The Architect agrees to require its Consultants to comply with the insurance provisions required of the Architect pursuant to this Agreement unless the Architect and the Owner mutually agree in writing to modify these requirements for Consultants whose work is of relatively small scope. The Architect agrees that it will contractually obligate its Consultants to advise the Architect promptly of any changes or lapses of the requisite insurance coverages and the Architect agrees to promptly advise the Owner of any such notices the Architect receives from its Consultants. The Architect agrees that it will contractually obligate its Consultants to indemnify and hold harmless the Owner to the same extent that the Architect is required to do so as provided in this Agreement. The Architect assumes all responsibility for monitoring its Consultants contracts and insurance certificates for compliance with the insurance and other provisions of this Agreement until final completion of the Project. The Owner shall not have any obligation or responsibility to read any documents submitted to satisfy these requirements and any failure to do so will not reduce or limit the requirements herein.

§ 2.11 The insurance provisions of this Agreement shall not be construed as a limitation on the Architect's responsibilities and liabilities pursuant to the terms and conditions of this Agreement.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 including services reasonably incidental thereto, and the usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3, or incorporated by reference, are Supplemental or Additional Services. The following services outlined in Article 4 shall be included in the Scope of Architect's Basic Services:

- .1 Programming. Programming shall include an update to the space and functional program.
- .2 Building Information Modeling: (BIM) shall be used for the Architects convenience and is not a required deliverable.
- .3 Civil engineering.
- .4 Structural engineering.
- .5 Landscape design.
- .6 Conformed documents for construction.
- .7 Telecommunications/data design.
- .8 Security Evaluation and Planning is limited to include the design of Close Circuit Television Surveillance systems (CCTV).
- .9 Bid Administration, preparing bid documents, pre-bid meetings, pre-construction meetings, and attendance at bid openings.
- .10 Construction Administration.

§ 3.1.1 The Architect shall coordinate and manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants, if any. The Architect shall be entitled to reasonably rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants, unless the Architect has actual knowledge that such services or information has errors or inconsistencies. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, provided the reason for the needed adjustment is not due to an act of the Architect or its Consultants, as the Project proceeds until the commencement of construction. The Owner agrees that the Architect is not in control of the various authorities having jurisdiction ("AHJ's") over the Project or their respective review and approval schedules. The Architect will assist the Owner and the Contractor in applying for the necessary approvals by the AHJ's but ultimate responsibility for obtaining such approvals remains with the Owner.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. When designing the project the Architect shall conform to applicable requirements imposed by such governmental authorities in effect as of the effective date of this Agreement.

§ 3.1.7 Additional Provisions. § 3.1.7.1 The Architect agrees to utilize the design and management team as presented to the Owner and agrees that no substitutions, additions, or deletions from this team will occur unless agreed to in advance in writing by the Owner. The Owner shall not unreasonably withhold approval of any substitution, addition, or deletion. The Owner agrees to provide a response within 14 days of the request by the Architect.

§ 3.1.7.2 The Architect agrees to comply with applicable Federal, State and Local codes and ordinances in the design of the Project in effect as of the effective date of this Agreement and to make required submittals in a timely manner to the Owner and to endeavor respond to comments of the Owner's representative within 30 days of receipt of comments for approval. This includes designing the Project to comply with applicable requirements of the Americans with Disabilities Act and interpretations thereof that are binding as of the effective date of this Agreement. Changes or edits to previously prepared documents necessitated by the enactment or revision of codes, laws or regulations or official interpretations shall be a Basic Service only where such enactment or revision was known to Architect at the time such document was prepared.

§ 3.1.7.3 The Architect agrees to design the Project within the maximum amount that the Owner is authorized to spend to construct the Project, excluding Architect fee (hereinafter "Stated Cost Limitation") and consistent with the Owner's program. The Stated Cost Limitation for this Project shall be \$ 15,800,000. In the event the Architect's final Project estimate of Construction Costs exceeds the Stated Cost Limitation, the Owner may require the Architect, as a Basic Service and at no additional cost to the Owner, to consult with the Owner and to revise the design so as to obtain a final project cost at or below the Stated Cost Limitation. Notwithstanding the Architect's certification that the Stated Cost Limitation shall not be exceeded, the Architect agrees that budgetary limitations are not a justification for breach of sound principles of architectural and engineering design. The Architect shall take no unreasonable risks in the design of the work and shall adhere to the Standard of Care. The Architect agrees that in the event the Project cannot be designed within the financial limitations without disregarding sound principles of design, the Architect will give prompt written notice and in no event longer than seven (7) days to the Owner.

§ 3.1.7.4 The Architect shall inspect the work of the Contractor as soon as practicable following the Owner's request, for a Substantial Completion inspection and shall also, at a minimum, observe the work at the Project site no less frequently than once per month and at intervals appropriate to the stage of the work or as otherwise agreed by the Owner and Architect in writing. Of these site visits, at least once per month the Site visit shall be performed by an architect or engineer, licensed in the State of Tennessee. The purpose of such inspections shall be to determine the quality and quantity of the work in comparison with the requirements of the Construction Contract and to become

generally familiar with the progress and quality of the Work completed and to determine in general if the Work, when completed, will be in accordance with Contract Documents. In performing such site visits, the Architect shall advise the Owner of noted deficient or defective work, potential and/or real delays in the schedule and requests for payment by the Contractor which constitute overpayment for the work completed. Within seven calendar (7) days of a site visit, the Architect shall submit a written report (site observation report) of such site visit, which shall include any appropriate comments or recommendations to the Owner. The Owner has not retained the Architect to make detailed inspections or to provide exhaustive or continuous project review and observation services. The Architect does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the Project.

§ 3.1.7.5. The Architect shall provide Record Drawing services consisting of:

- Making arrangements for obtaining from Contractor(s) information in the form of marked-up prints, drawings and other data certified by them on changes made during performance of the Work
- Review of general accuracy of information submitted and certified by the Contractor(s)
- Preparation of record drawings, based on certified information furnished by the Contractor(s)
- Transmittal of record drawings and general data, appropriately identified, to the Owner and others as directed.

§ 3.1.7.6. The Architect shall provide the Owner a hard copy and electronic disc set of "Record Plans and Specifications" within thirty (30) days after execution by the Architect of his final certificate or termination of this Agreement, whichever occurs first. Such plans and specifications shall include any authorized change orders, actual locations of all utility lines, and any other appropriate information. The drawings shall be presented in a Computer Assisted Drafting (CAD) format of the Owner's choice, and the specifications shall be presented in a word processing format of the Owner's choice.

§ 3.1.7.7 The Owner shall have the right to reject any portion of the Architect's work on the Project, or any phase thereof, or any other design worker documents come on any reasonable basis, including but not limited to, aesthetic or because in the Owner's opinion the construction cost of such design is likely to cause such work or the Project to be cost prohibitive or infeasible in the opinion of the Owner.

§ 3.1.7.8 The Architect shall not specify, use or approve the use of any substances generally known at the time to be deleterious to health and safety or to the durability of the Project or any substance not in accordance with law, including regulations. Further the Architect shall not design, specify or incorporate in the Drawings or Specifications for the Project, and shall not approve any shop drawings specifying any Hazardous Materials, in such manner as would violate the requirements of existing laws, ordinances, codes, rules and regulations, orders and decisions of all government authorities having jurisdiction over the Site, the Work or any part of either, or would cause substantial damage or a risk of substantial damage to the environment, or in such a manner as to leave any residue which could be hazardous to persons or property or cause liability to Owner. For purposes of this Agreement the term "Hazardous Materials" shall include, but shall not be limited to, substances currently defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended 42 U.S.C. Sec. 9061 et seq, Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1802, the Resource Conservation Act and Recovery Act, 42 U.S.C. Sec. 6910 et seq., and all other federal, state, and local environmental laws, rules and regulations as all of the above may be amended from time to time.

§ 3.1.7.9 In accordance with the Standard of Care, the Architect shall be responsible for the accuracy and coordination of all drawings and design documents, including drawings and documents of its Consultants, related to the design and used on the Project. The Architect agrees that all drawings and specifications and other documents prepared by Architect for the Project utilized by the Owner and/or the Owner's contractor or contractors, shall be reasonably accurate and complete as is customary for typical construction documents. The Architect shall notify the Owner in a prompt and timely manner of any discovered discrepancies, inconsistencies or missing information necessary to provide reasonably accurate and complete documents, and a failure to so notify the Owner will be considered a breach of the Standard of Care.

§ 3.1.8 As a part of its Basic Services under this Agreement, the Architect shall comply with all reasonable requests of the Owner for service resulting from the requirements of Tennessee or federal law.

§ 3.1.9 Within a reasonable time after the execution of this Agreement the Architect shall provide the Owner, for its approval, a schedule for the performance of the Architect's services. The schedule shall include periods of time required for the Owner's review, the performance of Owner's consultants and approval of submissions to authorities having jurisdiction over the Project. Once the schedule is approved by the Owner, the Architect will not adjust the schedule except with the Owner's approval, as permitted by this Agreement, or as required to comply with the Standard of Care.

§ 3.1.10. The following shall also be Basic Services:

- .1 Providing such materials and assistance needed or desired by the Owner for presentations, submissions or meetings with governmental authorities having jurisdiction over the Project, including typical and customary review by such governmental authorities.
- .2 Attending meetings or participating in telephone calls with the Owner and/or the contractor, their agents or representatives, as needed for the successful design and construction of the Project, and also including communicating with the contractor during construction for clarification of drawings, specifications and other construction documents prepared by the Architect.
- .3 Providing those services needed with typical and customary change orders and construction change directive as a reasonably required by field conditions.
- .4 Providing at no additional cost all equipment needed in connection with the performance of the Architect's services hereunder, including, but not limited to, computer aided design and drafting equipment.
- .5 Issuing in a timely manner supplemental instructions or drawings and responding to requests for information as needed for clarification.
- .6 Any architectural services made necessary, in whole or in part by default or omission of the Architect, including its Consultants.
- .7 Preparing field orders or Addenda.
- .8 Evaluating pre-bid substitutions proposed by the Owner or Contractor and making non-material revisions on the needed documents. Evaluating post-bid substitutions proposed by the Owner or Contractor and making Construction Documents revisions shall be considered Additional Services.
- .9 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .10 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .11 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .12 Evaluation of the qualifications of entities providing bids or proposals.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a written preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may

include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work (the Stated Cost Limitation), the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Architect shall report to the Owner in writing the nature and magnitude of any material deviation between the Design Development Documents and the Schematic Design Documents that affect the quality of the materials on the Project, the cost of the Work, the schedule or that otherwise impact the Owner's established program.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms. Drawings and specifications or other Construction Documents submitted to the Owner or to any contractor by the Architect or its Consultants for bidding shall be in compliance

with the prevailing interpretation of all applicable codes in effect as of the effective date of this Agreement necessary to obtain a building permit, any statutes regulations and laws, including accessibility laws and regulations and applicable life safety codes.

§ 3.4.4 At 50% Construction Documents, the Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. The Architect shall assist the Owner in (1) obtaining competitive bids; (2) evaluating the qualification of bidders and confirming responsiveness of bids; (3) determining the successful bid; and, (4) awarding and assisting the Owner in preparing contracts for construction. (This agreement has been edited with the understanding that Owner desires to select the general contractor by competitive bidding).

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 procuring the reproduction of Bidding Documents and facilitating the distribution of Bidding Documents to prospective bidders, and requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders; however, the Architect shall not be responsible for the cost of reproduction;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below (Sections 3.6.1 – 3.6.6, Basic Construction Phase Services) and in AIA Document A201™-2017, General Conditions of the Contract for Construction, as modified. A copy of such AIA Document A201-2017, as modified, is attached hereto as Exhibit B and is by reference made a part hereof only to the extent applicable. Reference to the AIA Document A201-2017 shall in no way be construed to create any contractual relationship between any parties other than the Architect and Owner.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, schedules, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work not employed by or under control of the Architect.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction until the date the Architect issues the final Certificate for Payment or sixty (60) days following the original date of Substantial Completion, whichever occurs first. With the Owner's concurrence, the Architect may perform Additional Services during the one-year period for correction of Work.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction (for this project that interval shall be two (2) visits per month), or as otherwise required in Section 3.1.7.4 and Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed at the time of the visits, and to determine, in general, if the Work observed during that visit is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents and construction schedule. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Owner to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall initially interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Initial interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such initial interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetics shall be subject to the written approval of the Owner, and the Owner shall have the final decision on aesthetic matters..

§ 3.6.2.5 The Architect shall make such interpretations and decisions exercising its independent professional judgment. The Architect shall render impartial recommendations on Claims between the Owner and the Contractor as provided in the Contract Documents..

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from

Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment. A copy of the Applications and Certificates for Payment shall be provided to the Owner by the Architect.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness so as to maintain the orderly progress of the Work, while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, schedules, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect's approval of the Contractor's submittals such as Shop Drawings, Product Data and Samples shall be typed or stamped on the Shop Drawings, Product Data and Samples as follows: "Approved as conforming to the Contract Documents except as noted," or similar designation. It shall be signed and dated by the Architect.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to reasonably rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Other than minor changes the Architect shall review and recommend to the Owner action on any proposed Change Order by the Contractor and shall prepare Change Orders and Construction Change Directives for the Owner's consideration and approval and execution in accordance with the Contract Documents. The Owner shall provide timely approval or rejection of such change. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work, and (2) reflecting the time and cost incurred by the Architect relating to changes, and (3) changes proposed in writing but not implemented.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance and shall make appropriate recommendations to the Owner, if any. The Architect shall, when requested by the Owner, assist the Owner in enforcing warranties given on all or part of the Project, which may include inspection of the work in preparation for a claim on such warranties and when such work is completed on a claim from such warranties. As part of the Basic Services of the Architect, the Architect shall visit the Project with the Owner during the 10th month after the date of final completion to review the Work and shall within 10 days thereafter prepare and submit a report to the Owner and the Contractor stating any outstanding Work that needs to be completed or corrected and warranty issues to be addressed by the Contractor. Other than set forth in this Agreement any such service provided by Architect after one year from the date of substantial completion shall be an Additional Service.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Intentionally deleted.	Architect – provided in Basic Services

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.2 Multiple preliminary designs not due to exceeding Stated Costs Limitation	Architect – provided in Basic Services
§ 4.1.1.3 Measured drawings	Architect – provided in Basic Services
§ 4.1.1.4 Existing facilities surveys	Architect, Add services if Owner requested
§ 4.1.1.5 Site evaluation and planning	Architect, Add services if Owner requested
§ 4.1.1.6 Intentionally deleted.	Not Provided
§ 4.1.1.7 Additional Rendering.	Not Provided
§ 4.1.1.8 Civil engineering	Architect – provided in Basic Services
§ 4.1.1.9 Intentionally deleted.	Architect, Add services if Owner requested
§ 4.1.1.10 Architectural interior design	Architect, Add services if Owner requested
§ 4.1.1.11 Value analysis not due to exceeding to Stated Costs Limitation	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Architect, Add services if Owner requested
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Intentionally deleted.	Not Provided
§ 4.1.1.15 As-designed record drawings	Architect
§ 4.1.1.16 As-constructed record drawings	Architect, Add services if Owner requested
§ 4.1.1.17 Post-occupancy evaluation	Architect, Add services if Owner requested
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.21 Intentionally deleted.	Architect, Add services if Owner requested
§ 4.1.1.22 Security evaluation and planning, except as provided in Section 3.1	Architect, Add services if Owner requested
§ 4.1.1.28 Furniture, furnishings, and equipment design	Architect, Add services if Owner requested
§ 4.1.1.29 Other services provided by specialty Consultants	Architect, Add services if Owner requested

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

«TBD »

Emergency Site Visits during Construction: Architect shall make a special site visit to observe the work of the Contractor within 24 hours of the Owner's Request. One (1) emergency site visit is included as Basic Services; any additional requests shall be considered an Additional Service.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

«TBD »

None.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5
- .6
- .7 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .8
- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .10 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

- .3
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 ~~two~~ (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor;
- .2 ~~fifty-two~~ (52) visits to the site by the Architect during construction;
- .3 ~~Two~~ inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents;
- .4 ~~one~~ (1) inspection for any portion of the Work to determine final completion; and
- .5 One (1) visit to the Project with the Owner during the 10th month after the date of final completion to review the Work and shall within 10 days thereafter prepare and submit a report to the Owner and the Contractor stating any outstanding Work that needs to be completed or corrected and warranty issues to be addressed by the Contractor.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the original date of Substantial Completion of the Work listed above or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 Intentionally deleted.

§ 4.2.6 The Architect shall not perform or be reimbursed for any Additional Service unless the Owner expressly authorizes same in writing prior to the Architect commencing such Additional Service. The Owner agrees to put any such authorization in writing in a timely manner.

§ 4.2.7 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Services required due to the fault of the Architect shall be provided at the Architect's own cost. Unless otherwise set forth in this Agreement, any Additional Services provided in accordance with this Article 4 shall subject the Architect's compensation pursuant to Section 11.3 and, if appropriate, an adjustment in the Architect's schedule.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner as may be reasonably necessary for the Architect to perform the Architect's services.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect.

§ 5.3 The Owner shall identify a representative authorized to represent the Owner with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 If necessary, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines,

both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials including those required under the International Building Code sections 1703 (Approvals) and 1704 (Special Inspections), as applicable.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests. The Owner shall cause the general liability insurance policies issued to the Contractor(s) and its subcontractors providing construction related activities in connection with the Project to list the Architect and its consultants as additional insureds under those policies by way of ISO endorsement CG 20 32 or its equivalent. The Owner shall maintain commercial general liability insurance coverage in the amount of at least \$1,000,000 per occurrence and in the aggregate also listing the Architect and its consultants as additional insureds.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions, or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided by this Agreement, the Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. The Architect shall promptly notify the Owner of any communications with the Contractor that may affect the schedule of construction, the timeliness of the completion of the Project, or that may increase the cost of the Project. However, nothing in this Agreement shall be construed to prohibit the Owner from communicating directly with anyone providing materials or services for the Project.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.13 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs

that are the responsibility of the Owner. The Cost of the Work shall not exceed the Stated Cost Limitation without approval of Owner's Board of Mayor and Aldermen.

§ 6.2 Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction acceptable to Owner are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project acceptable to Owner; and to include design alternates acceptable to Owner as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget, including the Stated Cost Limitation. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, one of the following can occur (1) subject to approval of the Owner's Board of Mayor and Aldermen the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market; (2) in consultation with the Architect, the Project program, scope or quality shall be revised as required to reduce the Cost of the Work as an Additional Service under Article 4; (3) this Agreement shall be terminated in accordance with Section 9.5; or (4) the parties shall implement any other mutually acceptable alternative.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget all as set out in Section 3.1.7.3.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, and subject to Section 3.1.7.3 revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1 the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official

regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive perpetual license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive perpetual licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate. Upon such termination, the Owner shall refrain from making further reproductions of the Architect's and its consultants' Instruments of Service and shall return to the Architect within seven (7) days of termination all such originals and reproductions in the Owner's possession and/or control subject to Section 9.7 below.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, subject to Article II, Section 29, of the Tennessee Constitution and to the extent permitted by Tennessee law, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, subject to Article II, Section 29, of the Tennessee Constitution, and to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 The Architectural Works and Instruments of Service developed under this Agreement are subject to re-use fees. The re-use of these designs for other projects may be negotiated upon written request from the Owner. Upon receipt of such request, the Architect may prepare a fee proposal for site adaptation and revisions/adjustments including the re-use fees and submit same to the Owner. Should the Architect not be retained to provide site adaptation and revision services, the Owner shall compensate the Architect for such re-use fees negotiated with the Architect and shall execute in favor of the Architect a complete release of liability and indemnity agreement for such proposed re-use.

§ 7.6 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law.

§ 8.1.2 The Architect shall indemnify and hold harmless the Owner, its current and future members of the board of mayor and aldermen, and the Owner's officers and employees (hereinafter in this Section 8.1.2 "Owner") harmless from and against from any claim, loss, damage, liability, or expense, including attorney's fees and costs of defense (including litigation, arbitration, mediation, and appeal expenses), and costs, whether in contract or in tort, including personal injury, accidental death or property damage, on account of any claims arising from claims by third parties, (including damage or destruction to property and injuries or death, including death, to any or all persons, (including

invitees and employees of the Owner, contractor, subcontractor, Architect, or subcontractors and of all other persons performing any part of the work), to the extent losses and damages are caused by the negligent acts, errors, or omissions of Architect, its agents, employees and subcontractors; provided however this indemnification provision shall not be construed to apply to loss caused by the negligence or willful misconduct of the Owner. The obligation of the Architect to indemnify and hold harmless the Owner does not negate or reduce the obligations of indemnity and defense the Owner may have as additional insureds under the Architect's policies of insurance. Architect's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon Architect whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement. To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein. This Section shall survive the termination or completion of this Agreement.

§ 8.1.3 In the event of any controversy or dispute between the Owner and the Architect under this Agreement, including but not limited to, whether or not any services the Owner expects the Architect to perform are within the scope of Basic Services or any dispute as to whether or not the Architect is entitled to additional compensation for any Work requested, the Architect shall continue to proceed diligently with the performance of its services under this Agreement pending resolution of the dispute, and the Owner agrees to pay the Architect in accordance with this Agreement for all services rendered by the Architect that are not the subject of the Controversy. To the extent permitted by Tennessee law, the Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7. Such waiver shall survive the fulfillment or termination of this Agreement and shall benefit and/or burden the heirs, assigns, and/or successors of the parties hereto.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the trial for any lawsuit brought for a dispute under this Agreement. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or litigation.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes, and other matters in question between them by mediation, which unless the parties mutually agree otherwise, shall be administered in accordance with Rule 31 of the Tennessee Rules of the Supreme Court.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Kingsport, Tennessee, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be enforced pursuant to Tennessee law, provided any agreement must be approved by the Owner's Board of Mayor and Aldermen before it is binding on the Owner, such agreement or proposed agreement shall not be confidential.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be litigation filed in accordance with Section 10.1 herein.

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, and the Architect has performed the Architect's obligations in this Agreement, such failure shall be considered substantial

nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven (7) days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, for a reason other than the fault of the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than ninety (90) cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement, for cause, upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement. In the event of termination for cause by the Owner, the Architect shall be entitled to be compensated for all services performed prior to receipt of written notice from the Owner of such termination, together with Reimbursable Expenses incurred, up to the effective date of the termination. However, the Owner shall be entitled to offset any amounts due and owing the Architect pursuant to this Section 9.4 by the amounts of any damages incurred by the Owner to the extent caused by the Architect's breach of the Standard of Care, which offset shall not prejudice the right of the Owner to recover additional damages or to exercise any other remedy at law or in equity. In no event shall the Architect be entitled to receive termination expenses, unabsorbed overhead, lost profit, or any other incidental or consequential damages if terminated for cause. If the Owner terminates this Agreement for cause, and the termination is later found or agreed to have been improper then the termination will be construed as a termination for convenience pursuant to Section 9.5 hereof. This Agreement may be terminated by the Architect upon not less than seven (7) days' written notice should the Owner fail substantially to perform in accordance with the terms of this Agreement, but only if such failure is not solely the fault of the Architect to perform its obligations pursuant to this Agreement.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. Pursuant to Section 12.7.11, the Owner shall pay Architect all costs for work performed, including contract close-out costs, and profit on work performed up to the time of the termination for convenience.

§ 9.6 In the event of suspension, termination for cause or termination for convenience, upon request of the Owner and payment of all fees pursuant to the Section 9.2, Section 9.4 or Section 9.5 as applicable, the Architect shall promptly provide the Owner with reproducible drawings and computer tapes or disks of all documents completed or in progress on the date of termination, and transfer ownership of the same to the Owner as set out in section 7.1. Architect shall not be reimbursed for reproduction costs associated with maintaining or storing Drawings, Specifications, or computer tapes or disks for its own use.

§ 9.7 Intentionally deleted.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 The validity and effect of this Agreement shall be governed by and construed in accordance with the laws of the state of Tennessee, without regard to its conflict of laws rules. All legal proceedings relating to the subject matter of this Agreement shall be maintained in the state courts for Kingsport, Sullivan County, Tennessee and the parties agree that the exclusive jurisdiction and venue for any such legal proceedings shall lie exclusively with such courts. THE PARTIES WAIVE THEIR RIGHT TO A JURY TRIAL.

§ 10.2 Except as otherwise defined in this Agreement, the terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction, unmodified.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment. Any unauthorized assignment or transfer, except as noted above, shall be deemed void and invalid, and the assignee shall acquire no rights as a result of such assignment and the non-assigning party shall not recognize any such assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect may execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. In the event that the Architect or any other party encounters asbestos or hazardous or toxic materials at the job site, or should it become known in any way that certain materials may be present at the job site or any adjacent areas that may affect the performance of the Architect's services, the Architect may, at its option and without liability for consequential or any other damages, suspend performance of service on the Project until the Owner retains appropriate specialist consultant's or contractor's to identify, abate and/or remove the asbestos or hazardous or toxic material, and warrant that the job site is in full compliance with applicable laws and regulations.

§ 10.7 Subject to the Owner's prior review and written approval thereof, the Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4. The Owner shall allow the Architect to post a sign at the Project site at the Architect's expense containing the Architect's name, logo, and contact information. Such sign shall remain at the site during the design and construction phases of the Project. The Architect shall coordinate the appearance and location of its sign with those of the other Project participants.

§ 10.8 Intentionally deleted.

§ 10.8.1 Intentionally deleted.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or

unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Percentage Basis
(Insert percentage value)

~~Six~~ (6) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

- .2 Other
(Describe the method of compensation)

TBD

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Hourly rates shown in paragraph 11.7 or a lump sum amount as negotiated and approved by Owner and Architect.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Hourly rates shown in paragraph 11.7 or a lump sum amount as negotiated and approved by Owner and Architect.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ~~five~~ percent (5%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

« »

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	«fifteen »	percent (	15	%)
Design Development Phase	«twenty-five »	percent (	25	%)
Construction Documents Phase	«thirty »	percent (	30	%)
Procurement Phase	«three »	percent (	3	%)
Construction Phase	«twenty-three »	percent (	23	%)
Close-out Phase	four	percent (	4	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 The following expenses are included as Basis Services:

- .1 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .2 Printing, reproductions, plots, standard form documents;
- .3 Postage, handling and delivery.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

See attached Architectural and Engineering Rate Schedule.

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses shall mean reasonable and actual expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Intentionally deleted;
 - a. Out of state architects (LS3P) will charge for travel to Kingsport for project meetings, design activities and construction administration special reviews at \$500 per trip.
- .2 Intentionally deleted. .2 Permitting and other fees required by authorities having jurisdiction over the Project;
- .3 Intentionally deleted.;
- .4 Intentionally deleted.;
- .5 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .6 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .7 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .8 All taxes levied on professional services and on reimbursable expenses;
- .9 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .10 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent (0%) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

«N/A »

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts due and unpaid ~~forty-five (45)~~ days after the invoice date shall bear interest at the rate of Zero Percent (0%).

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

12.1 CHANGES TO THE CONTRACT DOCUMENTS / AS-BUILT DOCUMENTS / RECORD DRAWINGS

§ 12.1 No official, employee or volunteer, whether disclosed or undisclosed, of the Owner shall be personally liable to the Architect or any other person or entity, including a third party beneficiary, in the event any provision of the Agreement is unenforceable; there is any default or breach by the Owner; for any amount which may become due under the Agreement; or on any obligations under the terms of the Agreement and the Architect and any other person or entity, including a third party beneficiary, shall look solely to the Owner for the satisfaction of any liability of the Owner hereunder.

§ 12.1.1 All Owner directed changes to the Contract Documents shall be in writing and shall specify the change required. The Architect shall not be responsible for the acts and/or omissions of any person performing any of the Work or for instruction given by the Owner to any one performing any of the Work. During the construction process the Owner may direct the Architect to accept the Contractor's work that does not conform to construction documents or is below standard. Should this occur, the Owner agrees to release, indemnify and hold the Architect and the Architect's officers, partners, agents, employees, and Consultants harmless from any and all claims, liabilities, losses, and costs, including but not limited to reasonable attorney's fees and costs of litigation, arising or allegedly arising from deviations from the Architect's recommendations.

§ 12.1.2 "As-Built" documents consist of modifications (redline changes) to the Contract Documents to reflect as-built conditions. Record Drawings consist of the Contract Documents with all written change orders and modifications made during construction incorporated therein. The Contractor is responsible for tracking, obtaining, delivery, and retention of all written change orders and modifications made during construction for the purpose of creating "As-Built" documents. The Contractor is further responsible for recording as-built information to the Contract Documents throughout the construction of the Project. The Architect will provide .pdf versions of its design drawings to the Owner and the Contractor as a basic service. Record drawings will be provided by the Architect to the Owner in electronic format under a separate agreement for an additional fee. The Contractor will provide to the Architect the information necessary for the Architect to perform such service. The Architect may rely on the accuracy of the as-built information provided by the Owner and/or Contractor in preparing the Record Drawings.

§ 12.2 FORCE MAJEURE

Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) to the extent said failures or delays are caused by forces beyond that party's reasonable control and occurring without its fault or negligence. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

§ 12.2 The Architect shall promptly notify the Owner of any problem which come to Architect's attention that the Architect reasonably believes may cause a material delay in the completion of the Project, or any portion thereof, or in the performance of the Architect's services.

§ 12.3 VALUE ENGINEERING LIABILITY

The Architect shall not be liable for any damages or costs incurred by the Owner and/or the Contractor as a result of cost reduction, scope reduction, or value engineering efforts on the Project.

§ 12.3 Notices, statements and other communications to be given under the terms of this Agreement shall be in writing, signed by the party giving the same and delivered by hand or sent by certified U.S. mail, postage prepaid, return receipt requested, by electronic mail, or by nationally recognized overnight delivery service, addressed to the parties as follows:

OWNER:

With copy to:
City Attorney
City of Kingsport
225 West Center Street
Kingsport, Tennessee 37660

ARCHITECT:
Cain Rash West Architects, Inc. (CRW)
130 Regional Park Drive
Kingsport, Tennessee 37660

Notice may be delivered as set out above at such other address as is from time to time designated by the party receiving the notice. Any such notice that is mailed in accordance herewith shall be deemed received when delivery is received or refused, as the case may be. Additionally, notices may be given by facsimile transmission, but only if a hard copy of said transmission shall be delivered to the addressee by nationally recognized overnight delivery service by no later than the second (2nd) business day following such transmission. Facsimiles shall be deemed delivered on the date of such transmission, if received during the receiving party's normal business hours or, if not received during the receiving party's normal business hours, then on the next succeeding date on which the receiving party is open for normal business.

§ 12.4 BASIS OF OPINION

Projects requiring observation and reporting of existing structures may have conditions concealed from reasonable view that differ from available documentation or other information. The Architect is not responsible for the costs or delays resulting from the later discovery of such actual conditions. This Agreement and any subsequent Representation is a statement of professional opinion based on the information available during the assessment and/or evaluation of the subject property. Such opinion is formed by the judgment of the Architect from the knowledge of available facts and other identified information. This Agreement and any subsequent Representation only reflect the conditions on the day of site observation. The Owner hereby acknowledges that existing conditions can and will change relative to the information contained in this Agreement and/or any Representation.

§ 12.5 The Owner agrees that no set of plans and specifications is entirely free of errors and omissions and that additive Change Orders which arise out of errors or omissions in the plans and specification and which result in an increase in the amount of the contract for the construction of the Project are possible. All costs of architectural errors, omissions or other changes which result in "betterment" or "value added" to the Owner shall be borne by the Owner, not the Architect (to the extent of the betterment or value added), and shall not be the basis of a claim.

§ 12.6 The Architect's design services are intended solely for the design and construction of the Project as set forth in Exhibit A, Architect's Proposal under the ownership and control of a single owner. If the Project is changed to any other purpose or use whatsoever, including, but not limited to, subdivision of the Project into individual units for

sale, the Architect shall have no liability and shall be released from all obligations and responsibility for the Project. Further, in such event, any and all of the Owner's rights, license and/or ownership interest in the construction documents shall be void. The Owner shall be expressly prohibited from making any further use of the construction documents for any purpose, including, but not limited to the conversion of this Project to another purpose. The Owner acknowledges the risks inherent in condominium projects and that these risks and exposure were not contemplated in the Architect's fee for the Project as originally contemplated. The Owner agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Architect, its officers, directors, employees, consultants and subconsultants (collectively Architect) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with any change, conversion, or alternative use of the Project. In the event of a conversion to condominiums, the Owner agrees to allow the Architect to review and comment on regime documents and the maintenance manual.

§ 12.7 The Architect's liability (if any) to the Owner for any and all claims and/or damages shall be limited to a maximum of and shall not exceed, either individually or in the aggregate, the total amount of the Architect's fee received for this Project.

§ 12.8 Nothing in this Agreement shall be construed to require the Owner to alter the Stated Cost Limitation set out in Section 3.1.7.3.

§ 12.9 No consent or waiver by the Owner or the Architect shall be effective unless it is in writing and then only to the extent specifically stated. Failure on the part of any party to this Agreement to enforce any act or failure to act of the other party or to declare the other party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such party hereunder.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect, as modified;
- .2 To the extent applicable to the Services, and not contradictory to the terms of this Agreement, the AIA Document A201™-2017, General Conditions of the Contract for Construction, as modified, a copy of which is attached as Exhibit B; and

- .2 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

☒ [X] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

Program dated March 16, 2021
Budget dated March 16, 2021
Hourly Rate Schedule

- .3 Other documents:
(List other documents, if any, forming part of the Agreement.)

«N/A»

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

Patrick W. Shull, Mayor

(Printed name and title)

ARCHITECT (Signature)

«Dineen B. West, AIA
Principal »« »

(Printed name, title, and license number, if required)

Attest:

Approved as to form:

Angela Marshal, Deputy City Recorder

J. Michael Billingsley, City Attorney

This **AMENDMENT** dated: «September 8, 2022 »

is made to the **AGREEMENT** dated «May 6, 2022»
(Insert the date of the Agreement between the Owner and the Architect)

BETWEEN the Owner:
(Name, Legal Status and Address)

«City of Kingsport for its Kingsport City Schools»
«225 West Center Street»
«Kingsport, TN 37660»

and the Architect:
(Name, Legal Status and Address)

«Cain Rash West Architects, Inc. (CRW)»
130 Regional Park Drive
«Kingsport, TN 37660»
« »

for the following Project:
(Include detailed description of Project, location, address and scope.)

«Kingsport North Gymnasium Upgrades – Phase 1»
« 2533 N. John B. Dennis Hwy
Kingsport, TN 37660»« »

The Owner and the Architect agree that the terms and conditions governing the Architect's services and responsibilities under the Agreement referred to above shall be amended to include architectural services specified in this Amendment as an addition to the Architect's Basic Services under that Agreement.

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

«See attached Table of Contents for Specifications and Drawing Index dated August 31, 2022.»

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

«Renovation of the gymnasium and support areas of the existing North High School at 2533 N John B Dennis Hwy, Kingsport, TN »

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1 of the original agreement:
(Provide total and, if known, a line item breakdown.)

«See attached budget dated September 6, 2022»

1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:

«Issue for bids September 1, 2022»

- .2 Construction commencement date:

«September 2022 »

- .3 Substantial Completion date or dates:

«December 2022 »

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

«Competitive Bid »

ARTICLES 2-10 NO AMMENDMENTS TO ARTICLES ABOVE

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Percentage Basis

Six (6) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6. See attached Fee Proposal dated September 6, 2022.

§ 11.2 Deleted

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2 of the original agreement, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Hourly rates shown in paragraph 11.7 or a lump sum amount as negotiated and approved by Owner and Architect.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus five percent (5%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

«NA»

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	«fifteen »	percent (	15	%)
Design Development Phase	«twenty-five »	percent (	25	%)
Construction Documents Phase	«thirty »	percent (	30	%)
Procurement Phase	«three »	percent (	3	%)
Construction Phase	«twenty-three »	percent (	23	%)
Close-out Phase	four	percent (	4	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 The following expenses are included as Basis Services:

- .1 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .2 Printing, reproductions, plots, standard form documents;
- .3 Postage, handling and delivery.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See attached Architectural and Engineering Rate Schedule.

This Amendment entered into as of the day and year first written above.

OWNER

ARCHITECT

(Signature)

« »« »

(Printed name and title)

(Signature)

«Dineen B. West» «President, CRW Architects»

(Printed name and title)



AGENDA ACTION FORM

A Resolution to Accept a Monetary Donation for Kingsport City Schools

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

Action Form No.: AF-282-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Staff
 Presentation By: D. Frye

Recommendation:

Approve the resolution.

Executive Summary:

Kingsport City Schools has been approached by an individual that has expressed an interest in funding a portion of the flooring for the former Sullivan North High School gym. The gym will be utilized by the Dobyys-Bennett High School basketball teams.

The administration recommends that the Board of Mayor and Aldermen approve a motion to accept an anonymous donation of \$100,000.00 for the purpose of replacing the flooring at the former Sullivan North High School gym.

Attachments:

1. Resolution

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Oltzman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A MONETARY DONATION
FOR FLOORING AT THE FORMER SULLIVAN NORTH
HIGH SCHOOL GYM

WHEREAS, a Kingsport citizen desires to make a monetary donation to Kingsport City Schools; and

WHEREAS, the intended purpose of the donation is to assist in funding flooring upgrades at Kingsport North Gym; and

WHEREAS, the donation will be in the amount of \$100,000.00.

Now therefore,

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

SECTION II. That the monetary donation to the city from a citizen, in the total amount of \$100,000.00, is accepted.

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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B ROWLETT, III, CITY ATTORNEY

Revised 9/13/22



AGENDA ACTION FORM

A Resolution to Authorize the Reimbursement of Materials Agreement Funds to Hickory Ridge, LLC, Related to the Frylee Court Development

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

Action Form No.: AF-272-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: David Harris
 Presentation By: R. McReynolds

Recommendation:

Approve the resolution.

Executive Summary:

In an effort to promote smart growth and infill development as well as encourage the new housing market within the Kingsport city limits, the City of Kingsport passed the Materials Agreement Policy as set forth in Resolution 2007-084. Developers have the opportunity to enter into an agreement with the City pursuant to which the City furnishes the water and sewer materials for the developers use within the developer's proposed subdivision. The developer would be responsible for posting a cash bond covering the cost of the materials that would be available for refund (minus sales tax) once the project is completed and has been approved by the City Engineer and the Regional Planning Commission.

Pursuant to the policy, the BMA entered into Materials Agreements with Hickory Ridge, LLC related to Frylee Court in the amount of \$39,320.60. Upon construction adjustment due to sales tax, and close out of the necessary materials, the developer is due \$35,286.65.

Attachments:

1. Resolution
2. Closeout Worksheet
3. Location Maps
4. As-Built Drawing

Funding source appropriate and funds are available: *mm*

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: *mm*

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING REIMBURSEMENT OF
MATERIALS AGREEMENT FUNDS TO HICKORY RIDGE, LLC
FOR THE FRYLEE COURT DEVELOPMENT

WHEREAS, pursuant to the Materials Agreement Policy as set forth in Resolution 2007-084, Hickory Ridge, LLC entered into a Materials Agreement in the total amount of \$39,320.60, with the city for the provision of certain water and sewer materials by the city for Frylee Court; and

WHEREAS, upon construction, adjustment due to sales tax, and close out of the necessary materials the developer is due reimbursement funds in the amount of \$35,286.65, for Frylee Court; and

Now, therefore,

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

SECTION I. That reimbursement of Material Agreement funds to Hickory Ridge, LLC, in the amount of \$35,286.65 for Frylee Court, is approved.

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

ADOPTED this the 13th day of September 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, CITY ATTORNEY

Materials Agreement

Project: Frylee Court Development
 Date: September 13, 2022
 Developer: Hickory Ridge, LLC

File No.: 2018-D10

Water Line

Item #	Item Description	Units	U/M	Price	Total
41864	8" x 18' D.I. Pipe	42.00	Joints	\$428.04	\$17,977.68
42120	4' Bury Hydrant	2.00	each	\$1,610.00	\$3,220.00
42325	6" MJ Gate Valve	2.00	each	\$479.70	\$959.40
42335	8" MJ Gate Valve	3.00	each	\$764.05	\$2,292.15
43031	8x8x6 Anchor Tee	2.00	each	\$196.19	\$392.38
42845	6" x 18" MJ Anchor Coupling	2.00	each	\$153.79	\$307.58
41794	8" MJ D.I. Plug with 2" Tap	1.00	each	\$97.88	\$97.88
42535	8" MJ D.I. 90° Bend	2.00	each	\$136.93	\$273.86
Project #	WA2251				
	Expense To:				
Project Total	451-0000-605-9003				\$25,520.93
Sales Tax	451-0000-207-0201			9.50%	\$2,424.49
	Total Cost Including Tax				\$27,945.42
	Amount Paid and Receipted To:				
Contractor Paid	451-0000-208-1250				\$19,228.58
Sales Tax:	451-0000-207-0201			9.50%	\$1,826.72
	Total Cost Including Tax				\$21,055.30
	Sales Tax Adjustment				\$597.77
Water	Refund Due Developer				\$18,630.81

Materials Agreement

Project: Frylee Court Development
 Date: September 13, 2022
 Developer: Hickory Ridge, LLC

File No.: 2018-D10

Sanitary Sewer

Item #	Item Description	Units	U/M	Price	Total
45003	8" x 14' SDR-35 gsktd Sewer Pipe	90.00	Joints	\$113.40	\$10,206.00
45057	8" x 6" Tee Wye gsktd Sewer	38.00	each	\$39.18	\$1,488.84
45112	Manhole Frame & Covers V-1312-44	5.00	each	\$253.76	\$1,268.80
45226	Manhole Base (24") w/ Invert	5.00	each	\$550.00	\$2,750.00
45229	Manhole Ring Riser 2"	0.00	each	\$31.00	\$0.00
45230	Manhole Ring Riser 4"	0.00	each	\$41.00	\$0.00
45231	Manhole Ring Riser 6"	0.00	each	\$57.00	\$0.00
45223	Manhole Concrete 16" Riser	2.00	each	\$135.00	\$270.00
45219	Manhole Concrete 16" Concrete Cone	1.00	each	\$170.00	\$170.00
45221	Manhole Concrete 24" Concrete Cone	4.00	each	\$197.00	\$788.00
Project #	SW2251				
	Expense To:				
Project Total	452-0000-606-9003				\$16,941.64
Sales Tax	452-0000-207-0201			9.50%	\$1,609.46
	Total Cost Including Tax				\$18,551.10
	Amount Paid and Receipted To:				
Contractor Paid	452-0000-208-1250				\$16,680.64
Sales Tax:	452-0000-207-0201			9.50%	\$1,584.66
	Total Cost Including Tax				\$18,265.30
	Sales Tax Adjustment				\$24.80
Sewer	Refund Due Developer				\$16,655.85
				Total Refund	\$35,286.65

All parties signing this document agree that the items listed, along with their quantities, were received, used and/or returned as shown on this document. Any items due to the City of Kingsport must be received before the materials agreement between the City of Kingsport and the developer is closed out.

City of Kingsport Warehouse: *Domen Lipomen*

Date: August 30, 2022

City of Kingsport Inspector: *Kurt De*

Date: 8-30-22

Developer: *Daniel De*

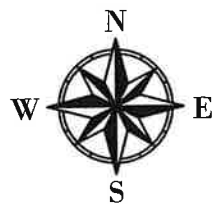
Date: 8/31/22





FRYLEE COURT LOCATION MAP

N.T.S.





LEGEND

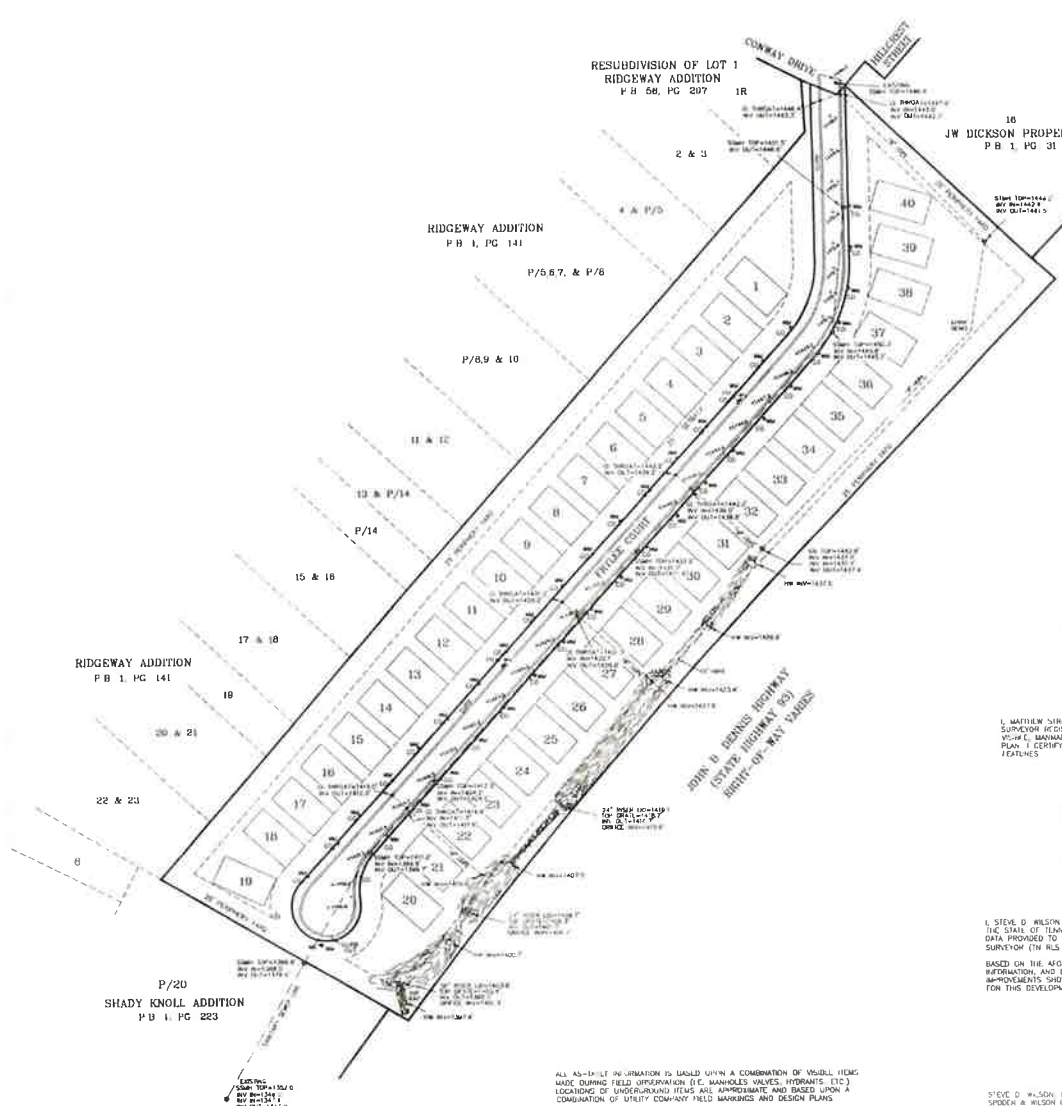
SSWH SANITARY SEWER MANHOLE
 STMH STORM MANHOLE
 CI CURB INLET
 CB CATCH BASIN
 WM WATER METER
 PV WATER VALVE
 FH FINE HYDRANT
 CO CLEAN OUT
 STGW STAGWELL
 INVT INVERT
 FAGE FAGE
 FB FILL BOOK
 APX APPROXIMATE
 HDH HIGH DENSITY
 DUTY DUTY

AS-BUILT SURVEY

FRYLEE COURT
 11TH CIVIL DISTRICT
 SULLIVAN COUNTY, TENNESSEE

DATE: JUNE 15, 2022

SCALE: 1"=60'



LOCATION MAP



I, MATTHEW S. HINKLE (IN PL. #22027), HEREBY CERTIFY THAT I AM A LAND SURVEYOR REGISTERED IN THE STATE OF TENNESSEE. I HAVE LOCATED ALL VISIBLE MANHOLE, WATERLINE, AND SANITARY SEWER FEATURES SHOWN ON THIS PLAN. I CERTIFY THE LOCATION, ELEVATION AND DESCRIPTION OF THESE FEATURES.



I, STEVE D. WILSON (IN PL. #22027), HEREBY CERTIFY THAT I AM AN ENGINEER LICENSED IN THE STATE OF TENNESSEE. I HAVE REVIEWED THE INFORMATION BASED ON FIELD SURVEY DATA PROVIDED TO ME BY THE SURVEYOR, A STATE OF TENNESSEE REGISTERED LAND SURVEYOR (IN PL. #22027).
 BASED ON THE ABOVE-MENTIONED SURVEY AND TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SANITARY SEWER, WATERLINE, & STORM SEWER IMPROVEMENTS SHOWN ON THIS PLAN FUNCTION AS INTENDED ON THE APPROVED DESIGN FOR THIS DEVELOPMENT.

STEVE D. WILSON, P.E.
 STEVEN A. WILSON CONSULTING ENGINEERS

DATE: _____
 BY: _____
 CHECKED: _____

STORM, SANITARY SEWER & WATER AS-BUILT
 FRYLEE COURT
 KINGSPOINT, TENNESSEE

ALLEY & ASSOCIATES, INC.
 250 E. FIRST STREET, SUITE 200
 KINGSPOINT, TN 37080
 TEL: (615) 366-1111
 FAX: (615) 366-1112
 E-MAIL: info@alleyandassociates.com

Revised 9/13/22



AGENDA ACTION FORM

A Resolution to Authorize the Reimbursement of Materials Agreement Funds to HPV, Related to the Caymus Yards Development

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

Action Form No.: AF-273-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: David Harris
 Presentation By: R. McReynolds

Recommendation:

Approve the resolution.

Executive Summary:

In an effort to promote smart growth and infill development as well as encourage the new housing market within the Kingsport city limits, the City of Kingsport passed the Materials Agreement Policy as set forth in Resolution 2007-084. Developers have the opportunity to enter into an agreement with the City pursuant to which the City furnishes the water and sewer materials for the developers use within the developer's proposed subdivision. The developer would be responsible for posting a cash bond covering the cost of the materials that would be available for refund (minus sales tax) once the project is completed and has been approved by the City Engineer and the Regional Planning Commission.

Pursuant to the policy, the BMA entered into Materials Agreements with HPV related to Caymus Yards in the amount of \$15,844.63. Upon construction adjustment due to sales tax, and close out of the necessary materials, the developer is due \$14,362.93.

Attachments:

1. Resolution
2. Closeout Worksheet
3. Location Maps
4. As-Built Drawing

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: *zw*

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING REIMBURSEMENT OF
MATERIALS AGREEMENT FUNDS TO HPV FOR THE CAYMUS
YARDS DEVELOPMENT

WHEREAS, pursuant to the Materials Agreement Policy as set forth in Resolution 2007-084, HPV entered into a Materials Agreement in the total amount of \$15,844.63, with the city for the provision of certain water and sewer materials by the city for Caymus Yards; and

WHEREAS, upon construction, adjustment due to sales tax, and close out of the necessary materials the developer is due reimbursement funds in the amount of \$14,362.93, for Caymus Yards; and

Now, therefore,

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

SECTION I. That reimbursement of Material Agreement funds to HPV, in the amount of \$14,362.93 for Caymus Yards, is approved.

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

ADOPTED this the 13th day of September 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, CITY ATTORNEY

Materials Agreement

Project: Caymus Yard
 Date: September 13, 2022
 Developer: HVP, LLC

File No.: 2021-D21

Water Line

Item #	Item Description	Units	U/M	Price	Total
41810	6" x 18' D.I. Pipe	80.00	LFT	\$20.77	\$1,661.60
42120	4' Bury Hydrant	1.00	each	\$1,610.00	\$1,610.00
42325	6" MJ Gate Valve	1.00	each	\$578.00	\$578.00
43032	6x6x6 Anchor Tee	1.00	each	\$179.74	\$179.74
42845	6" x 18" MJ Anchor Coupling	1.00	each	\$180.31	\$180.31
41951	6" MJ D.I. Plug with 2" Tap	1.00	each	\$84.09	\$84.09
Project #	WA2256				
Expense To:					
Project Total	451-0000-605-9003				\$4,293.74
Sales Tax	451-0000-207-0201			9.50%	\$407.91
	Total Cost Including Tax				\$4,701.65
Amount Paid and Receipted To:					
Contractor Paid	451-0000-208-1250				\$5,872.06
Sales Tax:	451-0000-207-0201			9.50%	\$557.85
	Total Cost Including Tax				\$6,429.91
	Sales Tax Adjustment				-\$149.94
Water	Refund Due Developer				\$6,022.00

Materials Agreement

Project: Caymus Yard
 Date: September 13, 2022
 Developer: HVP, LLC

File No.: 2021-D21

Sanitary Sewer

Item #	Item Description	Units	U/M	Price	Total
45003	8" x 14' SDR-35 gsktd Sewer Pipe	34.00	Joints	\$138.18	\$4,698.12
45057	8" x 6" Tee Wye gsktd Sewer	26.00	each	\$63.14	\$1,641.64
45112	Manhole Frame & Covers V-1312-44	3.00	each	\$253.76	\$761.28
45229	Manhole Ring Riser 2"	1.00	each	\$55.00	\$55.00
45230	Manhole Ring Riser 4"	1.00	each	\$65.00	\$65.00
45231	Manhole Ring Riser 6"	1.00	each	\$75.00	\$75.00
45219	Manhole Concrete 16" Concrete Cone	2.00	each	\$227.00	\$454.00
45221	Manhole Concrete 24" Concrete Cone	1.00	each	\$279.00	\$279.00
45223	Manhole Concrete 16" Riser	3.00	each	\$186.00	\$558.00
45224	Manhole Concrete 32" Riser	1.00	each	\$333.00	\$333.00
45226	Manhole Base (24") w/ Invert	3.00	each	\$751.00	\$2,253.00
45203	Extra Boot Charge	2.00	each	\$65.00	\$130.00
Project #	SW2256				
	Expense To:				
Project Total	452-0000-606-9003				\$11,303.04
Sales Tax	452-0000-207-0201			9.50%	\$1,073.79
	Total Cost Including Tax				\$12,376.83
	Amount Paid and Receipted To:				
Contractor Paid	452-0000-208-1250				\$8,597.92
Sales Tax:	452-0000-207-0201			9.50%	\$816.80
	Total Cost Including Tax				\$9,414.72
	Sales Tax Adjustment				\$256.99
Sewer	Refund Due Developer				\$8,340.93
				Total Refund	\$14,362.93

All parties signing this document agree that the items listed, along with their quantities, were received, used and/or returned as shown on this document. Any items due to the City of Kingsport must be received before the materials agreement between the City of Kingsport and the developer is closed out.

City of Kingsport Warehouse:

Date:

City of Kingsport Inspector:

Date:

Developer:

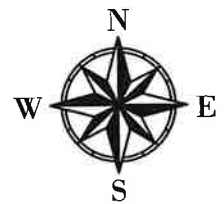
Date:

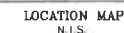




CAYMUS YARDS LOCATION MAP

N.T.S.





NATIONAL CHURCH
RESIDENCES OF KPT INC.
D.B. 3072, PG. 2184

EAST CENTER STREET

POLK STREET

CARVER COURT

10' ALLEY

12' ALLEY

W.A. JESSE ADDITION
BLOCK I
P.B. 2, PG. 50

RESUB OF LOTS
11-13 & PART OF LOT 14
W.A. JESSE ADDITION
BLOCK I
P.B. 8, PG. 8

Various lot numbers and survey data points are present throughout the map.

60 30 0 60 120

SCALE IN FEET

FAX : (423) 392-8888



AGENDA ACTION FORM

A Resolution Approving the Tennessee Department of Transportation Matching Funding for Grant Contract FTA031-01 for the KATS Transit Garage Construction

To: Board of Mayor and Aldermen

From: Chris McCartt, City Manager *cm*

Action Form No.: AF-253-2022

Work Session: September 12, 2022

First Reading: N/A

Final Adoption: September 13, 2022

Staff Work By: Candace Sherer

Presentation By: C. Sherer

Recommendation:

Approve the resolution.

Executive Summary:

In February 2022, the Board of Mayor and Alderman approved to add additional funding for the construction of the KATS Transit Garage for Grant Contract FTA031-01. This request represents the TDOT matching portion for the contract. (TDOT= \$80,000).

Transit Garage Funding	Federal	State	Local	Total
FTA 031 (amendment adding funding)	\$640,000	<u>\$80,000</u>	\$80,000	\$800,000
<i>FTA 031 (existing)</i>	<i>\$1,680,000</i>	<i>\$210,000</i>	<i>\$210,000</i>	<i>\$2,100,000</i>
Total	\$2,320,000	\$290,000	\$290,000	\$2,900,000

Attachments:

1. Resolution
2. Contract

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: *aw*

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

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE TENNESSEE DEPARTMENT OF TRANSPORTATION CONTRACT NUMBER GG-22-73094- FOR ADDITIONAL FUNDS FOR THE SECTION 5307 CAPITAL GRANT FUNDS FROM THE U.S. DEPARTMENT OF TRANSPORTATION FOR FEDERAL TRANSIT ADMINISTRATION GRANT CONTRACT NO. FTA 031-01 FOR THE CONSTRUCTION OF A TRANSIT GARAGE AND MAINTENANCE FACILITY AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, in June, 2021, the board approved Resolution 2021-237, to accept Section 5307 Capital Grant funds for the construction of a transit garage and maintenance facility for the Kingsport Area Transit Service (KATS) in the amount of \$1,680,000.00 with a local match of \$210,000.00; and

WHEREAS, due to the current construction market, significant increases in materials costs (especially steel one of the main components of this project), supply chain delays, and reduced workforce availability, additional funding is needed; and

WHEREAS, as additional funding is required for the project, staff recommends amending FTA Grant 031 for an additional \$640,000.00 with a local match of \$80,000.00; and

WHEREAS, funding is available with the second reading of a budget ordinance at the next board meeting;

Now therefore,

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

SECTION I. That an amendment to Tennessee Department of Transportation's Contract Number GG-22-73094-A for additional funds for the FTA Grant 031 contract with the Federal Transit Administration to accept Section 5307 Capital Grant funds for the construction of a transit garage and maintenance facility for the Kingsport Area Transit Service (KATS) 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 Tennessee Department of Transportation's Contract Number GG-22-73094-A for additional funds for the FTA Grant 031 agreement with the Federal Transit Administration to accept Section 5307 Capital Grant funds for the construction of a transit garage and maintenance facility for the Kingsport Area Transit Service (KATS), to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said amendment being generally as follows:

TDOT PROJECT NO.: 825307-S3-032
FTA PROJECT NO.: TN2021-031

AMENDMENT NUMBER

OF GRANT CONTRACT GG-22-73094-A

This Grant Contract Amendment is made and entered by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and City of Kingsport, hereinafter referred to as the "Grantee." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Grant Contract is hereby amended as follows:

1. Grant Contract section C.1. Maximum Liability is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Two Hundred Ninety Thousand Dollars and No Cents (\$290,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment One, is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

2. Grant Contract section E.10. Vehicle Disposal Process is deleted in its entirety and replaced with the following:

Vehicle Disposal Process and Proceeds. The Grantee shall adhere to the disposal process described in the State Management Plan for Federal Transit Administration (FTA) Programs of the Tennessee Department of Transportation on file with the FTA, subject to the following exception pursuant to the Infrastructure Investment and Jobs Act (IIJA), 49 U.S.C. § 5334 (h)(4)(B):

For rolling stock, equipment, and aggregate supplies that have met their minimum useful life and were

(1) purchased with federal assistance, (2) with a fair market value of more than \$5,000, and (3) were sold after November 15, 2021, the Grantee may retain only a portion of the funds, in the amount of \$5,000 plus the percentage of the amount over \$5,000 that is proportional to the percentage of the State's share and the percentage of the local share in the original award. Any remaining federal share must be returned to the FTA and cannot be retained for public transportation use. If this Grant Contract includes federal funds, then the Grantee shall return any such remaining federal share to the State, and the State then will return the funds to FTA.

3. Grant Contract section E.11. Vehicle Disposal Proceeds is deleted in its entirety.

4. Grant Contract Attachment One is deleted in its entirety and replaced with the new attachment One attached hereto.

Required Approvals. The State is not bound by this Amendment 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).

Amendment Effective Date. The revisions set forth herein shall be effective once all required approvals are obtained. All other terms and conditions of this Grant Contract not expressly amended herein shall remain in full force and effect.

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

ADOPTED this the 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

TDOT PROJECT NO.: 825307-S3-032
FTA PROJECT NO.: TN2021-031

**AMENDMENT NUMBER
OF GRANT CONTRACT GG-22-73094-A**

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For rolling stock, equipment, and aggregate supplies that have met their minimum useful life and were (1) purchased with federal assistance, (2) with a fair market value of more than \$5,000, and (3) were sold after November 15, 2021, the Grantee may retain only a portion of the funds, in the amount of \$5,000 plus the percentage of the amount over \$5,000 that is proportional to the percentage of the State's share and the percentage of the local share in the original award. Any remaining federal share must be returned to the FTA and cannot be retained for public transportation use. If this Grant Contract includes federal funds, then the Grantee shall return any such remaining federal share to the State, and the State then will return the funds to FTA.

3. Grant Contract section E.11. Vehicle Disposal Proceeds is deleted in its entirety.
4. Grant Contract Attachment One is deleted in its entirety and replaced with the new attachment One attached hereto.

Required Approvals. The State is not bound by this Amendment 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).

Amendment Effective Date. The revisions set forth herein shall be effective once all required approvals are obtained. All other terms and conditions of this Grant Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

CITY OF KINGSFORT:

TDOT PROJECT NO.: 825307-S3-032
FTA PROJECT NO.: TN2021-031

PATRICK SHULL, MAYOR

DATE

MICHAEL BILLINGSLEY, CITY ATTORNEY

DATE

ANGELA MARSHALL, CITY RECORDER

DATE

DEPARTMENT OF TRANSPORTATION:

HOWARD H. ELEY, COMMISSIONER

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

TDOT PROJECT NO.: 825307-S3-032
FTA PROJECT NO.: TN2021-031

ATTACHMENT ONE

UNIVERSAL MULTIMODAL TRANSPORTATION RESOURCES BUDGET

	STATE SHARE	FEDERAL SHARE*	GRANT CONTRACT	GRANTEE SHARE	TOTAL
SCOPE—CAPITAL					
11.00.S0 Capital Assistance, Non-ADA - TDOT	\$290,000.00	\$2,320,000.00	\$290,000.00	\$290,000.00	\$2,900,000.00
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					
SCOPE—OPERATING					
30.00.00 Operating Assistance - TDOT					
30.xx.xx Operating Assistance					
SCOPE—PLANNING					
44.00.S0 Planning - TDOT					
44.xx.xx Planning					
SCOPE—MANAGEMENT TRAINING					
50.xx.xx Management Training					
SCOPE—OVERSIGHT REVIEWS					
51.xx.xx Oversight Review					
SCOPE—RESEARCH PROJECTS					
55.xx.xx Research Projects					
SCOPE—SAFETY & SECURITY					
57.xx.xx Safety and Security					
SCOPE - UNIVERSITY RESEARCH					
70.xx.xx					
SCOPE - Non-Add Scope Codes					
99.xx.xx					
SCOPE - OTHER					
62.0x.xx - Project Administration					
63.5x.xx - Rural Technical Assistance Program					
64.8x.xx - Appalachian					
xx.xx.xx - Other					
GRAND TOTAL	\$290,000.00	\$2,320,000.00	\$290,000.00	\$290,000.00	\$2,900,000.00

*Federal share not distributed in this grant contract.

TDOT PROJECT NO.: 825307-S3-032
FTA PROJECT NO.: TN2021-031

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	\$290,000.00	\$2,320,000.00	\$290,000.00	\$290,000.00	\$2,900,000.00
TOTAL	\$290,000.00	\$2,320,000.00	\$290,000.00	\$290,000.00	\$2,900,000.00

TDOT PROJECT NO.: 825307-S3-032
FTA PROJECT NO.: TN2021-031

**AMENDMENT NUMBER
OF GRANT CONTRACT GG-22-73094-A**

This Grant Contract Amendment is made and entered by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and City of Kingsport, hereinafter referred to as the "Grantee." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Grant Contract is hereby amended as follows:

1. Grant Contract section C.1. Maximum Liability is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Two Hundred Ninety Thousand Dollars and No Cents (\$290,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment One, is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

2. Grant Contract section E.10. Vehicle Disposal Process is deleted in its entirety and replaced with the following:

Vehicle Disposal Process and Proceeds. The Grantee shall adhere to the disposal process described in the State Management Plan for Federal Transit Administration (FTA) Programs of the Tennessee Department of Transportation on file with the FTA, subject to the following exception pursuant to the Infrastructure Investment and Jobs Act (IIJA), 49 U.S.C. § 5334 (h)(4)(B):

For rolling stock, equipment, and aggregate supplies that have met their minimum useful life and were (1) purchased with federal assistance, (2) with a fair market value of more than \$5,000, and (3) were sold after November 15, 2021, the Grantee may retain only a portion of the funds, in the amount of \$5,000 plus the percentage of the amount over \$5,000 that is proportional to the percentage of the State's share and the percentage of the local share in the original award. Any remaining federal share must be returned to the FTA and cannot be retained for public transportation use. If this Grant Contract includes federal funds, then the Grantee shall return any such remaining federal share to the State, and the State then will return the funds to FTA.

3. Grant Contract section E.11. Vehicle Disposal Proceeds is deleted in its entirety.
4. Grant Contract Attachment One is deleted in its entirety and replaced with the new attachment One attached hereto.

Required Approvals. The State is not bound by this Amendment 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).

Amendment Effective Date. The revisions set forth herein shall be effective once all required approvals are obtained. All other terms and conditions of this Grant Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

CITY OF KINGSFORT:

TDOT PROJECT NO.: 825307-S3-032
FTA PROJECT NO.: TN2021-031

PATRICK SHULL, MAYOR

DATE

MICHAEL BILLINGSLEY, CITY ATTORNEY

DATE

ANGELA MARSHALL, CITY RECORDER

DATE

DEPARTMENT OF TRANSPORTATION:

HOWARD H. ELEY, COMMISSIONER

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

TDOT PROJECT NO.: 825307-S3-032
FTA PROJECT NO.: TN2021-031

ATTACHMENT ONE

UNIVERSAL MULTIMODAL TRANSPORTATION RESOURCES BUDGET

	STATE SHARE	FEDERAL SHARE*	GRANT CONTRACT	GRANTEE SHARE	TOTAL
SCOPE—CAPITAL					
11.00.S0 Capital Assistance, Non-ADA - TDOT	\$290,000.00	\$2,320,000.00	\$290,000.00	\$290,000.00	\$2,900,000.00
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					
SCOPE—OPERATING					
30.00.00 Operating Assistance - TDOT					
30.xx.xx Operating Assistance					
SCOPE—PLANNING					
44.00.S0 Planning - TDOT					
44.xx.xx Planning					
SCOPE—MANAGEMENT TRAINING					
50.xx.xx Management Training					
SCOPE—OVERSIGHT REVIEWS					
51.xx.xx Oversight Review					
SCOPE—RESEARCH PROJECTS					
55.xx.xx Research Projects					
SCOPE—SAFETY & SECURITY					
57.xx.xx Safety and Security					
SCOPE - UNIVERSITY RESEARCH					
70.xx.xx					
SCOPE - Non-Add Scope Codes					
99.xx.xx					
SCOPE - OTHER					
62.0x.xx - Project Administration					
63.5x.xx - Rural Technical Assistance Program					
64.8x.xx - Appalachian					
xx.xx.xx - Other					
GRAND TOTAL	\$290,000.00	\$2,320,000.00	\$290,000.00	\$290,000.00	\$2,900,000.00

*Federal share not distributed in this grant contract.

TDOT PROJECT NO.: 825307-S3-032
FTA PROJECT NO.: TN2021-031

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	\$290,000.00	\$2,320,000.00	\$290,000.00	\$290,000.00	\$2,900,000.00
TOTAL	\$290,000.00	\$2,320,000.00	\$290,000.00	\$290,000.00	\$2,900,000.00



AGENDA ACTION FORM

A Resolution Authorizing the Mayor to Execute an Amendment to the Contract Between the City of Kingsport and the Tennessee Department of Environment and Conservation (TDEC)

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

Action Form No.: AF-261-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Staff
 Presentation By: R. McReynolds

Recommendation:

Approve the resolution.

Executive Summary:

Tennessee's solid waste act requires that landfill owners be able to demonstrate financial responsibility for future closure and post-closure activities. In June 1996, the City executed a contract in lieu of a performance bond. The present amount of financial assurance is \$2,185,550.69. This amount must be adjusted annually for inflation. The new amount of \$2,275,158.26 requires an amendment to the contract.

Attachments:

1. Resolution
2. Contract in Lieu of Performance Bond Amendment

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: *aw*

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

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT IN LIEU OF PERFORMANCE BOND WITH THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION INCREASING THE AMOUNT OF FINANCIAL ASSURANCE FOR THE LANDFILL; AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT OR THIS RESOLUTION

WHEREAS, in 1996, the board approved a resolution authorizing the mayor to sign a Contract in Lieu of Performance Bond with the Tennessee Department of Environment and Conservation for the demolition landfill; and

WHEREAS, due to inflation, the amount of the financial assurance changes annually; and

WHEREAS, the amount of the financial assurance in the current contract should be changed from \$2,185,550.69, to \$2,275,158.26.

Now therefore,

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

SECTION I. That an amendment to the Contract in Lieu of Performance Bond with Tennessee Department of Environment and Conservation 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 amendment to the Contract in Lieu of Performance Bond with the Tennessee Department of Environment and Conservation for the demolition landfill, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the amendment and this resolution, said amendment being as follows:

**Amendment of Contract of Obligation in Lieu of Performance Bond (City)
Department of Environment and Conservation, Division of Solid Waste Management**

1. This amendment is made by the City of Kingsport ("the City"), and the Tennessee Department of Environment and Conservation ("the Department") to the Contract of Obligation in Lieu of Performance Bond for proper operation and/or post-closure of the City of Kingsport Demolition Landfill, Permit Number DML820000016 entered on or about 07/24/96 ("the Contract").
2. Paragraph 3 of the Contract is amended by deleting the language in the paragraph and substituting the following language, which shall constitute Paragraph 3 of the Contract:
The total penal sum of this contract is:
\$ 2,275,158.26
3. Except as set forth in this amendment, or another prior amendment, the Contract is unaffected and shall continue in full force and effect in accordance with its terms. If there is any conflict between this amendment and the Contract or any earlier amendment, the terms of this amendment shall control.
4. A copy of this amendment shall be filed with the Commissioner of the Tennessee Department of Finance and Administration.
5. All signatories to this amendment warrant that they have actual authority to enter this amendment on the terms contained herein.

6. This amendment shall be effective upon signature by all parties by a person authorized to bind each party. The Department shall note the Effective Date upon all signatures.
[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is further authorized and directed to make such changes approved by the mayor and the city attorney to the agreement as setout 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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Office of Financial Assurance
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Ave., 10th Floor
Nashville, TN 37243
(615) 532-0851

August 12, 2022

The Honorable Patrick W. Shull
City of Kingsport Mayor
225 West Center Street
Kingsport, Tennessee 37660

RE: 2022 Annual Inflation Adjustment of the Financial Assurance for the ***City of Kingsport Demolition Landfill***, Permit No. ***DML820000016*** as required by the Regulations of the Division of Solid Waste Management

Dear Mayor Shull:

All county and municipal "Contracts of Obligation in Lieu of Performance Bonds" must be adjusted annually for inflation by no later than the anniversary date of the issuance of the contract.

Rule Chapters 0400-12-01-.06(8) and 0400-11-01-.03(3) state that the inflation adjustment may be made by recalculating the closure and/or post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for the Gross National Product published by the U. S. Department of Commerce, Bureau of Economic Analysis, in its Survey of Current Business.

The staff of the Office of Financial Assurance, utilizing data published by the U. S. Department of Commerce, Bureau of Economic Analysis, has projected the inflation factor to be used for **2022** inflation adjustments as **4.10%**. The amount of your financial assurance instrument(s) from the **Year 2021** must be multiplied by **1.0410**. The permitted facility and/or the Department may reserve the right to adjust this figure later based upon revised data released by the U. S. Department of Commerce, Bureau of Economic Analysis, during the year.

Effective immediately, any County or Municipal Contract of Obligation in Lieu of Performance Bond incurring an annual inflation adjustment shall not be processed by amendment until the cumulative amount of the adjustment(s) equals or exceeds TEN THOUSAND DOLLARS (\$10,000.00). This is a change from the previous threshold of Five Thousand Dollars (\$5,000.00). For example, if the inflation adjustment is \$4,000.00 in year one, \$5,000.00 in year two, and \$6,000.00 in year three, the amendment will be processed in year three when the total of adjustments exceeds \$10,000.00. We will continue to send your inflation adjustment figures annually for your records whether or not an amendment to the contract is required.

Please review the amount(s) for each permit listed below. If any changes or modifications to your permit(s) have occurred, please contact us as soon as you receive this letter. The due date(s) and projected amount(s) for the inflation adjustment(s) of your financial instrument(s) are as follows:

2022 Inflation Adjustment(s)

Facility Permit No.	Financial Instrument Type & No.	Financial Instrument Anniversary Due Date	Present Amount of Financial Assurance On File	Inflation Adjustment/ Increase Required	Inflation Adjustment and Allowable Post-Closure Reduction	Total Required Amount of Financial Assurance
DML820000016	Contract	07/24/22	\$ 2,185,550.69	\$ 89,607.58	\$ 0.00	\$ 2,275,158.26

Please see the attached spreadsheets, which list in detail the amount of financial assurance required due to the **2022** annual inflation adjustment and/or post-closure reduction (if applicable) for your permit(s). The spreadsheets also list the current amount of financial assurance on file for each permit.

PLEASE NOTE

If you have been advised by the TDEC Field Office that the required post-closure activities at a permitted site listed herein have not been performed to the satisfaction of the Field Office Staff, do not reduce your financial assurance instrument until the Field Office has approved the performance of the required post-closure work.

Please submit the inflation adjusted financial instrument(s) to the Office of Financial Assurance to my attention at the address listed on the letterhead as indicated above. If you have any questions, please call me at (615) 253-6887, or you may email me at Erini.Ryad@tn.gov.

Very Respectfully,

Erini Ryad

Erini Ryad, Financial Analyst

Enclosures: Customer Information Data Sheet, Summary Spreadsheet, Detailed Financial Assurance Information

CC: Chris Lamb, Manager of Solid Waste Management, Johnson City Field Office, TDEC

For Department Use Only

Effective Date: _____

Amendment of Contract of Obligation in Lieu of Performance Bond (City)
Department of Environment and Conservation, Division of Solid Waste Management

1. This amendment is made by the City of Kingsport ("the City"), and the Tennessee Department of Environment and Conservation ("the Department") to the Contract of Obligation in Lieu of Performance Bond for proper operation and/or post-closure of the City of Kingsport Demolition Landfill, Permit Number DML820000016 entered on or about 07/24/96 ("the Contract").
2. Paragraph 3 of the Contract is amended by deleting the language in the paragraph and substituting the following language, which shall constitute Paragraph 3 of the Contract:

The total penal sum of this contract is:

\$ 2,275,158.26
3. Except as set forth in this amendment, or another prior amendment, the Contract is unaffected and shall continue in full force and effect in accordance with its terms. If there is any conflict between this amendment and the Contract or any earlier amendment, the terms of this amendment shall control.
4. A copy of this amendment shall be filed with the Commissioner of the Tennessee Department of Finance and Administration.
5. All signatories to this amendment warrant that they have actual authority to enter this amendment on the terms contained herein.
6. This amendment shall be effective upon signature by all parties by a person authorized to bind each party. The Department shall note the Effective Date upon all signatures.

On Behalf of the City of Kingsport _____

Printed Name: _____

Title: _____

Date: _____

On Behalf of the Tennessee Department of Finance and Administration

Commissioner

Tennessee Department of Finance and Administration

Date: _____

On Behalf of the Tennessee Department of Environment and Conservation

David W. Salyers, P.E.

Commissioner

Tennessee Department of Environment and Conservation

Date: _____



AGENDA ACTION FORM

A Resolution Authorizing the Kingsport Economic Development Board on Behalf of the City of Kingsport to Enter into the Bidding Process for the Purchase of the Former Colonial Heights Middle School Property

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

Action Form No.: AF-258-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Committee
 Presentation By: D. Frye/C. McCartt

Recommendation:

Approve the resolution.

Executive Summary:

Data indicates current enrollments of elementary schools in the eastern portion of Kingsport reflect the potential need for additional capacity. Additional residential development currently scheduled within the Kingsport city limits in the coming years will require Kingsport City Schools and the City of Kingsport to plan for projected increases in student population. The largest growth is projected to occur in the current Adams Elementary zone.

At a recent Sullivan County Board of Education (BOE) meeting, the board agreed that the Colonial Heights Middle School property will be auctioned via an online bidding process with a minimum bid of \$2,000,000.00.

The Board of Education requests the City of Kingsport Board of Mayor and Aldermen take the necessary steps they see fit in order to enter into the bidding process for the purchase of the Colonial Heights Middle School property from the Sullivan County Board of Education on behalf of Kingsport City Schools.

Kingsport City Schools agrees to reimburse the City of Kingsport up to \$2,250,000.00 to be funded from the general purpose school fund balance for such purchase should the City of Kingsport be identified as the winning bidder for the Colonial Heights Middle School property.

The BOE approved these actions on August 17, 2022.

Approval of this action form would not only authorize the ability to bid but would also designate the Kingsport Economic Development Board (KEDB) as the agency to bid on behalf of the City of Kingsport. KEDB would be reimbursed the BOE approved amount of \$2,250,000.00.

Attachments:

1. Resolution

Funding source appropriate and funds are available: *mm*

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: *mm*

	Y	N	O
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olteman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR OR HIS
DESIGNEE TO ENTER INTO THE BIDDING PROCESS FOR THE
PURCHASE OF THE COLONIAL HEIGHTS MIDDLE SCHOOL
PROPERTY

WHEREAS, data indicates a potential need for additional capacity for Kingsport City Schools; and

WHEREAS, the Sullivan County (TN) Board of Education will auction the Colonial Heights Middle School via an online bidding process with a minimum bid of \$2,000,000.00; and

WHEREAS, the Board of Education requests the Mayor to enter into the bidding process on behalf of Kingsport City Schools; and

WHEREAS, the Board of Education agrees to reimburse the City up to \$2,250,000 from the General Purpose School Fund should the City be identified as the winning bidder of the Colonial Heights Middle School property; and

WHEREAS, the Board of Education approved these actions on August 17, 2022.

Now therefore,

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

SECTION I. That the Mayor or the Kingsport Industrial Development Board on his behalf, is authorized to participate in the public auction and by submitting bids for the purchase of the Colonial Heights Middle School property.

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 23rd day of August, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B ROWLETT, III, CITY ATTORNEY



AGENDA ACTION FORM

A Resolution to Enter the Tennessee Consolidated Retirement System Hybrid Plan with Cost Controls as of January 1, 2023

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

Action Form No.: AF-262-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Tyra Copas
 Presentation By: T. Copas

Recommendation:

Approve the resolution.
 Approve the resolution.

Executive Summary:

In June 2012, the BMA approved a resolution to exit the Tennessee Consolidated Retirement System (TCRS) due to the rate volatility and lack of cost controls. In 2014, the State implemented a TCRS Hybrid Plan with cost controls, which addressed the key concerns which led to City leaving the plan.

The City's Strategic Plan goal #2 to Attract, Develop and Retain a High Performing Workforce set forth an objective to evaluate the retirement benefits offered to employees. A committee was established to evaluate the TCRS Hybrid Plan with cost controls and provide a recommendation. It is the committee's recommendation for the city to reenter the TCRS Hybrid Plan with cost controls as of January 1, 2023.

The current retirement plan for new hires is a defined contribution plan (401A/457) which has a total employer liability of 8% of the employees' salary, made up by 5% mandatory contribution with an additional 3% dollar-for-dollar match. The TCRS Hybrid Plan, with cost controls, has two components; a defined benefit (pension) and a defined contribution (401K). The two component combination provides a more robust retirement package for employees, which also aids in the City's retention and attraction efforts.

The City's total liability with the TCRS Hybrid Plan with cost controls is 9% of an employee's salary, this is an increase of 1% liability from the current retirement plan, costing approximately \$300,000.00 more annually. In anticipation of this change, the FY23 budget incorporates the additional cost, and therefore no budget amendment is needed.

Attachments:

1. Resolution
2. 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: *JW*

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

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

Tennessee Consolidated Retirement System

A RESOLUTION to authorize a political subdivision's participation in the Tennessee Consolidated Retirement System in accordance with Tennessee Code Annotated, Title 8, Chapters 34 – 37.

WHEREAS, Tennessee Code Annotated, Title 8, Chapter 35, Part 2 allows a political subdivision to participate in

the Tennessee Consolidated Retirement System ("TCRS") subject to the approval of the TCRS Board of Trustees; and

WHEREAS, the City of Kingsport desires to participate in TCRS under the
(Name of Political Subdivision)

provisions of Tennessee Code Annotated, Title 8, Chapters 34 – 37 and in accordance with the following terms and conditions:

- A. TYPE PLAN. (CHECK BOX 1 OR BOX 2 OR BOX 3 OR BOX 4). The Political Subdivision adopts the following type plan:
- (1) ☐ Regular Defined Benefit Plan.
 - (2) ☐ Alternate Defined Benefit Plan.
 - (3) ☐ Local Government Hybrid Plan (If this Plan is chosen, the Political Subdivision MUST also maintain a defined contribution plan on behalf of its employees and pass the attached resolution that describes the type of defined contribution plan the Political Subdivision will adopt. The defined contribution plan could provide for employer contributions of 0% to up to 7% of its employees' salaries).
 - (4) ☒ State Employee and Teacher Hybrid Plan (If this Plan is chosen, the Political Subdivision MUST also maintain a defined contribution plan on behalf of its employees whereby the Political Subdivision makes a mandatory employer contribution on behalf of each of its employees participating in the Hybrid Plan equal to 5% of the respective employee's salary subject to the cost controls and unfunded liability controls of the Hybrid Plan. The Political Subdivision must also pass the attached resolution that describes the type of defined contribution plan the Political Subdivision will adopt).
- B. EMPLOYEE CONTRIBUTIONS. (CHECK BOX 1 OR BOX 2 OR BOX 3 - IF THE STATE EMPLOYEE AND TEACHER HYBRID PLAN IS SELECTED ABOVE, THE EMPLOYEES MUST CONTRIBUTE 5% OF THEIR EARNABLE COMPENSATION UNDER THAT PLAN AND BOX 1 MUST BE CHECKED). The Employees shall contribute:
- (1) ☒ 5% of the employees' earnable compensation.
 - (2) ☐ 2.5% of the employees' earnable compensation.
 - (3) ☐ 0% of the employees' earnable compensation.
- C. COST-OF-LIVING INCREASES FOR RETIREES. (CHECK BOX 1 OR BOX 2 – IF EITHER THE LOCAL GOVERNMENT, OR THE STATE EMPLOYEE AND TEACHER HYBRID PLAN IS SELECTED ABOVE, COST-OF-LIVING INCREASES FOR RETIREES MUST BE GIVEN, SUBJECT TO ANY APPLICABLE COST CONTROLS AND UNFUNDED LIABILITY CONTROLS AND BOX 2 MUST BE CHECKED). The Political Subdivision shall:
- (1) ☐ NOT provide cost-of-living increases for its retirees.

- (2) ☒ PROVIDE cost-of-living increases for its retirees.

D. ELIGIBILITY OF PART-TIME EMPLOYEES. (CHECK BOX 1 OR BOX 2). The Political Subdivision shall:

- (1) ☒ NOT allow its part-time employees to participate in TCRS.
(2) ☐ ALLOW its part-time employees to participate in TCRS.

E. PRIOR SERVICE. (CHECK AND COMPLETE BOX 1 OR BOX 2 OR BOX 3 OR BOX 4 OR BOX 5 – CAUTION: IF THE STATE EMPLOYEE AND TEACHER HYBRID PLAN IS SELECTED ABOVE AND IF BOX 3 BELOW IS NOT CHOSEN, THE EMPLOYER CONTRIBUTION COULD EXCEED 4% THEREBY CAUSING THE COST CONTROLS AND UNFUNDED LIABILITY CONTROLS TO AUTOMATICALLY APPLY. ACCORDINGLY, PRIOR SERVICE IS NOT RECOMMENDED). For each employee employed with the Political Subdivision on the effective date of the Political Subdivision's participation in TCRS, the Political Subdivision shall:

- (1) ☐ Purchase ALL years of prior service credit on behalf of its employees.
(2) ☐ Purchase NO years of prior service credit on behalf of its employees, but shall accept the unfunded liability should its employees establish ALL years of prior service.
(3) ☒ NOT allow its employees to establish any prior service credit with the Political Subdivision.
(4) ☐ Purchase _____ years of prior service credit on behalf of its employees and accept the unfunded liability should its employees establish an additional _____ years of prior service credit.
(5) ☐ Purchase _____ years of prior service credit on behalf of its employees and no additional prior service credit may be established; and

F. MAXIMUM UNFUNDED LIABILITY. (COMPLETE THIS ITEM F ONLY IF THE STATE EMPLOYEE AND TEACHER HYBRID PLAN IS SELECTED ABOVE). For purposes of the cost control provisions of Tennessee Code Annotated, Section 8-36-922(d), the Political Subdivision defines "maximum unfunded liability" to mean an unfunded

liability of no greater than 20% of total pension liability; and

WHEREAS, the liability for participation and costs of administration shall be the sole responsibility of the Political Subdivision and not the State of Tennessee; and

WHEREAS, the Political Subdivision has passed a budget amendment appropriating the funds necessary to meet such liability and the same is attached hereto; and

WHEREAS, the effective date of participation shall be on January 1, 2023, or on such later date as determined by the TCRS Board of Trustees, and the initial employer contribution rate shall be 4.00 %, which is based on the estimated lump sum accrued liability of \$ -0-. If there is an estimated accrued liability, the amount shall be paid by (CHECK BOX 1 OR BOX 2 OR BOX 3):

- (1) ☒ Paying the amount in a lump sum within 30 days of the passage of this Resolution; or
- (2) ☐ Paying the amount through an increase in the Political Subdivision's initial employer contribution rate for the next July 1 – June 30. If this box is selected, the Political Subdivision's employer contribution rate would increase by _____%, for a total revised employer contribution rate of _____% for the next July 1 – June 30; or
- (3) ☐ Amortizing the amount over a period of _____ years from the effective date of participation.
- Note:** This is subject to the approval of TCRS and the number of years cannot exceed 20 years.

NOW, THEREFORE, BE IT RESOLVED That the _____ Board of Mayor and Aldermen of the _____
(Name of Governing Body)

_____ City of Kingsport hereby authorizes all its employees in all its departments or _____
(Name of Political Subdivision)

instrumentalities to become eligible to participate in TCRS in accordance with the above terms and conditions subject to the approval of the TCRS Board of Trustees. It is acknowledged and understood that pursuant to Tennessee Code Annotated, Section 8-35-111 the Political Subdivision shall not make employer contributions to any other retirement or deferred compensation plans on behalf of any employee who participates in TCRS pursuant to this Resolution wherein the total combined employer contributions to such plans exceed 3% of the employee's salary, unless the Local Government Hybrid Plan or the State Employee and Teacher Hybrid Plan is adopted by the Political Subdivision for such employee. If either the Local Government Hybrid Plan or the State Employee and Teacher Hybrid Plan is adopted by the Political Subdivision, the Political Subdivision may make employer contributions to the defined contribution plan component of that Plan and to any one or more additional tax deferred compensation or retirement plans on behalf of such employee provided that the total combined employer contributions to such plans on behalf of the employee does not exceed 7% of the employee's salary.

STATE OF TENNESSEE

COUNTY OF SULLIVAN

ADOPTED this the 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

SEAL

**Tennessee Consolidated
Retirement System**

A RESOLUTION to allow a political subdivision of the State of
Tennessee to contribute to a tax deferred retirement
plan in accordance with Tennessee Code Annotated,
Title 8, Chapters 34 – 37.

WHEREAS, Tennessee Code Annotated, Section 8-35-111(b)(3) provides that all tax deferred retirement plans established by public employers participating in the Tennessee Consolidated Retirement System ("TCRS"), wherein employer contributions are made, must be approved by the TCRS director; and

WHEREAS, Tennessee Code Annotated, Section 8-35-111(b)(3) further provides that the total combined employer contributions to all such additional tax deferred retirement plans made on behalf of a single employee, other than those made pursuant to a salary reduction agreement, cannot exceed three percent (3%) of the employee's salary, unless the political subdivision has adopted the hybrid plan authorized in Tennessee Code Annotated, Section 8-35-256, or in Tennessee Code Annotated, Section 8-36-919; and

WHEREAS, in the event the political subdivision has adopted the hybrid plan authorized in Tennessee Code Annotated, Section 8-35-256, or in Tennessee Code Annotated, Section 8-36-919, the total combined employer contributions made by the political subdivision to the defined contribution plan component of the hybrid plan and to any one or more additional tax deferred compensation or retirement plans on behalf of single employee does not exceed seven percent (7%) of the employee's salary, or such lower amount as required by the Internal Revenue Code; and

WHEREAS, the City of Kingsport desires to make employer contributions to the
(Name of Political Subdivision)

following plan(s) in addition to the contributions it makes to TCRS.

PLAN DATA:

Type of Plan: _____

Plan Administrator's Name: _____

Address: _____

Beginning Date of Plan: _____ Phone: _____

Employer Contributions as Percentage of Employee's Salary: _____

Type of Plan: _____

Plan Administrator's Name: _____

Address: _____

Beginning Date of Plan: _____ Phone: _____

Employer Contributions as Percentage of Employee's Salary: _____

NOW, THEREFORE, BE IT RESOLVED that the Board of Mayor and Aldermen of
(Name of Governing Body)

the City of Kingsport (the "Political Subdivision") hereby requests the approval of the TCRS director
(Name of Political Subdivision)

for the Political Subdivision to make employer contributions to the above referenced plan(s) in the amount(s) specified and in accordance with the provisions of this resolution. Upon approval, the Political Subdivision agrees it shall not permit contributions to such plan(s) in excess of the applicable amount specified above and which, when combined with projected benefits from TCRS, would exceed the limitations of the Internal Revenue Code, as amended. The Political Subdivision further agrees to file, upon request of the Council on Pensions and Insurance or the TCRS director, an annual report of the actuarial and financial status of the plan(s) with the TCRS director, which shall cover the most recently ended plan year ending on or before June 30 of the year of the request. The report shall be filed with the TCRS director within ninety (90) calendar days from the date of the request and contain such additional information as may be prescribed by the TCRS director.

STATE OF TENNESSEE

COUNTY OF SULLIVAN

ADOPTED this the 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

SEAL



AGENDA ACTION FORM

A Resolution to Implement the Bridge Benefit with the Tennessee Consolidated Retirement System Hybrid Plan with Cost Controls as of January 1, 2023

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

Action Form No.: AF-263-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Tyra Copas
 Presentation By: T. Copas

Recommendation:

Approve the resolution.

Executive Summary:

The bridge benefit is a unique provision under the Tennessee Consolidated Retirement System designed for Public Safety personnel (Fire and Police) only. The benefit implements a mandatory retirement (age 60) and covers the financial gap between early retirement and age 62 (minimum social security age). Members who have creditable service in a position covered by the mandatory retirement provisions are also eligible for unreduced service retirement benefits upon attainment of age 55 and completion of 25 years of creditable service. This benefit will aid in the recruitment and retention of public safety positions.

The Bridge benefit is not cost controlled; however, the rate has remained steady between .75% - .9% since its inception (2012). The annual estimated cost for this benefit is approximately \$60,000 annually and is already included in the FY23 budget.

Attachments:

1. Resolution

Funding source appropriate and funds are available: *pm*

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

Tennessee Consolidated Retirement System

A RESOLUTION to establish a mandatory retirement age requirement pursuant to Tennessee Code Annotated, Section 8-36-205, to authorize the payment of the supplemental bridge benefit pursuant to Tennessee Code Annotated, Section 8-36-211, and to authorize Group 1 members who have creditable service in a Group 1 position covered by such mandatory age retirement to retire on service retirement benefits upon attainment of age fifty-five (55) with twenty-five (25) years of creditable service pursuant to Tennessee Code Annotated, Section 8-36-201(a)(2).

WHEREAS, Tennessee Code Annotated, Section 8-36-205 provides that any political subdivision participating in the Tennessee Consolidated Retirement System may establish a mandatory retirement age requirement for all its firefighters, police officers, and correctional officers, as well as for all its employees who have been transferred from such a position to a supervisory or administrative position within their respective agency; provided that:

(A) the mandatory retirement of any such employee does not violate the Age Discrimination in Employment Act. In case of doubt, the respective political subdivision shall determine whether the employee is employed in a position requiring the mandatory retirement of such employee under the provisions of Tennessee Code Annotated, Section 8-36-205(a)(2);

(B) the terms and conditions of the requirement shall be the same for all such employees within its employ;

(C) the mandatory age requirement *shall not be less than* sixty (60) years of age;

(D) each such employee shall be retired on the first day of the month following the month in which the employee attains the age requirement established by the political subdivision;

(E) if the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act (42 U.S.C. §§ 401-425), each such employee shall be entitled to the supplemental bridge benefit established pursuant to Tennessee Code Annotated, Section 8-36-211; and

(F) the chief governing body of the political subdivision passes a resolution authorizing the establishment of the mandatory retirement age requirement, and if the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act, the political subdivision accepts the liability associated with the granting of the supplemental bridge benefit. All costs associated with providing the supplemental benefit shall be paid by the political subdivision and not by the State; and

WHEREAS, Tennessee Code Annotated, Section 8-36-201(a)(2) further authorizes any political subdivision that establishes a mandatory retirement age requirement that is sixty (60) years of age or older, but less than sixty-two (62), to permit Group 1 members who have creditable service in a Group 1

position covered by such mandatory retirement age requirement to retire on service retirement benefits upon attainment of age fifty-five (55) with twenty-five (25) years of creditable service, provided that the service retirement benefits be based on the years of creditable service rendered and the average final compensation received while the Group 1 member served in a Group 1 position covered by the mandatory retirement provisions. All other service shall be calculated under the reduced (early) retirement provisions; and

WHEREAS, the Board of Mayor and Aldermen of the City of Kingsport

(Name of Governing Body)

(Name of Political Subdivision)

desires to establish a mandatory retirement age requirement pursuant to Tennessee Code Annotated, Section 8-36-205, to grant the supplemental bridge benefit pursuant to Tennessee Code Annotated, Section 8-36-211, and to allow Group 1 members who have creditable service in a Group 1 position covered by such mandatory retirement age requirement to retire on service retirement benefits pursuant to Tennessee Code Annotated, Section 8-36-201(a)(2); and

WHEREAS, the Governing Body of the above-named Political Subdivision acknowledges that the costs associated with the granting of the supplemental bridge benefit pursuant to Tennessee Code Annotated, Section 8-36-211 and of service retirement benefits pursuant to Tennessee Code Annotated, Section 8-36-201(a)(2) shall increase its accrued liability rate by 0.90 % of the covered payroll of the affected employees; and

WHEREAS, the Governing Body of the above-named Political Subdivision further acknowledges that *if* the mandatory retirement age requirement established by the Political Subdivision is sixty (60) years of age or older, but less than sixty-two (62), the political subdivision shall determine whether any employee subject to such retirement age requirement serves in a supervisory or administrative position which requires less than fifty percent (50%) of the employee's duties to be involved in day-to-day law enforcement or fire-fighting activities. If the Political Subdivision makes any such determination, then the employee may continue in service until the first day of the month following the month in which the employee attains sixty-two (62) years of age; provided such employee completes any form as may be required pursuant to Tennessee Code Annotated, Section 8-36-211 and files the same at the time and in the manner prescribed in Section 8-36-211.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the above-named Political Subdivision hereby establishes a mandatory retirement age requirement of Sixty (60) for all its firefighters, police officers, and correctional officers, as well as for all its employees who have been transferred from such a position to a supervisory or administrative position within their respective agency, subject to the terms and conditions of Tennessee Code Annotated, Section 8-36-205.

BE IT FURTHER RESOLVED, that the Governing Body of the above-named Political Subdivision authorizes that the supplemental bridge benefit established pursuant to Tennessee Code Annotated, Section 8-36-211 be paid to each Group 1 member who retires on a service retirement allowance on or after the attainment of age fifty-five (55) with creditable service in a Group 1 position covered by the mandatory retirement age requirement established pursuant to this resolution and hereby

agrees to accept the associated liability. Said payment to be made until the first day of the month following the month in which the member dies, or until the first day of the month following the month in which the member reaches the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act.

BE IT FURTHER RESOLVED, that the Governing Body of the above-named Political Subdivision authorizes its Group 1 members who have creditable service in a Group 1 position covered by such mandatory retirement age requirement to retire on service retirement benefits upon attainment of age fifty-five (55) with twenty-five (25) years of creditable service, provided that the service retirement benefits be based on the years of creditable service rendered and the average final compensation received while the Group 1 member served in a Group 1 position covered by the mandatory retirement provisions. All other service shall be calculated under the reduced (early) retirement provisions.

BE IT FURTHER RESOLVED, that the effective date of this Resolution shall be on January 1, 2023 with a transitional deferral date of July 1, 2024 for the enforcement of the mandatory retirement age requirement (which date cannot be later than the July 1 following twelve (12) months after the effective date of the resolution). Any such deferral period shall not apply to any other provisions of this Resolution, such provisions being effective on the effective date of this Resolution.

STATE OF TENNESSEE

COUNTY OF SULLIVAN

ADOPTED this the 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

SEAL



AGENDA ACTION FORM

A Resolution Adopting an Agreement for a 401K and 457 Plan effective January 1, 2023

To: Board of Mayor and Aldermen

From: Chris McCartt, City Manager *CM*

Action Form No.: AF-264-2022

Work Session: September 12, 2022

First Reading: N/A

Final Adoption: September 13, 2022

Staff Work By: Tyra Copas

Presentation By: T. Copas

Recommendation:

Approve the resolution.

Approve the resolution.

Executive Summary:

Employees hired with the City hired after July 1, 2012, are currently in a 401A/457 Plan with Mission Square – ICMA. These employees will have the option to move to the Tennessee Consolidated Retirement System Hybrid Plan with cost controls or move to a 401K / 457 Plan with the same structure as their current plan (5% mandatory contribution, with an employer dollar for dollar match up to an additional 3%) as of January 1, 2023.

Approving these Adoption Agreements enables the establishment of a 401K and 457 Plan managed by the State.

Attachments:

1. Resolution
2. Resolution
3. 401K Adoption Agreement
4. 457 Adoption Agreement

Funding source appropriate and funds are available: *pm*

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

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

STATE OF TENNESSEE

DEFERRED COMPENSATION PLAN II

- 401(k) -

RESOLUTION AND

PARTICIPATING EMPLOYER AGREEMENT

City of Kingsport
[Participating Employer]

Administered by:
Treasurer, State of Tennessee
502 Deaderick Street, 15th Floor
Andrew Jackson State Office Building
Nashville, Tennessee 37243
Telephone: 615-532-2347

RESOLUTION

WHEREAS, City of Kingsport, (hereinafter referred to as the "Employer") has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a 401(a) or 401(k) defined contribution plan, funded by employee deferrals and, if elected pursuant to Section N, Q, or HH of the Participating Employer Agreement, employer contributions;

WHEREAS, Tennessee Code Annotated, Section 8-25-111(a) allows a Tennessee local governmental entity to participate in the State of Tennessee's 401(a)/401(k) defined contribution plan subject to the approval of the Chair of the Tennessee Consolidated Retirement System (hereinafter referred to as the "Chair");

WHEREAS, the liability for participation and the costs of administration shall be the sole responsibility of the Employer and/or its employees, and not the State of Tennessee;

WHEREAS, the Employer has also determined that it wishes to encourage employees' saving for retirement;

WHEREAS, the Employer has reviewed the State of Tennessee Deferred Compensation Plan II Adoption Agreement for a Section 401(k) Cash or Deferred Arrangement for Governmental Employers, as adopted by the State of Tennessee, as amended and restated effective January 1, 2010, as amended December 21, 2010, and as amended by Amendment Number Two dated January 4, 2012, as well as the Section 401(k) Cash or Deferred Arrangement for Governmental Employer Basic Plan Document (collectively known as the "Plan" or "Plan Document");

WHEREAS, the Employer wishes to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities;

WHEREAS, the Employer is eligible to become a Participating Employer in the Plan, pursuant to Article XX of the Plan Document;

WHEREAS, the Employer is concurrently executing a Participating Employer Agreement for the Plan; and

WHEREAS, the Board of Mayor and Aldermen ("Governing Authority") of the Employer is authorized by law to adopt this resolution approving the Participating Employer Agreement on behalf of the Employer;

NOW, THEREFORE, the Governing Authority of the Employer hereby resolves:

1. The Employer adopts the Plan Document for its Employees; provided, however, that for the purpose of the Plan, the Employer shall be deemed to have designated irrevocably the Chair as its agent, except as otherwise specifically provided herein or in the Participating Employer Agreement.

2. The Employer acknowledges that the Plan does not cover, and the Trustees of the Plan ("Trustees") have no responsibility for, other employee benefit plans maintained by the Employer.
3. The Employer acknowledges that it may not provide employer contributions to the Plan on behalf of any of its employees that exceed three percent (3%) of the respective employees' salary if the employees are members of the Tennessee Consolidated Retirement System ("TCRS") or of any other retirement program financed from public funds whereby such employees obtain or accrue pensions or retirement benefits based upon the same period of service to the Employer, unless such employees are members of TCRS' local government hybrid plan established under Tennessee Code Annotated, Section 8-35-256 or TCRS' State hybrid plan established under Tennessee Code Annotated, Title 8, Chapter 36, Part 9. If such employees participate in either of those hybrid plans, the total combined amount of employer contributions to the Plan and to any one or more additional defined contribution plans may not exceed seven percent (7%) of the respective employees' salary. In no instance shall the total combined employer contributions to all defined contributions plans on behalf of a single employee exceed the maximum allowed under the Internal Revenue Code ("Code"), and shall conform to all applicable laws, rules and regulations of the Internal Revenue Service ("IRS") governing profit sharing and/or salary reduction plans for governmental employees.
4. The Employer hereby adopts the terms of the Participating Employer Agreement, which is attached hereto and made a part of this resolution. The Participating Employer Agreement (a) permits all employees of the respective entity to make elective deferrals; (b) sets forth the Employees to be covered pursuant to Section N, Q, or HH of the Participating Employer Agreement for employer contributions, if any; (c) outlines the benefits to be provided by the Participating Employer under the Plan; and, (d) states any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Participating Employer Agreement, so long as the amendment is not inconsistent with the Plan, the Code, Tennessee law, or other applicable law and is approved by the Chair.
5. The Chair may amend the Plan on behalf of all Employers, including those Employers who have adopted the Plan prior to a restatement or amendment of the Plan, for changes in the Code, the regulations thereunder, Tennessee law, revenue rulings, other statements published by the Internal Revenue Service ("IRS"), including model, sample, or other required good faith amendments, and for other reasons that are deemed at the Chair's sole discretion to be in the interest of the Plan. These amendments shall be automatically applicable to all Employers.

6. The Chair will maintain, or will have maintained a record of the Employers and will make reasonable and diligent efforts to ensure that Employers have received all Plan amendments.
7. The Employer shall abide by the terms of the Plan, including amendments to the Plan and Trust made by the Chair, all investment, administrative, and other service agreements of the Plan, and all applicable provisions of the Code, Tennessee law, and other applicable law.
8. The Employer accepts the administrative services to be provided by the Tennessee Treasury Department and any services provided by Plan vendors. The Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' Accounts and/or charged to the Employer.
9. Subject to the provisions of Section 20.06 of the Plan, the Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements pursuant to the Plan, if it takes the following actions:
 - a. A resolution must be adopted by the Governing Authority of the Employer terminating the Employer's participation in the Plan.
 - b. The resolution must specify the proposed date when the participation will end, which must be at least six calendar months after notice to the Chair and the Employer's employees.
 - c. The Chair shall (i) determine whether the resolution complies with the Plan, and all applicable federal and state laws, (ii) determine an appropriate effective date, and (iii) provide appropriate forms to terminate ongoing participation. Distributions under the Plan of existing accounts to Participants will be made in accordance with the Plan Document.
 - d. Once the Chair determines the appropriate effective date, the Employer shall immediately notify all its Employees participating in the Plan of the termination and the effective date thereof.
 - e. The Chair can, in the Chair's sole discretion, reduce the six month notice and withdrawal period to a shorter period if the Employer so requests, but in no event shall the period be less than three months.
10. The Employer acknowledges that the Plan Document contains provisions for Plan termination by the Trustees, subject to applicable Tennessee law.
11. The Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, shall

be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan and subject to the vesting provisions of the Plan. All contributions to the Plan must be timely transferred by the Employer to the Trust Fund pursuant to and in the manner provided by the Chair. The Employer acknowledges that if the Employer fails to remit the requisite contributions in a timely manner, the Chair reserves the right, at the Chair's sole discretion, to terminate the Employer's participation in the Plan. In such event, the Chair shall notify the Employer of the effective termination date, and the Employer shall immediately notify all its employees participating in the Plan of the termination and the effective date thereof. Notwithstanding the foregoing, the Employer acknowledges that it is the sole responsibility of the Employer to remit the requisite reports and contributions to the Plan and that neither the State, the Chair, the Trustees, its employees, or agents shall have any responsibility or liability for ensuring or otherwise monitoring that this is done. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

12. The Employer agrees to offer and enroll only those persons, whether appointed, elected, or under contract, wherein an employee-employer relationship is established, providing service to the Employer for which compensation is paid by the Employer.
13. The Employer understands that IRS rules and Tennessee law limit participation in the Plan to governmental entities and their respective employees. The Employer will notify the Chair in writing within ten (10) calendar days if it ceases to be a governmental entity under applicable federal or Tennessee law, and/or if it discovers that it is transferring or having transferred employee deferrals and/or employer contributions to the Plan on behalf of an individual who does not meet the requirements in Paragraph 12 above.
14. The Employer acknowledges that the Chair and other Trustees are the fiduciaries of the Plan and have sole and exclusive authority to interpret the Plan and decide all claims and appeals for Plan benefits. The Employer agrees to abide by the Chair's decisions on all matters involving the Plan.
15. This resolution and the Participating Employer Agreement shall be submitted to the Chair for approval. The Chair shall determine whether the resolution and the Agreement comply with the Plan, and, if they do, shall provide appropriate forms to the Employer to implement participation in the Plan. The Chair may refuse to

approve a Participating Employer Agreement executed by an Employer that, in the Chair's sole discretion, does not qualify to participate in the Plan.

16. The Governing Authority hereby acknowledges that it is responsible to assure that this resolution and the Participating Employer Agreement are adopted and executed in accordance with the requirements of applicable law.

Adopted by the Governing Authority on SEPTEMBER 13, 2022, in accordance with applicable law.

By: _____
Signature
PATRICK W. SHULL
Printed Name
MAYOR
Title

Attest: _____
ANGELA MARSHALL, DEPUTY CITY RECORDER

Date: _____

[Governing Authority must assure that applicable law is followed in the adoption and execution of this resolution.]

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

STATE OF TENNESSEE

DEFERRED COMPENSATION PLAN II - 401(k)

PARTICIPATING EMPLOYER AGREEMENT

A. PARTICIPATING EMPLOYER INFORMATION

Name: City of Kingsport

NOTE: A Participating Employer Agreement must be completed for each employer. For example, if a city has separate legal entities for the city and a utility company – each would need to complete their own Participating Employer Agreement in order to participate. However, divisions of the same employer (e.g., finance, HR, departments, etc.) do not need to complete and should not complete separate agreements.

(1) GOVERNING AUTHORITY

Name: Board of Mayor and Aldermen

Address: 415 Broad Street, Kingsport, TN 37660

Phone: 423-229-9335

Person Authorized to receive Official Notices from the Plan or Administrator:

Tyra Copas and Lisa Winkle

(2) PARTICIPATING EMPLOYER TAX ID NUMBER: 62-6000323

(3) **DISCLOSURE OF DEFERRED COMPENSATION OR RETIREMENT PLAN(S)
[INCLUDING, IF APPLICABLE, PARTICIPATION IN THE TENNESSEE
CONSOLIDATED RETIREMENT SYSTEM ("TCRS")]**

This Participating Employer ☒ does or ☐ does not have an existing deferred compensation or retirement plan. If the Participating Employer does have one or more deferred compensation plans or retirement plans (including TCRS), the Governing Authority must provide in the space below the plan name, name and telephone number of the provider, and such other information requested by the Administrator.

Mission Square 401(a) and 457

TCRS Legacy Plan (closed to employees hired after June 30, 2012)

B. TYPE OF ADOPTION AND EFFECTIVE DATE

NOTE: This Participating Employer Agreement ("Agreement"), with the accompanying Plan, is designed to comply with Internal Revenue Code ("Code") Section 401(a), as applicable to a governmental qualified defined contribution plan. By adopting this Participating Employer Agreement, with its accompanying Resolution, the Participating Employer is adopting a Plan Document intended to comply with Code Sections 401(a) and 414(d).

This Agreement is for the following purpose: *(Check and complete box 1 OR box 2 OR box 3.)*

1. ☐ This is a new defined contribution plan adopted by the Participating Employer for its Employees effective _____, _____ (insert effective date of this Agreement).
2. ☐ This is an amendment to be effective as of _____, _____, to the current Agreement previously adopted by the Participating Employer, which was originally effective _____, _____, as follows (please specify type below):
 - a. ☐ This is an amendment to change one or more of the Participating Employer's contribution elections in the existing Participating Employer Agreement.
 - b. ☐ Other (must specify elective provisions in this Agreement that are being changed):

3. ☒ This is an amendment and restatement of another defined contribution plan of the Participating Employer, the effective date of which shall be January 1 _____, 2023 (insert effective date of this Agreement). This Agreement is intended to replace and serve as an amendment and restatement of the Participating Employer's preexisting plan, which became effective on July 1 _____, 2012 (insert original effective date of preexisting plan). The Participating Employer understands that it is the Participating Employer's responsibility to ensure that the preexisting plan met all applicable state and federal requirements.

C. **PLAN YEAR.** Plan Year shall mean the calendar year.

D. **CUSTODY OF ASSETS.** Code § 401(a) shall be satisfied by setting aside Plan assets for the exclusive benefit of Participants and Beneficiaries, in a Trust pursuant to the provisions of Article VIII of the Plan. The Trustees for the Plan are also the Trustees for the separate accounts for each participating employer.

E. ELIGIBLE EMPLOYEES.

1. "Employee" shall mean, for purposes of making **Elective Deferrals or Mandatory Employee Salary Reduction Contributions**, any person, whether appointed, elected or under contract wherein an employee-employer relationship is established, providing services to the Participating Employer for which Compensation is paid by the Participating Employer. Any other individual who is a subcontractor, contractor, or employed by a subcontractor or contractor, or is under any other similar arrangement wherein an employer-employee relationship is not established will not be treated as an Employee. An Employee is immediately eligible to make Elective Deferrals under the Plan. An Employee is required to make mandatory salary reduction contributions if and as specified in Section 2.e. or f., below. An Employee's Entry Date, unless otherwise specified in Article IV of the Plan, shall be for purposes of any Matching Contributions as described in Section N, any Non-Matching Contributions as described in Section Q, and Mandatory Employee Salary Reduction Contributions as described in Section II:

- a. ☒ the date the Employee satisfies the eligibility requirements specified in this Section E for the relevant types of contributions
- b. ☐ the January 1 and July 1 following the date the Employee satisfies the eligibility requirements specified in this Section E for the relevant type of contributions
- c. ☐ the first payroll following the date the Employee satisfies the eligibility requirements specified in this Section E for the relevant type of contributions

2. a. "Employee" shall mean for purposes of **Matching Contributions as described in Section N** of this Agreement: *(Check and complete each box that applies. If no Matching Contributions will be made, do not complete.)*

- i. ☐ any full-time employee, which is an employee who renders ____ or more Hours of Service per week, as defined in Section H below
- ii. ☐ any permanent part-time employee, which is an employee who is not a full-time employee and who renders ____ or more Hours of Service per week, as defined in Section H below
- iii. ☐ any seasonal, temporary or similar part-time employee
- iv. ☐ any elected or appointed official
- v. ☒ any employee in the following class(es) of employees:

Any full time employee, which is an employee who renders 30 or more Hours of Service per week,

who does not participate in TCRS

who meets the definition in Section E.1 above.

- b. Each Employee will be eligible to participate in this Plan for purposes of receiving **Matching Contributions as described in Section N** of this Agreement and in accordance with the provisions of Article IV of the Plan, except the following: *(Check and complete each box that applies. If no Matching Contributions will be made, do not complete.)*

- i. ☐ Employees who have not attained the age of ____ (not to exceed 21).
- ii. ☐ Employees who have not completed ____ Years of Service during the Vesting Computation Period as defined in Section X below.
- iii. ☐ Employees who do not satisfy the following eligibility requirements:

- c. "Employee" shall mean for purposes of **Non-Matching Contributions as described in Section Q** of this Agreement: *(Check and complete each box that applies. If no Non-Matching Contributions will be made, do not complete.)*

- i. ☐ any full-time employee, which is an employee who renders _____ or more Hours of Service per week, as defined in Section H below.
- ii. ☐ any permanent part-time employee, which is an employee who is not a full-time employee and who renders _____ or more Hours of Service per week, as defined in Section H. below.
- iii. ☐ any seasonal, temporary or similar part-time employee
- iv. ☐ any elected or appointed official
- v. ☒ any employee in the following class(es) of employees:

any full time employee which is an employee who renders 30 or more Hours of Service
per week as defined in Section H below and is not a member of the TCRS

Legacy Plan

- v. ☐ any employee listed or otherwise described in Schedule 1 attached to this Agreement

who meets the definition in Section E.1 above.

- d. Each Employee will be eligible to participate in this Plan for purposes of receiving **Non-Matching Contributions as described in Section Q** of this Agreement and in accordance with the provisions of Article IV of the Plan, except the following: *(Check and complete each box that applies. If no Non-Matching Contributions will be made, do not complete.)*

- i. ☐ Employees who have not attained the age of _____ (not to exceed 21).
- ii. ☐ Employees who have not completed _____ Years of Service during the Vesting Computation Period as defined in Section X below.
- iii. ☐ Employees who do not satisfy the following eligibility requirements:

- e. "Employee" shall mean for purposes of **Mandatory Employee Salary Reduction Contributions as described in Section II** of this Agreement: *(Check and complete each box that applies. If no Mandatory Salary Reduction Contributions will be made, do not complete.)*

- i. ☐ any full-time employee, which is an employee who renders _____ or more Hours of Service per week, as defined in Section H below
- ii. ☐ any permanent part-time employee, which is an employee who is not a full-time employee and who renders _____ or more Hours of Service per week, as defined in Section H below
- iii. ☐ any seasonal, temporary or similar part-time employee
- iv. ☐ any elected or appointed official
- v. ☒ any employee in the following class(es) of employees:

Any full time employee, which is an employee who renders 30 or

more Hours of Service per week, who does not participate in TCRS

who meets the definition in Section E.1 above.

- f. Each Employee will be eligible to participate in this Plan for purposes of making **Mandatory Employee Salary Reduction Contributions as described in Section II** of this Agreement and in accordance with the provisions of Article IV of the Plan, except the following: *(Check and complete each box that applies. If no Mandatory Salary Reduction Contributions will be made, do not complete.)*

- i. ☐ Employees who have not attained the age of _____ (not to exceed 21).
- ii. ☐ Employees who do not satisfy the following eligibility requirements:
- _____
- _____

F. AUTOMATIC ENROLLMENT. (Check and complete box 1 OR box 2.) [NOTE: THIS SECTION F ONLY APPLIES TO ELECTIVE DEFERRALS, NOT TO MANDATORY EMPLOYEE SALARY REDUCTION CONTRIBUTIONS.]

1. ☐ The Participating Employer DOES NOT elect automatic enrollment.
2. ☒ The Participating Employer DOES elect automatic enrollment, which will be effective on and after January 1, 2023 as follows:
- a. Employees covered under the automatic enrollment are: *(If this Section F (Automatic Enrollment) is elected, check one option below. Otherwise, do not complete.)*
- i. ☐ All Employees.

- ii. ☒ All Employees who become members of the TCRS State Employee and Teacher Hybrid Plan on or after January 1, 2023 and who do not have alternative election in effect.

- b. The default percentage contributed to the Plan on behalf of the Participant will be a deferral of 2% of the Participant's Compensation. The 2% default percentage will be subject to a percentage annual increase thereafter if provided for in the Plan Document. Any deferral percentage increase will take effect annually on the first day of the Plan Year. Participants' default deferrals will remain at the same percentage for at least twelve (12) months before their automatic deferral percentages will be increased automatically.

The automatic deferrals will be contributed on a pre-tax basis and will continue until the Participant affirmatively elects otherwise.

An Employee who affirmatively declines coverage after the first automatic enrollment contribution was made, may make an election to withdraw his or her entire automatic enrollment contribution. This election must be submitted no later than 90 days after the payroll date in which the first automatic enrollment contribution is made on behalf of the Participant. The amount of the distribution will be the value of the automatic enrollment contributions plus or minus investment gains or losses as of the date the distribution is processed. Automatic enrollment contributions made after such date remain in the Plan and are subject to the Plan's regular distribution rules. Further, an Employee who has made an election to withdraw who leaves employment and is then rehired by the Participating Employer before a 12-continuous-month absence may not make another election to withdraw his or her automatic enrollment contribution. Any Employer Matching Contributions attributable to the distribution of the automatic enrollment contributions will be forfeited regardless of the vesting percentage in the Matching Contributions. **[NOTE: If HH.2, "FICA Replacement ("3121") Plan", is elected and F.2 is elected, the Employee may not make an election to withdraw his or her automatic enrollment contribution.]**

- c. An Employee who leaves employment and is rehired by the Participating Employer before a 12-continuous-month absence has occurred will be treated as subject to the automatic contribution schedule. An Employee who leaves employment and is rehired by the Participating Employer after a 12-continuous-month absence: *(Check one option below.)*

- i. ☒ will be treated as a new Employee, or
- ii. ☐ will not be treated as a new Employee

for purposes of determining the Employee's contribution rate in F.2.b above.

- G. SERVICE WITH PREDECESSOR EMPLOYER.** *(If Vesting or Eligibility requirements will apply to Matching Contributions as described in Section N of this Agreement and/or Non-Matching Contributions as described in Section Q of this Agreement, check and complete box 1 OR box 2 OR box 3.)* "Predecessor employer" means a governmental employer that served the same functions as the current employer or has employees whose jobs were merged into the current employer.

1. ☒ This section is N/A because there are no predecessor employers.
2. ☐ Service with any predecessor employers will not be counted for any purposes under the Plan.
3. ☐ Service with (insert name of predecessor employer(s)):

will be counted under the Plan for eligibility and vesting.

- H. HOURS OF SERVICE.** Hours of Service shall be determined on the actual hours for which an Employee is paid or entitled to payment.

- I. YEAR OF SERVICE FOR ELIGIBILITY AND VESTING.** If Eligibility or Vesting requirements will apply to Matching Contributions as described in Section N of this Agreement and/or Non-Matching Contributions as described in Section Q of this Agreement, Year of Service shall mean the 12-consecutive-month period beginning on the Employee's Employment Commencement Date and each anniversary thereof.

Years of Service for Vesting shall include any Years of Service with a participating employer.

- J. COMPENSATION DEFINITION.** Compensation shall mean Code § 415 compensation as defined in Section 2.06 of the Plan.

- K. COMPENSATION COMPUTATION PERIOD.** Compensation shall be determined on the basis of the calendar year.

- L. FIRST YEAR COMPENSATION.** If Matching or Non-Matching Contributions will be made, for purposes of determining the Compensation on the basis of which such contributions will be allocated for a Participant's first year of participation, the Participant's Compensation shall be the Participant's Compensation for the period commencing as of the first day the Employee became a Participant.

M. EMPLOYMENT COMMENCEMENT DATE. An Employee's Employment Commencement Date means the Employee's date of hire or rehire, as applicable, with respect to which an Employee is first credited with an Hour of Service.

N. MATCHING CONTRIBUTIONS. *(Complete 1 and 2 below.)*

1. Matching Contributions on Elective Deferrals. *(Check and complete box a OR box b OR box c OR box d.)* The Participating Employer shall:

- a. ☐ NOT make Matching Contributions on Elective Deferrals.
- b. ☒ match ¹⁰⁰% of Participant elective deferrals to Employer's 457(b) plan of up to 3 % of Compensation.
- c. ☐ match ___ % of the first \$_____ of Participant elective deferrals.
- d. ☐ match the percentage of Participant elective deferrals that the Employer determines in its discretion for the respective Plan Year.

If the Participating Employer elects Automatic Enrollment under Section F.2., Matching Contributions related to the distributed permissible withdrawal election will be placed in a forfeiture account and used in the manner provided in Section V below. Matching Contributions will not be made if a permissible withdrawal is taken before the date the Matching Contribution is allocated.

2. Matching Contributions on Mandatory Salary Reduction Contributions under Section II of this Agreement. *(Check and complete box a OR box b OR box c OR box d.)* The Participating Employer shall:

- a. ☒ NOT make Matching Contributions on Mandatory Salary Reduction Contributions.
- b. ☐ match ___ % of Mandatory Salary Reduction Contributions for the Participant up to ___ % of Compensation.
- c. ☐ match ___ % of the first \$_____ of Mandatory Salary Reduction Contributions for the Participant.
- d. ☐ match the percentage of Mandatory Salary Reduction Contributions for the Participant that the Employer determines in its discretion for the respective Plan Year.

O. ALLOCATION OF MATCHING CONTRIBUTIONS. If Matching Contributions will be made, allocations will be made to each Participant who satisfies the applicable requirements of Section E of this Participating Employer Agreement.

P. VESTING SCHEDULE – MATCHING CONTRIBUTIONS. *(If Matching Contributions will be made, check box 1 OR box 2 OR box 3. Otherwise, do not complete.)* The vested interest of each Participant in his or her Matching Contribution Account shall be determined on the basis of the following schedule:

1. ☒ 100% vesting immediately.
2. ☐ 100% vesting after 3 Years of Service.
3. ☐ 20% after one Year of Service.
40% after two Years of Service.
60% after three Years of Service.
80% after four Years of Service.
100% after five Years of Service.

Q. NON-MATCHING CONTRIBUTIONS. *(If non-matching contributions will be made, check box 1 OR box 2.)*

1. ☐ The Participating Employer shall NOT make Non-Matching Contributions.
2. ☒ The Participating Employer shall contribute: *(Check and complete one box.)*
 - a. ☐ an amount fixed by appropriate action of the Employer.
 - b. ☒ 5 % of Compensation of Participants for the Plan Year.
 - c. ☐ \$ _____ per Participant.
 - d. ☐ an amount pursuant to Schedule 1 attached to this Agreement and which is referenced in Section E.2.c above.
 - e. ☐ a contribution matching the Participant's contribution to the Employer's § 457(b) plan as follows: (Specify rate of match and time of allocation, e.g., payroll by payroll, monthly, last day of Plan Year.)

R. ALLOCATION OF NON-MATCHING CONTRIBUTIONS. If Non-Matching Contributions will be made, allocations will be made to each Participant who satisfies the requirements of Section E.2.c and E.2.d of this Participating Employer Agreement.

S. VESTING SCHEDULE – NON-MATCHING CONTRIBUTIONS. *(If Non-Matching Contributions will be made, check box 1 OR box 2 OR box 3. Otherwise, do*

not complete. The vested interest of each Participant in his or her Non-Matching Contribution Account shall be determined on the basis of the following schedule:

1. ☒ 100% vesting immediately.
2. ☐ 100% vesting after 3 Years of Service.
3. ☐ 20% after one Year of Service.
40% after two Years of Service.
60% after three Years of Service.
80% after four Years of Service.
100% after five Years of Service.

T. ROTH CONTRIBUTIONS. Participant Roth Contributions SHALL BE allowed.

U. AFTER-TAX CONTRIBUTIONS. Participant After-tax Contributions SHALL NOT BE allowed.

V. FORFEITURES. *(If Non-Matching or Matching Contributions will be made, check box 1 OR box 2. Otherwise, do not complete.)*

1. ☒ N/A because all contributions are 100% vested immediately.
2. ☐ Forfeitures will be used first to reduce the Employer's Matching Contributions (if any), then to reduce the Non-Matching Contributions (if any), and then to offset Plan expenses.

W. RETIREMENT AGES AND DISABILITY DEFINITION.

1. Normal Retirement Age shall mean age 60.
2. Early Retirement shall mean age 59 ½.
3. Disability shall mean a determination of disability by the Social Security Administration or, if the Participant is a member of the Tennessee Consolidated Retirement System, a determination of disability by the Tennessee Consolidated Retirement System.

X. VESTING COMPUTATION PERIOD. A Participant's Years of Service shall be computed by reference to the 12-consecutive-month period beginning on the Employee's Employment Commencement Date and each anniversary thereof.

Y. ROLLOVERS. Rollovers from eligible Code § 457(b) plans, qualified plans under Code §§ 401(a), 403(a) and 403(b), Individual Retirement Accounts and Annuities described in Code §§ 408(a) and (b), and eligible rollover contributions of designated Roth contributions made from an applicable retirement plan described in Code § 402A(e)(1) SHALL BE allowed.

- Z. TRANSFERS.** Transfers from plans qualified under Code § 401(a) SHALL BE allowed.
- AA. HARDSHIP WITHDRAWALS.** The Administrator SHALL allow hardship withdrawals in accordance with Section 10.04 of the Plan. If Section HH (FICA Replacement Plan) is elected, hardship distributions are not permitted.
- BB. PARTICIPANT LOANS.** The Administrator SHALL direct the Trustee to make Participant loans in accordance with Article XIII of the Plan. Loans payments must be made by payroll deduction. If a Participant severs employment with the Participating Employer and is immediately hired by another Participating Employer, the loan will be carried forward and any missed loan repayment caused by a change in payroll processing can be made up by personal check in a single lump payment. If a Participant severs employment and is not hired by another Participating Employer, loan repayments may continue to be made by personal check. If Section HH (FICA Replacement Plan) is elected, loans are not permitted.
- CC. QUALIFIED DOMESTIC RELATIONS ORDERS.** The Plan shall accept qualified domestic relations orders as provided in Section 15.02 of the Plan.
- DD. PAYMENT OPTIONS.** The forms of payment that will be allowed under the Plan, to the extent consistent with the limitations of Code § 401(a)(9) and proposed or final Treasury regulations thereunder, include a single lump-sum payment; installment payments for a period of years; partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years; annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary; and such other forms of installment payments as may be approved by the Administrator, which is not inconsistent with the Plan.
- EE. DEEMED TRADITIONAL IRA.** The deemed traditional IRA provisions of Article XVI of the Plan SHALL NOT apply.
- FF. DEEMED ROTH IRA.** The deemed Roth IRA provisions of Article XVII of the Plan SHALL NOT apply.
- GG. DISTRIBUTIONS.** A Participant may request distributions as follows:
1. A Participant may request a distribution at any time upon Severance from Employment. "Severance from Employment" means the complete severance of the employer/employee relationship with any and all employers participating in the Plan, including retirement or death. Thus, a Severance from Employment would not occur if a Participant transfers employment (i) from one local government that participates in the Plan to another local government that participates in the Plan, or (ii) from the State to a local government that participates in the Plan, or (iii) from a local government that participates in the Plan to the State.

2. A Participant may request a distribution prior to Severance of Employment after reaching age 59½ or, if earlier, upon death. A Participant may also request a distribution prior to Severance of Employment upon incurring a hardship; however, the distribution will be limited to the Participant's Elective Deferral Account and transfer Elective Deferral Account, if any.
3. A Participant may request a distribution from a Rollover Contribution Account at any time.
4. If Section HH (FICA Replacement Plan) is elected, in-service distributions for hardship, loans, and attainment of age 59½ are not permitted.
5. Distributions taken before the Participant reaches age 59½ may be subject to a federal early withdrawal tax.

HH. FICA REPLACEMENT PLAN ("3121" PLAN). (Check box 1 OR box 2.) This Participating Employer Agreement as adopted:

1. ☒ IS NOT (*if checked continue to II below*), or
2. ☐ IS

intended to provide FICA replacement benefits pursuant to regulations under Code Section 3121(b)(7)(F).

a. Eligible Employee means: (*If this Section HH (FICA Replacement Plan) is elected, check each box that applies. Otherwise, do not complete*):

- i. ☐ any full-time employee, which is an employee who renders _____ or more Hours of Service per week, as defined in Section H above,
- ii. ☐ any part-time employee, which is an employee who is not a full time employee and who renders _____ or more Hours of Service per week, as defined in Section H above.
- iii. ☐ Any employee who is not covered by Social Security.

b. Contributions: (*If this Section HH (FICA Replacement Plan) is elected, check and complete each box that applies. Otherwise, do not complete*):

- i. ☐ The Employer shall make an annual contribution to each Participant's account equal to _____ percent of such Participant's Compensation.
- ii. ☐ Each Participant is required to make an annual contribution of _____ percent of Compensation.

(NOTE: The total percentage of b.i and b.ii must equal at least 7.5%.)

In the event that this Plan is a retirement system providing FICA replacement retirement benefits as described above, all references in the Plan Document to in-service distributions for hardship withdrawals, loans, and age 59½ shall be null and void. In addition, any part-time employee included under HH.2.a. shall be fully vested at all times. In the event F.2 "Automatic Enrollment" is selected, a Participant may not change his or her deferral election to an amount less than the Participant required annual contribution, if any, in HH.2.b above.

II. MANDATORY SALARY REDUCTION CONTRIBUTIONS. (Check box 1 OR box 2.) This Participating Employer Agreement as adopted:

1. ☐ does not provide for Mandatory Salary Reduction Contributions. *(If checked continue to JJ below.)*
2. ☒ provides "Mandatory Salary Reduction Contributions" to be paid by the Employer through a reduction of the Participant's salary for services rendered, in accordance with Code § 414(h). These contributions are required as a condition of employment. Mandatory Salary Reduction Contributions are treated as Employer Contributions for federal income tax purposes, but are considered "wages" for purposes of FICA and FUTA. Such contributions shall be made as of each payroll period and allocated to the Mandatory Employee Contribution Account of the Participant on whose behalf they were made and shall be 100% vested at all times.

By the adoption of this Participating Employer Agreement, the Employer specifies that the mandatory employee salary reduction contributions, although designated as employee contributions, are being paid via salary reduction by the Employer as provided in Code § 414(h)(2) and Revenue Ruling 2006-43 or subsequent guidance. For this purpose, the adoption of this Participating Employer Agreement constitutes formal action to provide that the contributions on behalf of a specific class of Employees as defined in Section E, although designated as employee contributions, will be paid by the employing unit in lieu of employee contributions.

- a. The Participant shall make Mandatory Salary Reduction Contributions to the Plan equal to 5 % (must be a fixed percentage and expressed only in whole and tenths of a percent) of the Participant's Compensation.

The contribution percentage above may be revised no more frequently than annually by the Employer, the new rate to become effective on the January 1 following the execution of an amendment to this Participating Employer Agreement. An amendment that changes the contribution percentage, at the Employer's election: ***(Complete box i or box ii below):***

- i. ☒ shall apply only to Employees who become Participants on or after the effective date;
- ii. ☐ shall apply to all Employees.
- b. Mandatory Salary Reduction Contributions: *(Complete box i or ii below):*
- i. ☒ are
- ii. ☐ are not

counted as Compensation for all Contribution purposes. However, Mandatory Salary Reduction Contributions are counted as for determining Annual Additions under Plan Section 6.06.

JJ. ADMINISTRATIVE INFORMATION.

The Participating Employer further understands and acknowledges that:

- This Participating Employer Agreement has not been approved by the Internal Revenue Service. Obtaining such approval, if desired by the Employer, is solely the responsibility of the Employer.
- The Chair of the Tennessee Consolidated Retirement System ("Chair") and the Participating Employers are not responsible for providing tax or legal advice to Participants.
- The Participating Employer has consulted, to the extent necessary, with its own legal and tax advisors.
- All capitalized terms which are used herein but not defined herein shall have the meanings set forth in the Plan Document.
- The Participating Employer will electronically remit in a timely manner, all employee and employer contributions to the Plan in a manner acceptable with the Plan's Third Party Administrator. The Employer's payroll administrator is responsible for reconciliation of all contributions to the Plan and shall provide the Plan Administrator with required contribution reconciliation reports. Each Employer is required to use the Plan Service Center to administer their employee contributions, indicative data, and enrollment information. If the Participating Employer fails to remit the requisite contributions in a timely manner, the Chair reserves the right, at the Chair's sole discretion, to terminate the Employer's participation in the Plan. In such event, the Chair shall notify the Employer of the effective termination date, and the Employer shall immediately notify all its Employees participating in the Plan of the termination and the effective date thereof. Notwithstanding the foregoing, the Employer acknowledges that it is the sole

responsibility of the Employer to remit the requisite reports and contributions to the Plan and that neither the State, the Chair, the Trustees, its employees or agents shall have any responsibility or liability for ensuring or otherwise monitoring that this is done.

- Participating Employers are required to use the investment options made available under the Plan. From time to time those investment options may be changed. If an investment option is eliminated, the Administrator may automatically reinvest the money in the eliminated investment option into a new investment option. After any appropriate black-out period, the affected Participants may re-direct money in the new investment option to any other available investment option. The Participants shall have no right to require the Administrator to select or retain any investment option. Any change with respect to investment options made by the Plan (on the Plan level) or a Participant (on the individual level), however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options.

This Participating Employer Agreement is duly executed on behalf of the Participating Employer by the undersigned authorized signatories.

PARTICIPATING EMPLOYER'S AUTHORIZED SIGNATORIES:

By: _____ By: _____

Title: _____ Title: _____

Date: _____ Date: _____

**ACCEPTANCE OF PARTICIPATING EMPLOYER'S PARTICIPATION IN THE
STATE OF TENNESSEE DEFERRED COMPENSATION PLAN II BY THE
TREASURER, STATE OF TENNESSEE, CHAIR OF THE TENNESSEE
CONSOLIDATED RETIREMENT SYSTEM.**

By: _____
David H. Lillard, Jr.

Title: Treasurer, State of Tennessee, Chair of the Tennessee Consolidated Retirement System

Date: _____



SCHEDULE 1

STATE OF TENNESSEE

DEFERRED COMPENSATION PLAN II - 401(k)

PARTICIPATING EMPLOYER AGREEMENT

Participating Employer Name: City of Kingsport

Classes of Eligible Employees

Contribution Amount

TENNESSEE STATE
EMPLOYEES DEFERRED COMPENSATION
PLAN AND TRUST
- 457(b)
RESOLUTION AND
PARTICIPATING EMPLOYER AGREEMENT

City of Kingsport
[Participating Employer]

Administered by:
Treasurer, State of Tennessee
502 Deaderick Street, 15th Floor
Andrew Jackson State Office Building
Nashville, Tennessee 37243
Telephone: 615-532-2347

RESOLUTION

City of Kingsport

WHEREAS, _____, (hereinafter referred to as the "Employer") has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a governmental 457(b) deferred compensation plan, funded by employee deferrals and, if elected pursuant to Section I and/or K of the Participating Employer Agreement, employer contributions;

WHEREAS, Tennessee Code Annotated, Section 8-25-111(a) allows a Tennessee local governmental entity to participate in the State of Tennessee's 457(b) deferred compensation plan subject to the approval of the Chair of the Tennessee Consolidated Retirement System (hereinafter referred to as the "Chair");

WHEREAS, the liability for participation and the costs of administration shall be the sole responsibility of the Employer and/or its employees, and not the State of Tennessee;

WHEREAS, the Employer has also determined that it wishes to encourage employees' saving for retirement;

WHEREAS, the Employer has reviewed the Tennessee State Employees Deferred Compensation Plan and Trust Adoption Agreement for a Section 457(b) Eligible Deferred Compensation Plan for Governmental Employers, as adopted by the State of Tennessee, as amended and restated effective December 22, 2010, and as amended by Amendment Number One signed December 22, 2010, Amendment Number Two signed February 8, 2012, Amendment Number Three signed February 26, 2015 and Amendment Number Four signed September 26, 2016 as well as the Section 457(b) Eligible Deferred Compensation Plan for Governmental Employer Basic Plan Document (collectively known as the "Plan" or "Plan Document");

WHEREAS, the Employer wishes to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities;

WHEREAS, the Employer is eligible to become a Participating Employer in the Plan, pursuant to Article XVII of the Plan Document;

WHEREAS, the Employer is concurrently executing a Participating Employer Agreement for the Plan; and

WHEREAS, the **Board of Mayor and Aldermen** ("Governing Authority") of the Employer is authorized by law to adopt this resolution approving the Participating Employer Agreement on behalf of the Employer;

NOW, THEREFORE, the Governing Authority of the Employer hereby resolves:

1. The Employer adopts the Plan Document for its Employees; provided, however, that for the purpose of the Plan, the Employer shall be deemed to have designated irrevocably the Chair as its agent, except as otherwise specifically provided herein or in the Participating Employer Agreement.
2. The Employer acknowledges that the Plan does not cover, and the Trustees of the Plan ("Trustees") have no responsibility for, other employee benefit plans maintained by the Employer.

3. The Employer acknowledges that it may not provide employer contributions to the Plan on behalf of any of its employees that exceed three percent (3%) of the respective employees' salary if the employees are members of the Tennessee Consolidated Retirement System ("TCRS") or of any other retirement program financed from public funds whereby such employees obtain or accrue pensions or retirement benefits based upon the same period of service to the Employer, unless such employees are members of TCRS' local government hybrid plan established under Tennessee Code Annotated, Section 8-35-256 or TCRS' State hybrid plan established under Tennessee Code Annotated, Title 8, Chapter 36, Part 9. If such employees participate in either of the hybrid plans, the total combined amount of employer contributions to the Plan and to any one or more additional defined contribution plans may not exceed seven percent (7%) of the respective employee's salary. In no instance shall the total combined employer contributions to all defined contribution plans on behalf of a single employee exceed the maximum allowed under the Internal Revenue Code ("Code"), and shall conform to all applicable laws, rules and regulations of the Internal Revenue Service ("IRS") governing profit sharing and/or salary reduction plans for governmental employees.
4. The Employer hereby adopts the terms of the Participating Employer Agreement, which is attached hereto and made a part of this resolution. The Participating Employer Agreement (a) permits all employees of the respective entity to make elective deferrals; (b) sets forth the Employees to be covered pursuant to Section I and/or K of the Participating Employer Agreement for employer contributions, if any; (c) outlines the benefits to be provided by the Participating Employer under the Plan; and, (d) states any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Participating Employer Agreement, so long as the amendment is not inconsistent with the Plan, the Code, Tennessee law, or other applicable law and is approved by the Chair.
5. The Chair may amend the Plan on behalf of all Employers, including those Employers who have adopted the Plan prior to a restatement or amendment of the Plan, for changes in the Code, the regulations thereunder, Tennessee law, revenue rulings, other statements published by the Internal Revenue Service ("IRS"), including model, sample, or other required good faith amendments, and for other reasons that are deemed at the Chair's sole discretion to be in the interest of the Plan. These amendments shall be automatically applicable to all Employers.
6. The Chair will maintain, or will have maintained, a record of the Employers and will make reasonable and diligent efforts to ensure that Employers have received all Plan amendments.
7. The Employer shall abide by the terms of the Plan, including amendments to the Plan and Trust made by the Chair, all investment, administrative, and other service agreements of the Plan, and all applicable provisions of the Code, Tennessee law, and other applicable law.
8. The Employer accepts the administrative services to be provided by the Tennessee Treasury Department and any services provided by Plan vendors. The Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' Accounts and/or charged to the Employer.
9. Subject to the provisions of Section 17.06 of the Plan, the Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements pursuant to the Plan, if it takes the following actions:

- a. A resolution must be adopted by the Governing Authority of the Employer terminating the Employer's participation in the Plan.
 - b. The resolution must specify the proposed date when the participation will end, which must be at least six calendar months after notice to the Chair and the Employer's employees.
 - c. The Chair shall (i) determine whether the resolution complies with the Plan, and all applicable federal and state laws, (ii) determine an appropriate effective date, and (iii) provide appropriate forms to terminate ongoing participation. Distributions under the Plan of existing accounts to Participants will be made in accordance with the Plan Document.
 - d. Once the Chair determines the appropriate effective date, the Employer shall immediately notify all its Employees participating in the Plan of the termination and the effective date thereof.
 - e. The Chair can, in the Chair's sole discretion, reduce the six month notice and withdrawal period to a shorter period if the Employer so requests, but in no event shall the period be less than three months.
10. The Employer acknowledges that the Plan Document contains provisions for Plan termination by the Trustees, subject to applicable Tennessee law.
11. The Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be timely transferred by the Employer to the Trust Fund pursuant to and in the manner provided by the Chair. The Employer acknowledges that if the Employer fails to remit the requisite contributions in a timely manner, the Chair reserves the right, at the Chair's sole discretion, to terminate the Employer's participation in the Plan. In such event, the Chair shall notify the Employer of the effective termination date, and the Employer shall immediately notify all its employees participating in the Plan of the termination and the effective date thereof. Notwithstanding the foregoing, the Employer acknowledges that it is the sole responsibility of the Employer to remit the requisite reports and contributions to the Plan and that neither the State, the Chair, the Trustees, its employees, or agents shall have any responsibility or liability for ensuring or otherwise monitoring that this is done. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.
12. The Employer agrees to offer and enroll only those persons, whether appointed, elected, or under contract, wherein an employee-employer relationship is established, providing service to the Employer for which compensation is paid by the Employer.

13. The Employer understands that IRS rules and Tennessee law limit participation in the Plan to governmental entities and their respective employees. The Employer will notify the Chair in writing within ten (10) calendar days if it ceases to be a governmental entity under applicable federal or Tennessee law, and/or if it discovers that it is transferring or having transferred employee deferrals and/or employer contributions to the Plan on behalf of an individual who does not meet the requirements in Paragraph 12 above.
14. The Employer acknowledges that the Chair and other Trustees are the fiduciaries of the Plan and have sole and exclusive authority to interpret the Plan and decide all claims and appeals for Plan benefits. The Employer agrees to abide by the Chair's decisions on all matters involving the Plan.
15. This resolution and the Participating Employer Agreement shall be submitted to the Chair for approval. The Chair shall determine whether the resolution and the Agreement comply with the Plan, and, if they do, shall provide appropriate forms to the Employer to implement participation in the Plan. The Chair may refuse to approve a Participating Employer Agreement executed by an Employer that, in the Chair's sole discretion, does not qualify to participate in the Plan.
16. The Governing Authority hereby acknowledges that it is responsible to assure that this resolution and the Participating Employer Agreement are adopted and executed in accordance with the requirements of applicable law.

Adopted by the Governing Authority on September 13, 2022, in accordance with applicable law.

By: _____
Signature

PATRICK W. SHULL
Printed Name

MAYOR
Title

Attest: _____
ANGELA MARSHALL, DEPUTY CITY RECORDER

Date: _____

[Governing Authority must assure that applicable law is followed in the adoption and execution of this resolution.]

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

TENNESSEE STATE

EMPLOYEES DEFERRED COMPENSATION PLAN AND TRUST - 457(b)

PARTICIPATING EMPLOYER AGREEMENT

A. PARTICIPATING EMPLOYER INFORMATION

Name: City of Kingsport

NOTE: A Participating Employer Agreement must be completed for each employer. For example, if a city has separate legal entities for the city and a utility company – each would need to complete their own Participating Employer Agreement in order to participate. However, divisions of the same employer (e.g., finance, HR, departments, etc.) do not need to complete and should not complete separate agreements.

(1) GOVERNING AUTHORITY

Name: Board of Mayor and Aldermen

Address: 415 Broad Street, Kingsport, TN 37660

Phone: 423-229-9335

Person Authorized to receive Official Notices from the Plan or Administrator:

Tyra Copas and Lisa Winkle

(2) PARTICIPATING EMPLOYER TAX ID NUMBER: 62-6000323

(3) DISCLOSURE OF RETIREMENT PLAN(S) [INCLUDING, IF APPLICABLE, PARTICIPATION IN THE TENNESSEE CONSOLIDATED RETIREMENT SYSTEM ("TCRS")]

This Participating Employer ☒ does or ☐ does not have an existing deferred compensation or retirement plan. If the Participating Employer does have one or more deferred compensation plans or retirement plans (including TCRS), the Governing Authority must provide in the space below the plan name, name and telephone number of the provider, and such other information requested by the Administrator.

Mission Square 401(a) and 457

TCRS Legacy Plan (closed to employees hired after June 30, 2012)

B. TYPE OF ADOPTION AND EFFECTIVE DATE

NOTE: This Participating Employer Agreement ("Agreement"), with the accompanying Plan, is designed to comply with Internal Revenue Code ("Code") Section 457(b), as applicable to a governmental plan.

By adopting this Participating Employer Agreement, with its accompanying Resolution, the Participating Employer is adopting a Plan Document intended to comply with Code Section 457(b).

This Agreement is for the following purpose: **(Check and complete box 1 OR box 2 OR box 3.)**

1. ☐ This is a new 457(b) deferred compensation plan adopted by the Participating Employer for its Employees effective _____, _____ **(insert effective date of this Agreement).**
2. ☐ This is an amendment to be effective as of _____, _____, to the current Agreement previously adopted by the Participating Employer, which was originally effective _____, _____, as follows **(please specify type below):**
- a. ☐ This is an amendment to change one or more of the Participating Employer's contribution elections in the existing Participating Employer Agreement.
- b. ☐ Other **(must specify elective provisions in this Agreement that are being changed):**
- _____
- _____
- _____
3. ☒ This is an amendment and restatement of another 457(b) deferred compensation plan of the Participating Employer, the effective date of which shall be January 1, 2023 **(insert effective date of this Agreement).** This Agreement is intended to replace and serve as an amendment and restatement of the Participating Employer's preexisting plan, which became effective on July 1, 2012 **(insert original effective date of preexisting plan).** The Participating Employer understands that it is the Participating Employer's responsibility to ensure that the preexisting plan met all applicable state and federal requirements.

C. **PLAN YEAR.** Plan Year shall mean the calendar year.

D. **CUSTODY OF ASSETS.** Code § 457(g) shall be satisfied by setting aside Plan assets for the exclusive benefit of Participants and Beneficiaries, in a Trust pursuant to the provisions of Article VII of the Plan. The Trustees for the Plan are also the Trustees for the separate accounts for each participating employer.

E. **ELIGIBLE EMPLOYEES.**

1. "Employee" shall mean, for purposes of making **Elective Deferrals**, any person, whether appointed, elected or under contract wherein an employee-employer relationship is established, providing services to the Participating Employer for which Compensation is paid by the Participating Employer. Any other individual who is a subcontractor, contractor, or employed by a subcontractor or contractor, or is under any other similar arrangement wherein an employer-employee relationship is not established will not be treated as an Employee. An Employee is immediately eligible to make Elective Deferrals under the Plan.

2. a. "Employee" shall mean for purposes of **Matching Contributions as described in Section I of this Agreement:** *(Check and complete each box that applies. If no Matching Contributions will be made, do not complete.)*

- i. ☐ any full-time employee, which is an employee who renders _____ or more Hours of Service per week, as defined in Section G below
- ii. ☐ any permanent part-time employee, which is an employee who is not a full-time employee and who renders _____ or more Hours of Service per week, as defined in Section G below
- iii. ☐ any seasonal, temporary or similar part-time employee
- iv. ☐ any elected or appointed official
- v. ☐ any employee in the following class(es) of employees:

who meets the definition in Section E.1 above, regardless of the Employee's age or the number of years of service the Employee has rendered to the Employer. All Matching Contributions made on behalf of such Employees are 100% vested immediately, except as provided in Section F.2.b below.

b. "Employee" shall mean for purposes of **Non-Matching Contributions as described in Section K of this Agreement:** *(Check and complete each box that applies. If no Non-Matching Contributions will be made, do not complete.)*

- i. ☐ any full-time employee, which is an employee who renders _____ or more Hours of Service per week, as defined in Section G below
- ii. ☐ any permanent part-time employee, which is an employee who is not a full-time employee and who renders _____ or more Hours of Service per week, as defined in Section G below
- iii. ☐ any seasonal, temporary or similar part-time employee
- iv. ☐ any elected or appointed official
- v. ☐ any employee in the following class(es) of employees:

- vi. ☐ any employee listed or otherwise described in Schedule 1 attached to this Agreement

who meets the definition in Section E.1 above, regardless of the Employee's age or the number of years of service the Employee has rendered to the Employer. All Non-Matching Contributions made on behalf of such Employees are 100% vested immediately.

F. AUTOMATIC ENROLLMENT. (Check and complete box 1 OR box 2.)

1. ☒ The Participating Employer DOES NOT elect automatic enrollment.
2. ☐ The Participating Employer DOES elect automatic enrollment, which will be effective for Plan Years beginning on and after January 1, _____ as follows:
- a. Employees covered under the automatic enrollment are: *(If this Section F (Automatic Enrollment) is elected, check one option below. Otherwise, do not complete.)*
- i. ☐ All Employees.
- ii. ☐ All Employees who become Employees on or after the date set forth in Section F.2. above and who do not have an affirmative election in effect.
- b. The default percentage contributed to the Plan on behalf of the Participant will be a deferral of 2% of the Participant's Compensation. The 2% default percentage will be subject to a percentage annual increase thereafter if provided for in the Plan Document. Any deferral percentage increase will take effect annually on the first day of the Plan Year. Participants' default deferrals will remain at the same percentage for at least twelve (12) months before their automatic deferral percentages will be increased automatically.

The automatic deferrals will be contributed on a pre-tax basis and will continue until the Participant affirmatively elects otherwise.

An Employee who affirmatively declines coverage after the first automatic enrollment contribution was made, may make an election to withdraw his or her entire automatic enrollment contribution. This election must be submitted no later than 90 days after the payroll date in which the first automatic enrollment contribution is made on behalf of the Participant. The amount of the distribution will be the value of the automatic enrollment contributions plus or minus investment gains or losses as of the date the distribution is processed. Automatic enrollment contributions made after such date remain in the Plan and are subject to the Plan's regular distribution rules. Further, an Employee who has made an election to withdraw who leaves employment and is then rehired by the Participating Employer before a 12-continuous-month absence may not make another election to withdraw his or her automatic enrollment contribution. Any Employer Matching Contributions attributable to the distribution of the automatic enrollment contributions will be forfeited and used for the purposes set forth in Section O below.

- c. An Employee who leaves employment and is rehired by the Participating Employer before a 12-continuous-month absence has occurred will be treated as subject to the automatic contribution schedule. An Employee who leaves employment and is rehired by the Participating Employer after a 12-continuous-month absence: *(Check one option below.)*

- i. ☐ will be treated as a new Employee, or
- ii. ☐ will not be treated as a new Employee

for purposes of determining the Employee's contribution rate in Section F.2.b above.

- G. **HOURS OF SERVICE.** Hours of Service shall be determined on the actual hours for which an Employee is paid or entitled to payment.

- H. **COMPENSATION DEFINITION.** Compensation means all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Code §§ 125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer compensation under Article III of the Plan). If elected below and to the extent permitted by the Treasury regulations or other similar guidance (including, without limitation, the requirements contained in Treasury Regulations §§ 1.457-4(d)(1) and 1.415-2(e)(3)(i)), "compensation" also means accrued bona fide sick, vacation or other leave payable after severance from employment so long as the Participant would have been able to use the leave if employment had continued and it is paid within the longer of two and one-half (2½) months after the Participant severs employment with the Employer or the end of the calendar year in which the Participant severs employment with the Employer.

The Participating Employer:

1. ☒ SHALL allow the deferral of leave provision described above.
2. ☐ SHALL NOT allow the deferral of leave provision described above.

- I. **MATCHING CONTRIBUTIONS.** *(Check and complete box 1 OR box 2 OR box 3 OR box 4.)*
[NOTE: Any Matching Contribution will reduce, dollar for dollar, the amount a Participant can contribute.]

The Participating Employer shall:

1. ☒ NOT make Matching Contributions.
2. ☐ match ___% of Participant elective deferrals of up to ___% of Compensation.
3. ☐ match ___% of the first \$_____ of Participant elective deferrals.
4. ☐ match the percentage of Participant elective deferrals that the Employer determines in its discretion for the respective Plan Year.

If the Participating Employer elects Automatic Enrollment under Section F.2., Matching Contributions related to the distributed permissible withdrawal election will be placed in a forfeiture account and used in the manner provided in Section O below. Matching Contributions will not be made if a permissible withdrawal is taken before the date the Matching Contribution is allocated.

J. ALLOCATION OF MATCHING CONTRIBUTIONS. If Matching Contributions will be made, allocations will be made to each Participant who satisfies the requirements of Section E.2.a. of this Participating Employer Agreement.

K. NON-MATCHING CONTRIBUTIONS. *(If non-matching contributions will be made, check box 1 OR box 2.)* [NOTE: Any Non-Matching Contribution will reduce, dollar for dollar, the amount a Participant can contribute.]

1. ☒ The Participating Employer shall NOT make Non-Matching Contributions.
2. ☐ The Participating Employer shall contribute: *(Check and complete one box.)*
 - a. ☐ an amount fixed by appropriate action of the Employer.
 - b. ☐ ____% of Compensation of Participants for the Plan Year.
 - c. ☐ \$____ per Participant.
 - d. ☐ an amount pursuant to Schedule 1 attached to this Agreement and which is referenced in Section E.2.b above.
 - e. ☐ a contribution matching the Participant's contribution to the Employer's § 457(b) plan as follows: (Specify rate of match and time of allocation, e.g., payroll by payroll, monthly, last day of Plan Year.)

L. ALLOCATION OF NON-MATCHING CONTRIBUTIONS. If Non-Matching Contributions will be made, allocations will be made to each Participant who satisfies the requirements of Section E.2.b of this Participating Employer Agreement.

M. ROTH CONTRIBUTIONS. Participant Roth Contributions SHALL NOT BE allowed.

N. AFTER-TAX CONTRIBUTIONS. Participant After-tax Contributions are not permitted in a 457(b) Plan and, accordingly, SHALL NOT BE allowed.

O. FORFEITURES. Forfeitures of Matching Contributions, as provided in Section F.2.b, will be used first to reduce the Employer's Matching Contributions (if any), then to reduce the Non-Matching Contributions (if any), and then to offset Plan expenses.

P. NORMAL RETIREMENT AGE. Normal Retirement Age shall mean age 70½.

Q. ROLLOVERS. Rollovers from eligible Code § 457(b) plans, qualified plans under Code §§ 401(a), 403(a) and 403(b), Individual Retirement Accounts and Annuities described in Code §§ 408(a) and (b) SHALL BE allowed pursuant to Section 6.01 of the Plan. However, a direct rollover from an eligible plan under Code § 457(b), 401(k) or 403(b) shall exclude any portion of a designated Roth account. A rollover contribution that is a Participant rollover from an eligible plan under Code Section 457(b), 401(k), or 403(b) shall exclude distributions of a designated Roth account.

R. TRANSFERS. Transfers from other 457(b) plans SHALL BE allowed. If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Code § 414(d)) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan. A transfer under this Section R may be made before the Participant has had a Severance from Employment as defined in Section W below.

A transfer may be made under this Section if the transfer is either for the purchase of permissive service credit (as defined in Code § 415(n)(3)(A)) under the receiving defined benefit governmental plan or a repayment to which Code § 415 does not apply by reason of Code § 415(k)(3) or as otherwise allowed by the IRS.

S. UNFORESEEABLE EMERGENCY WITHDRAWALS. In the case of an unforeseeable emergency, the Administrator SHALL allow distributions in accordance with Section 5.05 of the Plan. An unforeseeable emergency is a severe financial hardship resulting from a sudden illness, disability or accidental property loss, subject to strict IRS guidelines.

T. PARTICIPANT LOANS. The Administrator has directed the Trustee NOT to make Participant loans in accordance with Article IV of the Plan.

U. QUALIFIED DOMESTIC RELATIONS ORDERS. The Plan shall accept qualified domestic relations orders as provided in Section 13.02 of the Plan.

V. PAYMENT OPTIONS. The forms of payment that will be allowed under the Plan, to the extent consistent with the limitations of Code § 401(a)(9) and proposed or final Treasury regulations thereunder, include a single lump-sum payment; installment payments for a period of years; partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years; annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary; and such other forms of installment payments as may be approved by the Administrator, which is not inconsistent with the Plan.

W. DISTRIBUTIONS. A Participant may request distributions as follows:

1. A Participant may request a distribution at any time upon Severance from Employment. "Severance from Employment" means the complete severance of the employer/employee relationship with any and all employers participating in the Plan, including retirement or death. Thus, a Severance from Employment would not occur if a Participant transfers employment (i) from one local government that participates in the Plan to another local government that participates in the Plan, or (ii) from the State to a local government that participates in the Plan, or (iii) from a local government that participates in the Plan to the State.

2. A Participant may request a distribution prior to Severance from Employment during the calendar year in which he or she reaches age 70½ or, thereafter, or, if earlier, upon death. A Participant may also request a distribution prior to Severance from Employment upon incurring an approved Unforeseeable Emergency.
3. A Participant may request a distribution from a Rollover Contribution Account at any time.

X. ADMINISTRATIVE INFORMATION.

The Participating Employer further understands and acknowledges that:

- This Participating Employer Agreement has not been approved by the Internal Revenue Service. Obtaining such approval, if desired by the Employer, is solely the responsibility of the Employer.
- The Chair of the Tennessee Consolidated Retirement System ("Chair") and the Participating Employers are not responsible for providing tax or legal advice to Participants.
- The Participating Employer has consulted, to the extent necessary, with its own legal and tax advisors.
- All capitalized terms which are used herein but not defined herein shall have the meanings set forth in the Plan Document.
- The Participating Employer will electronically remit in a timely manner, all employee and employer contributions to the Plan in a manner acceptable with the Plan's Third Party Administrator. The Employer's payroll administrator is responsible for reconciliation of all contributions to the Plan and shall provide the Plan Administrator with required contribution reconciliation reports. Each Employer is required to use the Plan Service Center to administer their employee contributions, indicative data, and enrollment information. If the Participating Employer fails to remit the requisite contributions in a timely manner, the Chair reserves the right, at the Chair's sole discretion, to terminate the Employer's participation in the Plan. In such event, the Chair shall notify the Employer of the effective termination date, and the Employer shall immediately notify all its Employees participating in the Plan of the termination and the effective date thereof. Notwithstanding the foregoing, the Employer acknowledges that it is the sole responsibility of the Employer to remit the requisite reports and contributions to the Plan and that neither the State, the Chair, the Trustees, its employees or agents shall have any responsibility or liability for ensuring or otherwise monitoring that this is done.
- Participating Employers are required to use the investment options made available under the Plan. From time to time those investment options may be changed. If an investment option is eliminated, the Administrator may automatically reinvest the money in the eliminated investment option into a new investment option. After any appropriate black-out period, the affected Participants may re-direct money in the new investment option to any other available investment option. The Participants shall have no right to require the Administrator to select or retain any investment option. Any change with respect to investment options made by the Plan (on the Plan level) or a Participant (on the individual level), however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options.

This Participating Employer Agreement is duly executed on behalf of the Participating Employer by the undersigned authorized signatories.

PARTICIPATING EMPLOYER'S AUTHORIZED SIGNATORIES:

By: _____ By: _____
Title: _____ Title: _____
Date: _____ Date: _____

ACCEPTANCE OF PARTICIPATING EMPLOYER'S PARTICIPATION IN THE TENNESSEE STATE DEFERRED COMPENSATION PLAN AND TRUST BY THE TREASURER, STATE OF TENNESSEE, CHAIR OF THE TENNESSEE CONSOLIDATED RETIREMENT SYSTEM.

By: _____
David H. Lillard, Jr.
Title: Treasurer, State of Tennessee, Chair of the Tennessee Consolidated Retirement System
Date: _____

SCHEDULE 1

TENNESSEE STATE

DEFERRED COMPENSATION PLAN AND TRUST- 457(b)

PARTICIPATING EMPLOYER AGREEMENT

Participating Employer Name: _____

Classes of Eligible Employees

Contribution Amount



AGENDA ACTION FORM

A Resolution to Approve the Purchase of Property Located at 124 Cherokee Street

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

Action Form No.: AF-274-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Michael Borders
 Presentation By: M. Borders

Recommendation:

Approve the resolution.

Executive Summary:

The Downtown Kingsport Association (DKA) owns property located at 124 Cherokee Street further described as Map: 046P Parcel: 037.00 also known as the "Barking Lot".

The City desires to purchase the property from DKA for the amount of \$33,504.27. The property will remain in use as a dog park in the near future and a Parks and Recreation asset.

Funding is identified in NC2100

Attachments:

1. Resolution
2. Map 1
3. Map 2
4. Property Detail

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: *an*

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY AT 124 CHEROKEE STREET; AND AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, Downtown Kingsport Association (DKA) has purchased the property located at 124 Cherokee Street and being more particularly described as and being further identified as tax map 046P; group C, parcel 037.00; and

WHEREAS, currently this property serves as a dog park is often referred to as the "Barking Lot"; and

WHEREAS, the city desires to purchase said property from DKA for the amount of \$33,504.27 and DKA is agreeable to sell for the same; and

WHEREAS, the property will continue to be utilized as a dog park.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN as follows:

SECTION I. Upon consideration of the fair market value of the property and other pertinent factors, an offer of \$33,504.27 is approved for the purchase of 124 Cherokee Street, subject to such conditions as set out in the Agreement of Sale set out below.

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 Agreement of Sale for property identified as 124 Cherokee Street, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said agreement being as follows:

AGREEMENT

THIS PURCHASE AGREEMENT (herein "Agreement") made and entered into on the date of the notary acknowledgment of the Seller's signature between **DOWNTOWN KINGSFORT ASSOCIATION**, (hereinafter referred to as the "Seller"), and **THE CITY OF KINGSFORT, TENNESSEE**, a municipality organized under the laws of the State of Tennessee (hereinafter referred to as the "Buyer").

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, including specifically, without limitation, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

1. SALE. Seller agrees to sell, convey, assign, transfer and deliver to Buyer, and Buyer agrees to purchase, acquire and take from Seller, subject to the terms and conditions of this Agreement that real property situate, lying and located at 124 Cherokee Street, Kingsport, Tennessee and being further identified as tax map 046P; group C, parcel 037.00, more particularly described on Exhibit A attached hereto and hereby made a part hereof, together with all improvements and fixtures

situated thereon, if any, and also together with all hereditments and appurtenances thereunto belonging or in any way appertaining (the "Real Property").

2. PURCHASE PRICE.

(a) Amount. The purchase price to be paid by Buyer to Seller for the Real Property shall be Thirty Thousand and No/100 Dollars (\$30,000.00)

(b) Terms of Payment. Subject to the adjustment provided for herein the Purchase Price, less the prorated property taxes as of the date of closing, shall be paid by Buyer to Seller in cash or certified funds payable to Seller on the Closing Date.

3. CLOSING. The closing shall occur on or before October 30, 2022, (the "Closing Date"), at a time and location mutually agreed upon by the parties or, upon failure of the parties to agree, at a time and place specified by the Buyer (the "Closing"). Buyer and Seller agree to deliver and execute such other documents as may be reasonable and necessary in the opinion of counsel for Seller and Buyer to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions hereof.

4. SURVEY. Immediately upon the execution of this Agreement, Buyer shall, at Buyer's cost, cause a survey and surveyor's certificate, in form sufficient to remove the survey exception from the title insurance binder as more specifically provided in Section 5 hereof, to be prepared on the Real Property by a licensed surveyor acceptable to Buyer. The survey shall be made in accordance with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title surveys for a Class A survey. Such survey shall show the total area of the Real Property in square feet, easements, if any, location of adjoining streets and rights of way, building setback lines, and such other details as may be required by Buyer. Once prepared, the survey description will replace Exhibit A and will become a part of this Agreement identified as Exhibit A-1, and such survey description shall be insurable (and shall be insured) by the title insurance company. If the survey (i) is for good cause not acceptable to Buyer's title insurance company; or (ii) shows the dimensions of the Real Property to be other than as set forth on Exhibit A; or (iii) shows any materially adverse conditions or matters affecting the Real Property which are not approved by Buyer, then Buyer, within twenty (20) days from receipt of such survey, shall notify Seller in writing of Buyer's objections to the survey and Seller shall thereupon have twenty (20) days to remove or cure such objections to the satisfaction of the Buyer and the title company. If Seller fails to satisfy such objections with the time specified, Buyer shall have the right to (i) terminate this Agreement; (ii) extend the time period for removing or curing any objectionable item by written notice to Seller; or (iii) close this purchase and sale without reduction in the Purchase Price.

5. TITLE INSURANCE. Buyer, at its expense, shall secure an owner's title insurance commitment to issue a title insurance policy insuring Buyer's fee simple interest in the Real Property to the extent of the Purchase Price. The title insurance commitment will be issued by a reputable title insurance company chosen by Buyer and will contain exceptions only for real estate taxes and assessments for the current year which are not yet due and payable, and any other exceptions Buyer may approve in writing. If the commitment contains other exceptions, not acceptable to Buyer, then Buyer shall so notify Seller of such exceptions within twenty (20) days of Buyer's receipt of the commitment, and Seller shall have twenty (20) days from receipt of the Buyer's objections, to resolve such exceptions to the satisfaction of the Buyer. If Seller is unable to cure or resolve such exceptions to Buyer's satisfaction within the time specified, Buyer shall have the right to terminate this Agreement, extend the cure period, or proceed to close this Agreement. In the event Buyer elects to terminate this Agreement pursuant to this Section 5, then this Agreement shall be cancelled and thereafter neither Seller nor Buyer shall have any continuing obligation to each other under this Agreement.

6. DEED AND TITLE.

(a) Seller hereby agree to convey to Buyer a good and marketable fee simple title to the Real Property, without exceptions, except as expressly provided herein, by a good and valid general warranty deed, in statutory form, suitable for recordation. Title to the Real Property shall not be subject to any easements, encumbrances or other exceptions which Buyer, in its sole discretion, deems unacceptable.

(b) In the event, as of the Closing Date, Seller is unable to convey marketable title to the Real Property due to defects in Seller's title, or Seller is unable to convey title due to exceptions Buyer finds unacceptable, then Closing shall be postponed for a reasonable period of time not to exceed 30 days until Seller shall remove said title defects or exceptions. If Seller is unable to cure such title defects or exceptions within said 30 days, this Agreement shall be null and void and there

shall be no further obligations between the parties. If Buyer shall waive such title defects or exceptions by so notifying the Seller in writing, or if Seller shall have cured such defects or exceptions, as provided herein, the obligations of the parties hereunder shall not be affected by reason thereof, there shall be no abatement or reduction of the Purchase Price, and this transaction shall be consummated in accordance with the terms and provisions of this Agreement, except that such title defects or exceptions that are waived by Buyer, if any, shall be set forth as exceptions in the deed.

7. FEASIBILITY STUDY AND INSPECTIONS. Each party, in its own discretion, shall determine that the property it is acquiring pursuant to this Agreement is suitable for the use for which it is being obtained. Each party shall each have the right, at its own expense, to conduct an inspection, environmental study or audit, a professional wetland delineation, professional floodplain analysis, grading and soil tests, feasibility and engineering studies, compaction and support studies, and any other inspections and/or tests that such party may deem necessary or advisable (hereinafter collectively the "Study") of the property it is acquiring for a period of sixty (60) days (hereinafter "Feasibility Period") after the Effective Date. The party conducting the Study and its agents, employees, contractors and representatives shall have at all reasonable times right of access to such property and shall be entitled to enter upon the property during the Feasibility Period in order to conduct the Study. Such activities of the Study shall not materially damage the property or unreasonably disrupt the other party's ongoing activity at the property. In the event of damage to or disruption of the property cause by the inspection or the Study, the inspecting party agrees to restore the property to substantially the same condition as existed prior to its access thereto. If as a result of such inspection or Study, the acquiring party determines in its sole and absolute discretion, that the property it is acquiring is unacceptable to that party for any reason whatsoever, such party shall have the unconditional right to terminate this Agreement, provided written notice of such is provided to the other party no later than ten (10) business days after the expiration of the Feasibility Period. If the terminating party provides written notice of cancellation to the other party no later than fifteen (15) business days after the expiration of the Feasibility Period, then this Agreement shall be cancelled, and thereafter neither party shall have any further liabilities, rights or obligations hereunder except those which expressly survive the termination of this Agreement.

8. CONDITION OF PROPERTY. There has been no storage, disposal, treatment or release of hazardous substances during the period of Seller's ownership, and to the best of Seller's knowledge, the Real Property has not been used, and is not presently being used, and will not through the Closing Date, be used for the storage or disposal of hazardous substances. (The term "hazardous substances" shall have the broadest meaning given under applicable state and federal law, including without limitation that given in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. section 9601 et seq.) Seller is not aware of any facts, conditions or circumstances indicating any form of environmental contamination affecting any properties which are adjacent to the Real Property. There are no encumbrances, liens, or charges of any kind upon the Real Property that will not be satisfied and discharges in full by Seller and released at or before Closing in a form satisfactory to Buyer. There are no contracts, agreements, or arrangements relating to the use and operation of the Real Property not disclosed herein. Seller represents that there is no pending or threatened litigation that does or will materially and adversely affect the Real Property or its value.

9. CONDITIONS PRECEDENT.

Buyer's obligations pursuant to this Agreement are contingent upon and subject to the satisfaction, as of Closing, of each of the following conditions (any of which may be waived in whole or in part in writing by the Buyer at, or prior to Closing):

- (1) The results of the title examination report and title insurance commitment described in Section 5 shall be acceptable to Buyer in its sole discretion as of Closing. There shall be no change in the matters reflected in the title insurance commitment described in Section 5 hereof, and there shall not exist any encumbrances or title defects affecting the Real Property not described in such title insurance commitment.
- (2) All of the representations, warranties and conditions of Seller set forth in this Agreement shall be true and correct as of the date hereof, and as of the Closing Date, and Seller shall not, on or prior to Closing, have failed to meet, comply with or perform any conditions or obligations on Seller's part required by the terms of this Agreement.
- (3) There shall be no change in the matters reflected in the survey described in Section 4 hereof, and there shall not exist any easement, right of way, encroachment, conflict, or a protrusion with

respect to the Real Property not shown on the survey.

If any condition specified in this Section 8 is not fully satisfied by Closing, or any extension thereof pursuant to this Agreement, Buyer may, at its option, waive such unsatisfactory condition precedent and consummate this Agreement, or may terminate this Agreement by written notice to Seller, this Agreement shall be cancelled and thereafter neither Seller nor Buyer shall have any continuing obligation to each other under this Agreement. It shall be the right of the Buyer at its sole discretion and upon written notice to the Seller to terminate this Agreement at any time prior to the closing of the property if it shall deem the property not suitable for its needs, and upon such termination, this Agreement shall be cancelled and thereafter neither Seller nor Buyer shall have any continuing obligation to each other under this Agreement.

10. NOTICE. Any notice or demand on either party hereunder shall be deemed to have been given when mailed to the other party by Certified Mail, Return Receipt Requested, postage prepaid at the addresses set forth below:

SELLER: Downtown Kingsport Association
400 Clinchfield Street, Ste.100
Kingsport, TN 37660

BUYER: City of Kingsport, Tennessee
415 Broad Street
Kingsport, TN 37660

11. PRORATIONS. All real estate taxes and assessments shall be prorated as of the Closing Date, using for such purpose the rate and valuation shown on the latest available tax notice.

12. EXPENSES OF SELLER. In closing this transaction, Seller shall be charged with the following:

- (a) The cost of preparation of the warranty deed;
- (b) The fees and expenses of any attorney or other advisor engaged by Seller in connection with this transaction;
- (c) The commission or fees charged by any real estate broker or agent retained or used by the Seller in connection with this transaction; and
- (d) All expenses incurred in connection with the release of any prior existing indebtedness, including without limitation any prepayment penalties; and
- (e) Prorated taxes.

13. EXPENSES OF BUYER. In closing this transaction, Buyer shall be charged with the following:

- (a) The cost of any title search and title insurance policy;
- (b) The cost of recording the deed and any transfer tax associated with such deed;
- (c) Any fees charged in connection with any attorney or other advisor engaged by Buyer in connection with this transaction; and
- (d) The cost of the survey provided pursuant to Section 4.

14. RISK OF LOSS. The risk of loss or damage to any of the Real Property described above by fire, vandalism, or other casualty shall remain with the Seller until Closing. In the event of such loss before Closing, this Agreement shall be voidable at the option of Buyer. Should Buyer elect to continue with the purchase following such loss or damage before Closing, Buyer shall have the option to (a) negotiate an equitable reduction in the Purchase Price or (b) close this Agreement at the stated Purchase Price and accept all insurance funds and other monies payable to Seller regarding such loss or damage. If action is necessary to recover under any casualty policy, Seller shall cooperate with Buyer in bringing such action in Seller's name and Seller shall reimburse Buyer for the attorney's fees and other expenses incurred by Buyer to pursue such claim.

15. TIME IS OF THE ESSENCE. Time is of the essence to the performance of this Agreement.

16. MERGER CLAUSE. All understandings and agreements heretofore had between the parties are merged in this Agreement, which alone fully and completely expresses their agreement, and the same is entered into after full investigation, neither party relying upon any statement, representation, express or implied warranties, guarantees, promises, statements, "setups", representation, or information, not embodied in this Agreement, made by the other, or by any agent, employee, servant, or other person representing or purporting to represent the Seller. This Agreement contains the full agreement between the parties and there are no other contracts, express or implied, which are not stated herein.

17. POSSESSION. Delivery of possession of the Real Property shall occur at Closing.

18. CAPTIONS. The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement and are not to be considered in interpreting this Agreement.

19. ENTIRE AGREEMENT; MODIFICATIONS. This written Agreement constitutes the entire and complete agreement between the parties hereto and supersedes any prior oral or written

agreements between the parties with respect to the Real Property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions herein set forth, and that no modification of this Agreement and no waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the parties hereto.

20. CONTROLLING LAW; VENUE. This Agreement has been made and entered into under the laws of the State of Tennessee, and said laws shall control the interpretation thereof. Venue for any litigation concerning this Agreement shall be filed in the state or federal courts for Sullivan County, Tennessee.

21. BINDING EFFECT. All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

22. FURTHER ACTS. Each party hereto agrees to do, execute, acknowledge and deliver all such further acts, assignments, transfers, assurances and instruments that may reasonably be required to fully effectuate the transactions contemplated in this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate originals the day and year first written above.

[Acknowledgements Deleted for Inclusion in this Resolution]

EXHIBIT A

Description of Real Property

BEING Lots 43 and 44, Block 3 in the City of Kingsport, as shown on plat of record in the Register's Office for Sullivan County, Tennessee, in Plat Book A, page 29, to which reference is hereby made.

Being all of the property conveyed to Downtown Kingsport Association by Deed dated August 26, 2022 and recorded in Deed Book 3523 at page 1315 in the Register's Office for Sullivan County, Tennessee, to which reference is hereby made.

Tax Map 046P; Group C, Parcel 37.00

SECTION III. That the mayor is further authorized to make such changes, approved by the mayor and 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 immediately upon its adoption, the public welfare requiring it.

ADOPTED this the 13th day of September, 2022.

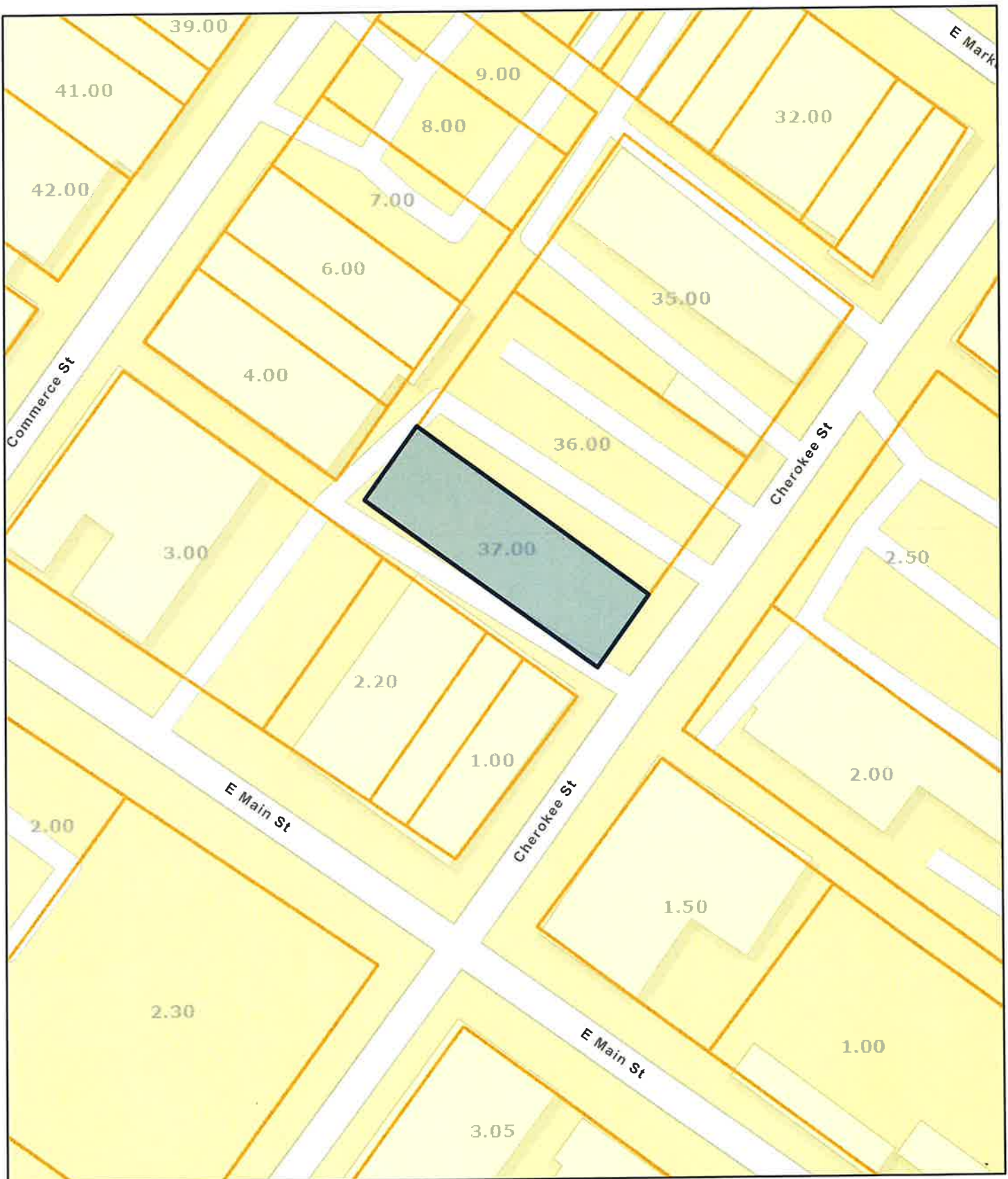
PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

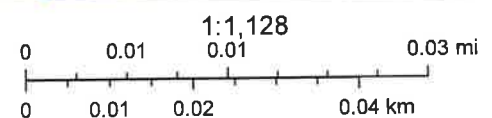
APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



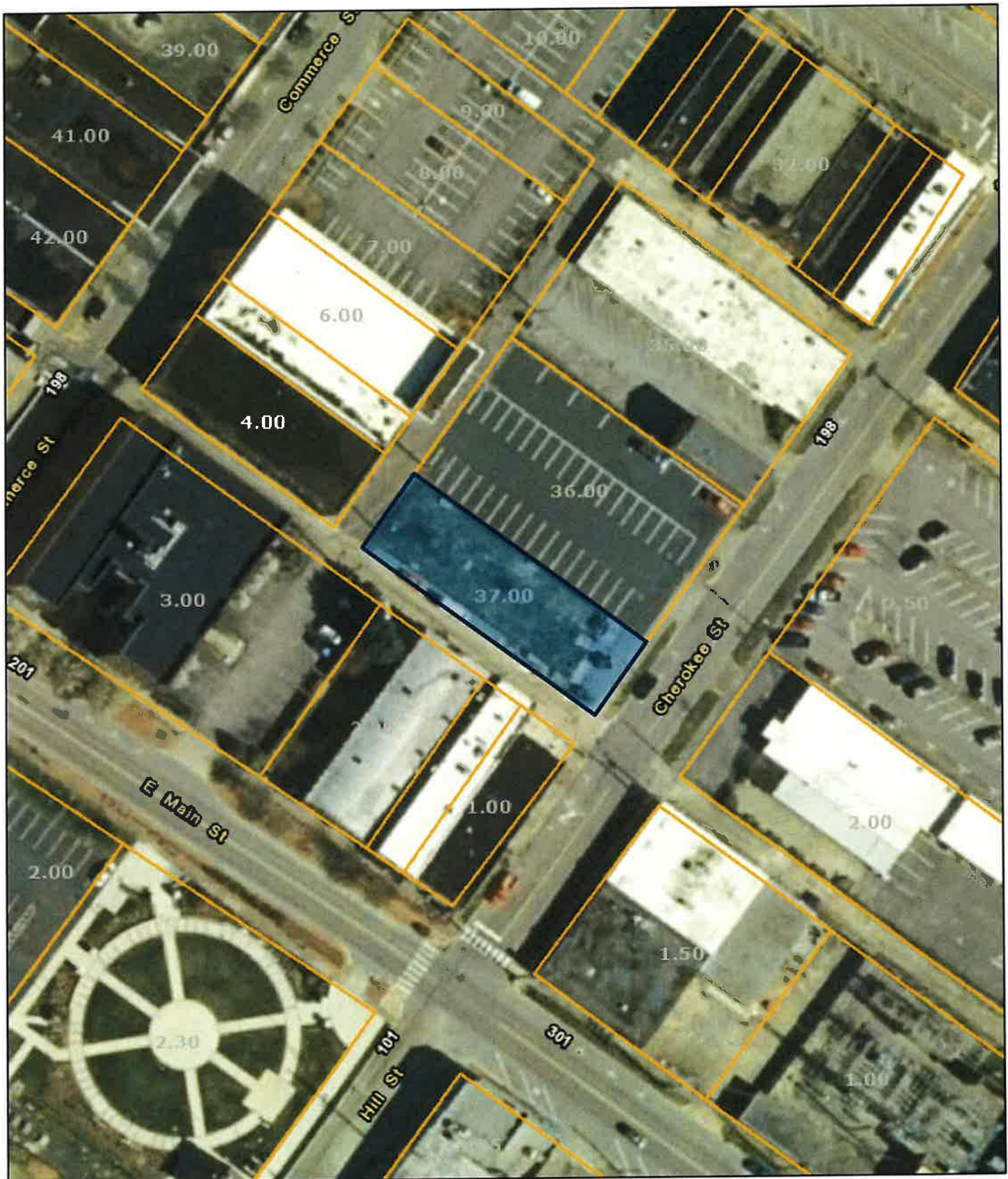
Date: September 2, 2022

County: Sullivan
Owner: WOOD RANDY L
Address: CHEROKEE ST 124
Parcel Number: 046P C 037.00
Deeded Acreage: 0
Calculated Acreage: 0
Date of TDOT Imagery: 2019
Date of Vexcel Imagery: 2021



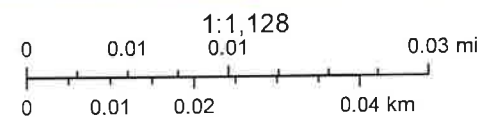
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The property lines are compiled from information maintained by your local county Assessor's office but are not conclusive evidence of property ownership in any court of law.



Date: September 7, 2022

County: Sullivan
 Owner: WOOD RANDY L
 Address: CHEROKEE ST 124
 Parcel Number: 046P C 037.00
 Deeded Acreage: 0
 Calculated Acreage: 0
 Date of TDOT Imagery: 2019
 Date of Vexcel Imagery: 2021



TDOT, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., State of Tennessee, Comptroller of the Treasury, Office of Local Government (OLG), VITA, Esri, HERE, GeoTechnologies, Inc.

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

STATE OF TENNESSEE REAL ESTATE ASSESSMENT DATA

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County Number: 082**County Name: SULLIVAN****Tax Year: 2022****Property Owner and Mailing Address****Jan 1 Owner:**

WOOD RANDY L
217 SANDY POINT DR
BLOUNTVILLE, TN 37617

Property Location**Address:** CHEROKEE ST 124
Map: 046P **Grp:** C **Ctrl Map:** 046P **Parcel:** 037.00 **PI:** **S/I:** 000
Value Information**Reappraisal Year:** 2021**Land Mkt Value:** \$18,600**Improvement Value:** \$0**Total Market Appraisal:** \$18,600**Assessment %:** 40**Assessment:** \$7,440**General Information****Class:** 08 - COMMERCIAL**City #:** 380 **City:** KINGSPORT**SSD1:** 000 **SSD2:** 000**District:** 11 **Mkt Area:** A67**# Bldgs:** 0 **# Mobile Homes:** 0
Utilities - Water / Sewer: 01 - PUBLIC / PUBLIC **Utilities - Electricity:** 01 - PUBLIC

Utilities - Gas / Gas Type: 01 - PUBLIC - NATURAL GAS **Zoning:**

Subdivision Data

Subdivision: CITY OF KINGSPORT

Plat Bk: A **Plat Pg:** 29 **Block:** 3 **Lot:** 43

Additional Description

Building Information

Extra Features

Sale Information

Sale Date	Price	Book	Page	Vac/Imp	Type Instrument	Qualification
03/29/2012	\$0	3029	38			
02/10/2012	\$0	3024	135			
12/22/2006	\$110,000	2486C	722	VACANT	WD	P
09/16/2004	\$73,000	2170C	590	VACANT	WD	P

Land Information

Deed Acres: 0.00 **Calc Acres:** 0.00 **Total Land Units:** 50.00
Land Type: 10 - COMMERCIAL **Soil Class:** **Units:** 50.00

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AGENDA ACTION FORM

A Resolution to Enter into a Lease with H.O.P.E. Inc.

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

Action Form No.: AF-286-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Michael Borders
 Presentation By: M. Borders

Recommendation:

Approve the resolution.

Executive Summary:

Suite 202 in the nonprofit wing of the V.O. Dobbins Sr. Complex located at 301 Louis Street has become available. The previous tenant was Contact Concern. An advertisement for the space and solicitation of letters of interest was published on August 25, 2022 in the Kingsport Times News. The city of Kingsport only received a letter of interest and required submittals from HOPE.

HOPE's purpose is, "To educate the surrounding area youth with life skills, with a view of building future business and community leaders; to educate and advocate multi-cultural understanding within the Tri-Cities area. To teach and promote community services, outreach skills, and other opportunities to our area youth."

HOPE proposes to use the suite for office space.

Suite 202 is approximately 1,299 sqft. The cost of the lease is \$5.10 per sqft annually for an annual cost of \$6,624.96. The term of the lease shall be 5 years.

Attachments:

1. Resolution
2. Map

Funding source appropriate and funds are available: *pm*

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH H.O.P.E., INC. FOR THE USE OF SPACE AT THE V.O. DOBBINS SR. COMPLEX AND TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, H.O.P.E. (Help Our Potential Evolve), a local non-profit youth organization, recently suffered flood damage to their office space; and

WHEREAS, they have been renting space at the Lynn View Community Center for office and meeting purposes; and

WHEREAS, since that time, Suite 202 at the Nonprofit Wing at the V.O. Dobbins Sr. Complex located at 301 Louis Street has become available; and

WHEREAS, Suite 202 is approximately 1,299 square feet, and for an annual cost of \$6,624.96, and the term of the lease shall be 5 years

Now therefore,

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

SECTION I. That a Lease Agreement between the City of Kingsport and H.O.P.E. (Help Our Potential Evolve) for space located at the V.O. Dobbins Sr. Complex located at 301 Louis Street, 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, the Lease Agreement between the City of Kingsport and H.O.P.E. (Help Our Potential Evolve) for space located at the V.O. Dobbins Sr. Complex located at 301 Louis Street, to deliver the Agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said agreement being as follows:

LEASE

This Lease (hereinafter called "Lease") is made on the ____ day of September, 2022, by and between the City of Kingsport, Tennessee, a municipal corporation organized under the laws of state of Tennessee (hereinafter called "Landlord") and H.O.P.E. (Help Our Potential Evolve), a non-profit 501(c) qualified corporation (hereinafter called "Tenant").

WITNESSETH:

In consideration of the mutual covenants, promises and rents contained herein the parties agree as follows:

SECTION 1. Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord premises containing approximately One Thousand, Two Hundred and Ninety Nine (1,299) square feet, (hereinafter called "Leased Premises"), as shown outlined in red on the floor plan attached hereto as Exhibit "A", and known as Suite 202, located in the office building known as V. O. Dobbins Nonprofit Wing (hereinafter called "Office Building"), which is situated on that certain parcel of land (hereinafter called "Office Building Area") more particularly described in Exhibit "B" attached hereto. The following covenants are a part of this Lease and shall be applicable at all times throughout the term of this Lease, any extensions or renewals thereof and as otherwise set forth herein:

SECTION 2. Tenant shall pay to Landlord without previous demand therefor and without any setoff or deduction whatsoever, except as may be specifically provided herein, rent for the Leased Premises at the rate of Six Thousand, Six Hundred and Twenty Four and 96/100 Dollars (\$6,624.96) per annum each on the first day of each year during the term hereof. 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. Tenant shall promptly pay all rentals herein prescribed when and as the same shall become due and payable. 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, 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 3.

3.1. The Leased Premises shall be used by Tenant only as general office space and for no other purpose.

3.2. Tenant shall comply with all laws and ordinances, all rules and regulations of governmental authorities, and all rules and regulations as Landlord may prescribe on written notice to Tenant with respect to the use or occupancy of the Leased Premises, Office Building, or Office Building Area.

3.3 Tenant agrees that it shall not: (a) use, occupy, or permit the Leased Premises to be used or occupied for any unlawful purposes or for purposes not specified in this Lease; (b) use, occupy, or permit the Leased Premises or any part of the Leased Premises to be used or occupied, or do or permit anything to be done in or on the Leased Premises in any manner which shall cause or be likely to cause structural damage to the Leased Premises or any part thereof; (c) do any act or fail to do any act which constitutes waste or a public or private nuisance; or (d) do anything that would jeopardize or cause Landlord to lose the tax exempt status of its tax exempt bonds, issued to finance the Office Building or Office Building Area.

3.4. Tenant covenants and represents that it has received tax exempt 501(c)(3) status under the Internal Revenue Code from the Internal Revenue Service and that it shall maintain such status during the entire term of this Lease, and that if such status changes or is withdrawn by the Internal Revenue Service Tenant shall immediately notify Landlord and this Lease shall immediately terminate. Tenant understands that this covenant and representation is material to the Landlord's decision to lease the Leased Premises to Tenant. Tenant understands that Landlord has financed the construction of the Office Building with tax exempt financing and may lease parts of the building to qualified governmental or tax exempt 501(c) entities. Upon demand tenant shall provide Landlord with a copy of the Tenant's 501(c)(3) determination letter. Furthermore, upon demand, tenant shall provide Landlord with an opinion of counsel from the Tenant's counsel, satisfactory in form to the Landlord's bond counsel, that the Tenant is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

SECTION 4. The term of this Lease shall begin on the "Date of Occupancy", as hereafter defined and shall five (5) after the Date of Occupancy with such rights of termination as are expressly set forth in this Lease. The Date of Occupancy is defined as October 1, 2022. It is expressly understood and agreed that this Lease shall be binding upon both parties from the date first written above until the Date of Occupancy and thereafter according to its terms. Any extension thereafter shall be by written agreement which shall be executed no less than 60 days prior to the expiration of the five (5) year term.

SECTION 5. Tenant hereby accepts and acknowledges that the Leased Premises are in a habitable condition. All improvements to the Leased Premises by Tenant shall be provided at its expense and shall be subject to Landlord's approval, which consent may be withheld by the Landlord in its sole discretion for any reason. Landlord shall, on not less than thirty (30) days notice to Tenant, have the right to move Tenant out of the Leased Premises and into similar space of at least equal area. In such event Landlord shall remove, relocate and reinstall Tenant's equipment, furniture and fixtures and redecorate the new space similar to the old space, all of which shall be done at Landlord's sole cost and expense and without cost or expense to Tenant, and for the balance of its term this Lease shall continue in full force and effect and shall apply to the new space with the same force and effect as though this lease agreement had originally been for such new space.

SECTION 6. Tenant shall have the right to nonexclusive use, in common with others of (a) automobile parking areas, driveways and footways, and (b) such loading facilities, elevators and other facilities as may be constructed and designated, from time to time, by Landlord in the Office Building Area for use by tenants of the Office Building, all subject to the terms and conditions of this Lease and to reasonable rules and regulations for the use thereof as prescribed from time to time by Landlord. Landlord shall have the right to make changes or revisions in the common areas of the Office Building and the Office Building Area, and Landlord shall have the right to construct additional buildings in the

Office Building Area for such purposes as Landlord may deem appropriate.

SECTION 7. Landlord shall furnish at all hours, seven days a week, including holidays, heat and air conditioning for the Leased Premises, toilet facilities for the use of the employees, customers, and other invitees of Tenant; and electricity for lighting purposes. Landlord shall not be liable for full or partial stoppage or interruption of the above services or utilities if caused by events reasonable beyond Landlord's control.

SECTION 8.

8.1. Tenant shall pay, as additional rent hereunder, its proportionate share, as hereinafter determined, of any increase in utility costs of the Office Building over and above utility costs for the first twelve (12) calendar month period during which the Office Building is occupied.

8.2. Tenant's proportionate share of said increase in utility costs for any fiscal year of Landlord shall be determined as follows: (a) the difference between the amount of the utility costs for the fiscal year in question and the amount of the utility costs for the first twelve (12) calendar month period during which the Office Building is occupied shall be ascertained, and (b) the amount of the difference shall then be multiplied by a fraction, the numerator of which is the total number of square feet of the Leased Premises and the denominator of which is the total number of square feet of leasable area in the Office Building, and (c) the result shall be the increase in the utility costs payable by Tenant. Tenant's proportionate share is stipulated to be One and 0/10 percent (1.0 %).

SECTION 9. The Office Building and Office Building Area are currently not subject to real estate tax. In the event the Office Building or Office Building Area are subject to real estate tax Tenant agrees it shall pay, as additional rent, its proportionate share, as hereinafter determined, of any real estate taxes due and payable with respect to the Office Building and Office Building Area for each calendar year which commences during the term of this Lease. The Tenant's proportionate share shall be determined by taking the amount of real estate tax and multiplying that number by a fraction, the numerator of which is the total number of square feet of the Leased Premises and the denominator of which is the total number of square feet of leasable area in the Office Building, and the result shall be the proportionate share of the real estate taxes payable by the Tenant.

SECTION 10.

10.1. This Lease and the tenancy hereby created shall cease and terminate at the end of the original Term hereof, without the necessity of any notice from either Landlord or Tenant to terminate the same, and Tenant hereby waives notice to vacate the Leased Premises and agrees that Landlord shall be entitled to the benefit of all provisions of law respecting the summary recovery of possession of Leased Premises from a Tenant holding over to the same extent as if statutory notice had been given.

10.2. 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 Leased Premises, broom clean and in as good condition as it was at the beginning of the Term, reasonable wear and damage excepted. All property of Tenant remaining on the Leased 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 by Landlord, and Tenant shall reimburse Landlord for the cost of such removal. Landlord may have any such property stored at Tenant's risk and expense.

10.3. In addition to the termination rights otherwise set forth in this Lease Tenant may terminate this Lease for its convenience at any time by giving written notice to Landlord at least thirty (30) days prior to the date when such termination becomes effective. Tenant shall pay the rent and expenses to the date of termination. Such termination shall not be a default. Additionally, Tenant may terminate this Lease, subject to the right of cure, at any time for any of the following causes: (a) failure of the Landlord to reasonably provide any of the services required under the terms of this Lease or any other breach of the terms of this Lease by Landlord that is not adequately remedied within twenty (20) consecutive calendar days of the mailing of written notices thereof to Landlord, provided that if the nature of Landlord's default is such that more than twenty (20) consecutive calendar days are reasonably required for its cure, then Landlord shall not be deemed to be in default if the Landlord commences to cure within the twenty (20) day period and thereafter diligently prosecutes such cure to completion.

10.4. In addition to the termination rights otherwise set forth in this Lease Landlord may terminate this Lease for its convenience at any time by giving written notice to Tenant at least thirty (30) days prior to the date when such termination becomes effective. Furthermore, Landlord may in its sole discretion immediately terminate this Lease and take possession of the Leased Premises if: (a) Landlord receives an opinion of its bond counsel that the continued lease of the Leased Premises to the Tenant would adversely affect the tax-exempt status of any bonds financing the Office Building; (b) or Tenant fails to observe or perform any of the express covenants or provisions of this Lease where such failure shall continue for a period of twenty (20) consecutive calendar days after written

notice thereof from Landlord to Tenant, provided that if the nature of Tenant's default is such that more than twenty (20) consecutive calendar days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences to cure within the twenty (20) day period and thereafter diligently prosecutes such cure to completion.

10.5 The right to cure by Tenant does not apply to termination due to Tenant's failure to maintain its 501(c)(3) status as required by Section 3 herein.

SECTION 11. Tenant shall replace promptly at its own expense with glass of like kind and quality any plate glass of the Leased Premises which may become broken or cracked due to any act or negligence, by action or omission, of Tenant, its agents, employees, invitees, or licensees, or otherwise, unless damaged by casualty, or act of Landlord, its agents or employees. Tenant shall maintain the Leased Premises at its own expense in a clean, orderly and sanitary condition, and shall employ necessary janitorial staff or secure the necessary janitorial service to satisfy Tenant's obligations as set forth herein.

SECTION 12. Landlord shall keep the exterior of the Leased Premises and common areas of the Office Building in good repair. Tenant shall give Landlord written notice of the necessity for such repairs. Provided, however, Tenant shall be responsible for the cost of any repair due to damage caused by the willful misconduct or negligence of Tenant, its agents, employees, invitees, or licensees. Tenant shall keep the interior of the Leased Premises in good repair. Tenant shall not overload the electrical wiring serving the Leased Premises or within the Leased Premises, and shall install at its own expense any additional electrical wiring which may be required in connection with Tenant's equipment or apparatus, but only after obtaining Landlord's written approval, which consent may be withheld by the Landlord in its sole discretion for any reason.

SECTION 13. Tenant shall not make any alteration to the Leased Premises or any part thereof without first obtaining Landlord's written approval of such alteration, which consent may be withheld by the Landlord in its sole discretion for any reason. Tenant agrees that any improvements made by it shall immediately become the property of Landlord and shall remain upon the Leased Premises in the absence of agreement to the contrary. Tenant shall not cut or drill into or secure any fixtures, apparatus, or equipment of any kind to any part of the Leased Premises without first obtaining Landlord's written consent, which consent may be withheld by the Landlord in its sole discretion for any reason.

SECTION 14. No signs shall be constructed or painted on the windows, doors, outside walls, roof, or exterior of the Leased Premises or in or around the grounds of the Office Building, the right-of-way, or adjacent properties, without the prior written consent of Landlord, which consent may be withheld by the Landlord in its sole discretion for any reason, and Landlord reserves the right to require Tenant to remove any such signs not previously consented to by Landlord from said roof, windows, doors, outside walls or exterior of the Leased Premises or common areas. In the event Tenant does not promptly remove any such sign or signs upon notice from Landlord to do so Landlord shall have the right to remove such sign or signs at Tenant's expense, and Tenant shall promptly reimburse Landlord therefor. Landlord shall provide, at Landlord's expense, a lobby directory in the main lobby of the building of which the Leased Premises are a part identifying tenants and suites. Tenant shall have the right to display a building standard sign at its suite entrance. Tenant shall not place or install any racks, stands, trade fixtures, or other displays of products or services on the outside of the Leased Premises, in or around the grounds of the Office Building, the right-of-way, or adjacent properties, without the express prior written approval of Landlord, which consent may be withheld by the Landlord in its sole discretion for any reason.

SECTION 15.

15.1. Tenant shall keep in force at its own expense so long as this Lease remains in effect, public liability insurance with respect to the Leased Premises with companies licensed to do business in the State of Tennessee acceptable to the Landlord and in form acceptable to Landlord with minimum limits of \$1,000,000.00 on account of bodily injuries to or death of one person; \$5,000,000.00 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. Tenant shall deposit a certified copy of the policy or policies of such insurance, with Landlord. Such policies shall name Landlord as an additional insured. The policy or policies of insurance shall require thirty (30) days notice to Landlord for any change, cancellation, or non-renewal and shall contain the following or similar wording:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL THIRTY (30) DAYS WRITTEN NOTICE TO THE ALL NAMED INSURED HEREIN.

15.2 If the insurance policy or policies expire during the term of this Lease, a renewal certificate or binder shall be filed with Landlord fifteen (15) days prior to the renewal date. If Tenant shall not comply with its covenants made in this Section 15, Landlord may, at its option, cause insurance as

aforesaid to be issued, and in such event Tenant agrees to pay the premiums for such insurance promptly upon Landlord's demand.

15.3. To the extent possible, Tenant shall obtain, for each policy of insurance secured by it, provisions permitting waiver of any claim against Landlord for loss or damage within the scope of the insurance, and Tenant, for itself and its insurers, waives all claims against the Landlord as to such claims covered by such insurance. Nothing herein shall be construed to vary the force and effect of paragraph 15.1 of this Section 15, and nothing contained in this Section 15 shall be deemed to excuse Landlord from its own negligence.

SECTION 16. Landlord, its agents and employees, shall not be liable for any damage to property of the Tenant entrusted to employees of the Office Building or to any property, goods, or things contained in the Leased Premises or stored in the basement, or other part of the Office Building, unless due to negligence or willful misconduct of the Landlord and its agents.

SECTION 17. Tenant shall indemnify Landlord and save it harmless from and against any and all claims, actions, damages, liability, and expense in connection with loss of life, personal injury and/or damage to property arising from or out of the occupancy or use by Tenant of the Leased Premises or any part thereof or the Office Building or Office Building Area or any other part of Landlord's property, occasioned wholly or in part by any act or omission of Tenant, its agents, employees, invitees, or licensees.

SECTION 18. Landlord shall not be liable for loss of or damage to any property at any time located in or about the Leased Premises, whether or not Tenant is the owner thereof, including but not limited to any loss, damage or injury resulting from steam, gas, or electricity, or from water, rain, snow, ice, or other substance which may leak into, or issue or flow from any part of the Leased Premises, or from the pipes or plumbing work of the Leased Premises, or from or into any other place. Landlord shall be under no liability to Tenant on account of any discontinuance of heat, electricity, sewer, water, air-conditioning, sprinkler, gas, and/or other utility, convenience, service, or facility, however such discontinuance may be caused, except if caused solely by an intentional act or omission of Landlord, or its employees or agents, and no such discontinuance shall constitute constructive eviction or any ground for termination of this Lease by Tenant unless such discontinuance shall continue for more than three (3) days, in which event rent shall abate until the end of such discontinuance.

SECTION 19. If at any time the Leased Premises become totally untenable by reason of damage or loss by fire or other casualty and such fire 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 Leased Premises shall have been restored to tenantable condition, but nothing herein is to be construed as requiring Landlord to restore or rebuild the Leased Premises. If the Leased 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 Leased Premises. In the event of a loss from fire or other casualty, Landlord shall have an election not to rebuild or recondition the Leased 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 Tenant shall pay the accrued rent up to the date of such loss, or Landlord, if the rent has been paid beyond such date, will refund to Tenant the proportionate part of any such rent prepaid, and thereupon this Lease shall terminate, with no further obligation on the part of either party hereto for matters thereafter accruing, 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 Leased Premises, nor affect Tenant's liability for the payment of rent, except as may be specifically provided in this Lease, and T.C.A. § 66-7-102, as amended or recodified, shall have no application to this Lease or to the parties hereto.

SECTION 20. If the Leased Premises or any part thereof shall be taken by eminent domain or by negotiated purchase under threat thereof, this Lease shall terminate on the date when title vests pursuant to such taking, and the rent and additional rent shall be apportioned as of said date. Tenant shall not be entitled to any part of the award or any payment in lieu thereof; excepting that Tenant shall be entitled to any separate award rendered for trade fixtures installed by Tenant at its own cost and expense and which are not part of the realty, and for Tenant's moving expenses.

SECTION 21. Tenant shall permit Landlord, its agents, and employees, upon reasonable notice to enter the Leased Premises and all parts thereof during business hours to inspect the same and to enforce or carry out any provision of this Lease, or to show it to prospective purchasers or tenants; provided that, in the case of emergency, Landlord may enter without notice. No compensation shall be asked or claim made by Tenant by reason of any inconvenience or annoyance arising from anything that may be done in repairing, altering, working on or protecting the Leased Premises or building, however the necessity may arise, but this Section 21 shall not be construed as imposing

any duty on Landlord to make any repairs, alterations or additions.

SECTION 22. Tenant shall not assign this Lease in whole or in part, nor sublet all or any part of the Leased Premises or permit the use of any part of the Leased Premises by any other person, firm, affiliate, or entity without first obtaining the written consent of Landlord. Consent by Landlord to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law. The consent of Landlord referred to herein may be withheld for any reason in Landlord's sole discretion.

SECTION 23. Tenant covenants and agrees that it shall perform all agreements herein expressed on its part to be performed, and that it shall promptly, upon receipt of written notice specifying Tenant's failure to comply with the terms hereof, commence to comply with such notice. If Tenant shall not commence and proceed diligently to comply with such notice to the reasonable satisfaction of Landlord within twenty (20) days after delivery thereof, then Landlord may, at its option, enter upon the Leased Premises, and do the things specified in said notice, and Landlord shall have no liability to Tenant for any loss or damage resulting in any way from such action by Landlord, and Tenant agrees to pay promptly upon demand, any reasonable expense incurred by Landlord in taking such action, including Landlord's administrative expenses.

SECTION 24. Except for the right to cure set out in Section 10 if Tenant defaults in the payment of rent or additional rent or defaults in the performance of any of the covenants or conditions hereof, if the Tenant shall compound its debts, or make an assignment for the benefit of creditors, or if a receiver or trustee is applied for or appointed for the Tenant, or if there be filed a petition in bankruptcy or insolvency, or for an arrangement for reorganization by or against the Tenant, or if the Tenant is adjudicated a bankrupt or is adjudged to be insolvent, or if there is advertised any sale of Tenant's property under process of law, or if the assets or property of the Tenant in the Premises shall be attached or levied upon, then Landlord may terminate this Lease on not less than five (5) days' notice to Tenant, and on the date specified in said notice the term of this Lease shall terminate and Tenant shall then quit and surrender the Leased Premises to Landlord, but Tenant shall remain liable as hereinafter provided. If this Lease shall have been so terminated by Landlord, Landlord may at any time thereafter resume possession of the Premises by any lawful means and remove Tenant or other occupants and their effects.

SECTION 25. In any case where Landlord has recovered possession of the Leased Premises by reason of Tenant's default, Landlord may at Landlord's option occupy the Leased Premises or cause the Leased Premises to be redecorated, altered, divided, consolidated with other adjoining premises, or otherwise changed or prepared for reletting, and may relet the Leased Premises or any part thereof as agent of Tenant or otherwise, for a term or terms to expire prior to, at the same time as or subsequent to, the original expiration date of this Lease, at Landlord's option, and receive the rent therefor, applying the same first to the payment of such reasonable expense as Landlord may have incurred in connection with the recovery of possession, redecorating, altering, dividing, consolidating with other adjoining premises, or otherwise changing or preparing for reletting and the reletting, including reasonable brokerage and reasonable attorney's fees, and then to the payment of damages in amounts equal to the rent hereunder and to the cost and expense of performance of the other covenants of Tenant as herein provided; and Tenant agrees, whether or not Landlord has relet, to pay the Landlord damages equal to the rent and other sums herein agreed to be paid by Tenant, less the net proceeds of the reletting, if any, as ascertained from time to time, and the same shall be payable by Tenant on the several rent days above specified. In reletting the Leased Premises as aforesaid, Landlord may grant rent concessions, and Tenant shall not be credited therewith. No such reletting shall constitute a surrender and acceptance or be deemed evidence thereof. Tenant shall not be entitled to any surplus accruing as a result of any reletting. If Landlord elects pursuant hereto to occupy and use the Leased Premises or any part thereof during any part of the balance of the Term as originally fixed or since extended, there shall be allowed against Tenant's obligation for rent or damages as herein defined, during the period of Landlord's occupancy, the reasonable value of such occupancy, not to exceed in any event the rent herein reserved and such occupancy shall not be construed as a release of Tenant's liability hereunder.

SECTION 26. Notwithstanding anything in this Lease to the contrary, at Landlord's option, Tenant shall pay a "late charge" of Fifty Dollars (\$50.00) of any installment of rental (or any such other charge or payment as may be considered additional rental under this Lease) when paid more than fifteen (15) days after the due date thereof, to cover the extra expense involved in handling delinquent payments.

SECTION 27. No mention in this Lease of any specific right or remedy shall preclude Landlord from exercising any other right or from having any other remedy, or from maintaining any action to which it may otherwise be entitled either at law or equity; and the failure of Landlord to insist in any one or more instance upon a strict performance of any covenant of this Lease or to exercise any option or

right herein contained shall not be construed as a waiver or relinquishment for the future of such covenant, right or option, but the same shall remain in full force and effect unless the contrary is expressed in writing by Landlord.

SECTION 28. This Lease and the covenants and conditions herein contained shall inure to the benefit of and are binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its permitted successors and assigns, and shall inure to the benefit of Tenant and its permitted assigns.

SECTION 29. Landlord and Tenant shall be excused for the period of any delay in the performance of any obligation hereunder when prevented from so doing by cause or causes beyond its control which shall include, without limitation, all labor disputes, civil commotion, war, war-like operations, invasion, rebellion, hostilities, military or usurped power sabotage, governmental regulations or controls, fire or other casualty, inability to obtain any material, services or financing or through Acts of God.

SECTION 30. If Landlord, in Landlord's sole discretion, shall deem it necessary to employ an attorney to assert any right of Landlord or enforce any obligation of Tenant hereunder, Landlord shall be entitled to recover, in addition to the other costs and expenses herein provided for, the reasonable costs and charges of such attorney.

SECTION 31. All Notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid, and addressed as follows:

To the Landlord at:
City Manager
City of Kingsport
415 Broad Street
Kingsport, TN 37660
With a copy to:
City Attorney
City of Kingsport
415 Broad Street
Kingsport, TN 37660

To the Tenant at:
President
H.O.P.E.
301 Louis Street, Suite 104
Kingsport, TN 37660

Either party may, at any time or from time to time, designate in writing a substitute address for that above set forth, or thereafter notices shall be directed to such substitute address.

SECTION 32. This Lease shall be governed by and construed in accordance with the laws of the state of Tennessee without regard to its conflict of laws rules. 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.

SECTION 33. The captions and headings throughout this Lease are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision or the scope or intent of this Lease nor in any way affect this Lease.

SECTION 34. In the event that two (2) or more individuals, corporations, partnerships or other business associations (or any combination of two (2) or more thereof) shall sign this Lease as Tenant, the liability of each such individual, corporation, partnership or other business association to pay rent and perform all other obligations hereunder shall be deemed to be joint and several. In like manner, in the event that Tenant shall be a partnership or other business association, the members of which are, by virtue of statute or general law, subject to personal liability, then the liability of each such member shall be deemed to be joint and several.

SECTION 35. Tenant shall be responsible for its own telephone service, cable and internet service and installation of telephone equipment in the Leased Premises. Landlord will provide telephone and cable line to the Leased Premises. However, if such are not sufficient for Tenant's use, Tenant shall be responsible for installing such lines and equipment. Landlord is not responsible for improvements to the Leased Premises, including, but not limited to, installation of electronic equipment, office furnishing, book shelves and such.

SECTION 36. Except for Hazardous Materials brought, kept, or used in the Leased Premises in commercial quantities similar to those quantities usually kept on similar premises by others in the same business, and which are used and kept in compliance with applicable public health, safety, and environmental laws, Tenant shall not allow any Hazardous Material to be located in, on, or under the Leased Premises or allow the Leased Premises to be used for the manufacturing, handling, storage, distribution, or disposal of any Hazardous Material. Tenant shall comply with all federal, state, or local laws, ordinances, regulations, and orders applicable to the Leased Premises or the use thereof relating to environmental protection, or the use, analysis, generation, manufacture, storage, disposal, or transportation of any Hazardous Material. Tenant shall, at its sole cost and expense, arrange for

the removal and disposal of all Hazardous Materials generated or stored in the Leased Premises, which removal and disposal shall comply with all applicable federal, state, and local laws, rules, regulations, ordinances, and orders. If Tenant becomes aware of the presence of any Hazardous Material in the Leased Premises (except for those Hazardous Materials permitted above) or if Tenant or the Leased Premises become subject to any order to repair, close, or otherwise cleanup the Leased Premises, Tenant shall, at its own cost and expense, carry out and complete any repair, closure, or other cleanup of the Leased Premises. If Tenant fails to implement and diligently pursue any such repair, closure, or other cleanup, Landlord may, but shall not be obligated to, carry out such action and recover all of the costs and expenses from Tenant. As used herein, the term "Hazardous Materials" means any hazardous or toxic substance, material, or waste regulated or listed pursuant to any federal, state, or local environmental law, including without limitation, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Comprehensive Environmental Response Compensation and Liability Act, the Resource Conservation and Recovery Act, the Federal Insecticide, Fungicide, Rodenticide Act, the Safe Drinking Water Act, and the Occupational Safety and Health Act, or any other toxic substance.

SECTION 37.

37.1. If any term or provision of this Lease is declared invalid or unenforceable, the remainder of this Lease shall not be affected by such determination and shall continue to be valid and enforceable.

37.2. The parties executing this Lease warrant that this Lease is being executed with full corporate authority and that the officers whose signatures appear hereon are duly authorized and empowered to make and execute this Lease in the name of the corporation by appropriate and legal resolution.

37.3. 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.

37.4. This written Lease constitutes the entire and complete agreement between the parties hereto and supersedes any prior oral or written agreements between the parties with respect to the Leased Premises. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions herein set forth, and that no modification of this Lease and no waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the parties hereto.

37.5. This Lease may be executed in one or more counterparts, each of which shall be an original, and all of which when taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed this Lease 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 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 13th day of September, 2022.

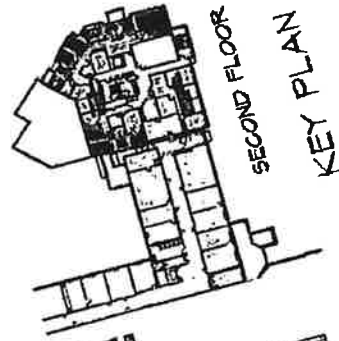
PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

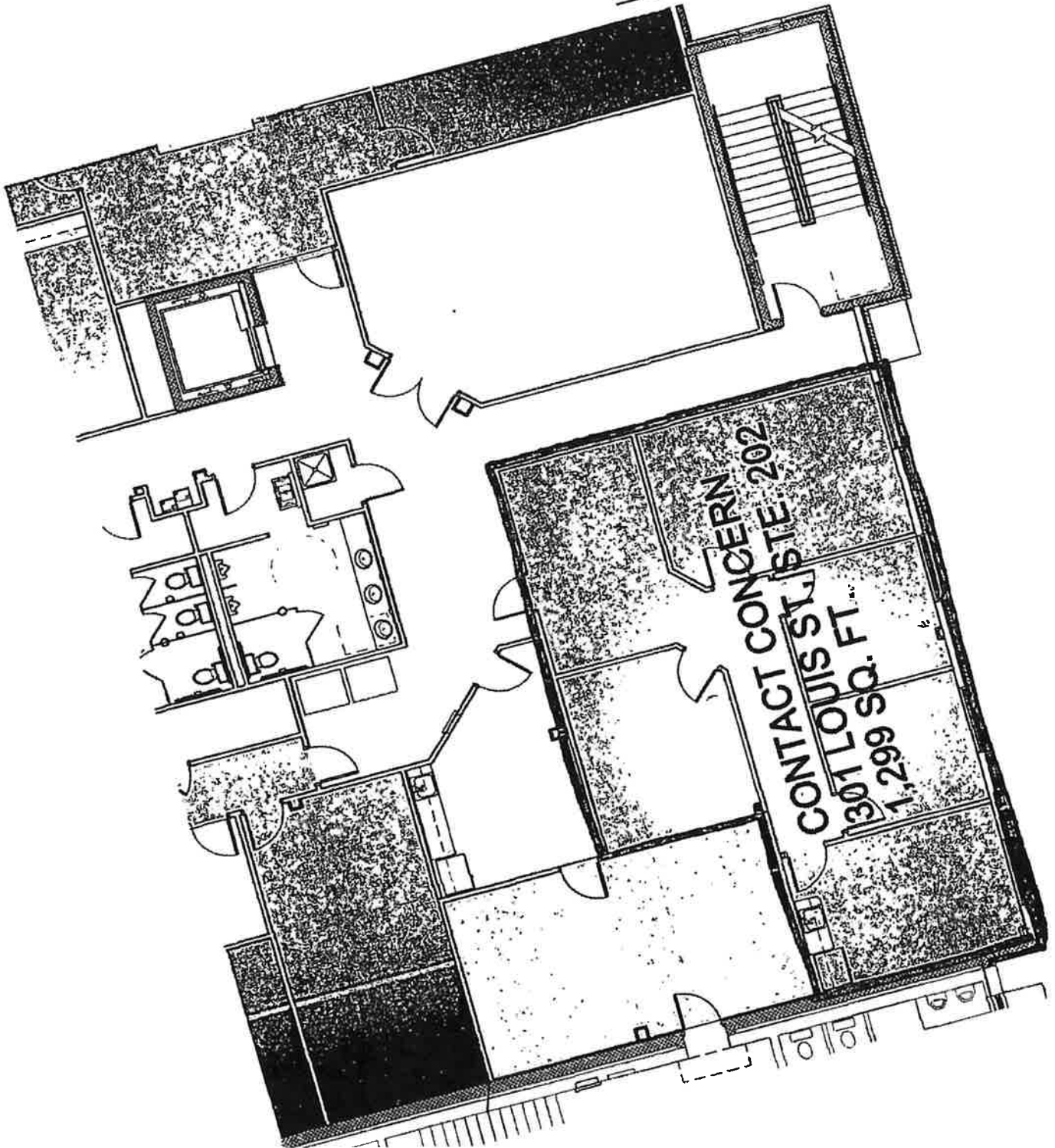
APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



SECOND FLOOR

KEY PLAN



CONTACT CONCERN
1301 LOUIS ST. STE. 202
1,299 SQ. FT.



AGENDA ACTION FORM

A Resolution Approving a Stormwater Annual Compliance Report for TDEC

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

Action Form No.: AF-281-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Amanda McMullen
 Presentation By: R. McReynolds

Recommendation:

Approve the resolution.

Executive Summary:

Kingsport's stormwater permit requires that the municipal separate storm sewer system (MS4) submit an annual report, signed by the Mayor, to the Tennessee Department of Environment and Conservation (TDEC) by September 30 of each calendar year that covers the previous compliance year.

A requirement states that prior to submitting the report to TDEC, the MS4 must publicly present the annual report for suggestions and comment. The annual report will be posted to the city's website on September 12, 2022 at <https://kingsporttn.gov/wp-content/uploads/2022/09/Public-Review-Copy.pdf> where the public is invited to submit questions and comments regarding the City of Kingsport's 2022 MS4 Annual Report.

Attachments:

1. Resolution
2. Permit Requirements/Activities
3. Proposed Annual Report

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: *aw*

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A
STORMWATER ANNUAL COMPLIANCE REPORT REQUIRED
BY THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND
CONSERVATION

WHEREAS, the storm water permit the city has from the Tennessee Department of Environment and Conservation requires that the city submit on behalf of its municipal separate storm sewer system an annual report; and

WHEREAS, a public notice to receive suggestions and comments must be issued prior to the adoption of the annual report; and

WHEREAS, on September 12, 2022, the annual report was posted to the city's website at <https://kingsporttn.gov/wp-content/uploads/2022/09/Public-Review-Copy.pdf> where the public is invited to submit questions and comments; and

WHEREAS, a public meeting was held by the board of mayor and alderman on the 13th day of September, 2022.

Now, therefore,

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

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized and directed to execute, in a form approved by the city attorney, the Stormwater Annual Compliance Report required by the Tennessee Department of Environment and Conservation.

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 13th day of September of August, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY, CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



Tennessee Department of Environment and Conservation
Division of Water Resources
William R. Snodgrass Tennessee Tower,
312 Rosa L. Parks Avenue, 11th Floor, Nashville, Tennessee 37243
1-888-891-8332 (TDEC)

Phase II Small Municipal Separate Storm Sewer System (MS4) Annual Report

1. MS4 Information

Name of MS4: City of Kingsport		MS4 Permit Number: TNS075388
Contact Person: Amanda McMullen		Email Address: AmandaMcMullen@kingsporttn.gov
Telephone: (423) 229-9325		MS4 Program Web Address: https://www.kingsporttn.gov/water-services/stormwater/
Mailing Address: 1113 Konnarock Road		
City: Kingsport	State: TN	ZIP code: 37664

What is the current population of your MS4? 55,582

What is the reporting period for this annual report? July 1 2021 to June 30 2022

2. Discharges to Waterbodies with Unavailable Parameters or Exceptional Tennessee Waters (Section 3.1)

- A. Does your MS4 discharge into waters with unavailable parameters (previously referred to as impaired) for pathogens, nutrients, siltation or other parameters related to stormwater runoff from urbanized areas as listed on TN's most current 303(d) list and/or according to the on-line state GIS mapping tool (tdeconline.tn.gov/dwr/)? If yes, attach a list. ☒ Yes ☐ No
- B. Are there established and approved TMDLs (<http://www.tn.gov/environment/article/wrws-tennessees-total-maximum-daily-load-tmdl-program>) with waste load allocations for MS4 discharges in your jurisdiction? If yes, attach a list. ☒ Yes ☐ No
- C. Does your MS4 discharge to any Exceptional Tennessee Waters (ETWs - http://environment-online.tn.gov:8080/pls/enf_reports/f?p=9034:34304:4880790061142)? If yes, attach a list. ☐ Yes ☒ No
- D. Are you implementing specific Best Management Practices (BMPs) to control pollutant discharges to waterbodies with unavailable parameters or ETWs? If yes, describe the specific practices: Monthly inspection frequency requirement, special pollutant abatement plans for pollutant hot spots, detailed review and approval of stormwater pollution prevention plans, riparian buffer tree planting, bioretention islands, buffer property deed restrictions. ☒ Yes ☐ No

3. Public Education/Outreach and Involvement/Participation (Sections 4.2.1 and 4.2.2)

- A. Have you developed a Public Information and Education plan (PIE)? ☒ Yes ☐ No
- B. Is your public education program targeting specific pollutants and sources, such as Hot Spots? If yes, describe the specific pollutants and/or sources targeted by your public education program: MS4 and construction site runoff, illicit discharges including septage, sediment, oil and grease, applicators of pesticides, herbicides, and fertilizer, vehicle related fluids and illegal dumping. ☒ Yes ☐ No
- C. Do you have a webpage dedicated to your stormwater program? If yes, provide a link/URL: <https://www.kingsporttn.gov/water-services/stormwater/> ☒ Yes ☐ No

Phase II Small Municipal Separate Storm Sewer System (MS4) Annual Report

- D. Summarize how you advertise and publicize your public education, outreach, involvement and participation opportunities: Website, Facebook, public notices, billboards, newspaper articles, TNSA, and distribution of materials.
- E. Summarize the public education, outreach, involvement and participation activities you completed during this reporting period: 4th Annual Storm Drain Art Contest; Stream Cleanups; Stormy visits. Distribution of activity booklets to 4th graders; Rain Barrel Distribution; Tree seedling distribution
- F. Summarize any specific successful outcome(s) (e.g., citizen involvement, pollutant reduction, water quality improvement, etc.) fully or partially attributable to your public education and participation program during this reporting period: Educating children about stormwater, 40 more residents utilizing rainbarrels, Trees being planted on residential properties; Education of general public thru storm drain art; Volunteers cleaning up litter along streams.

4. Illicit Discharge Detection and Elimination (Section 4.2.3)

- A. Have you developed and do you continue to update a storm sewer system map that shows the location of system outfalls where the municipal storm sewer system discharges into waters of the state or conveyances owned or operated by another MS4? ☒ Yes ☐ No
- B. If yes, does the map include inputs into the storm sewer collection system, such as the inlets, catch basins, drop structures or other defined contributing points to the sewershed of that outfall, and general direction of stormwater flow? ☒ Yes ☐ No
- C. How many outfalls have you identified in your storm sewer system? 919
- D. Do you have an ordinance, or other regulatory mechanism, that prohibits non-stormwater discharges into your storm sewer system? ☒ Yes ☐ No
- E. Have you implemented a plan to detect, identify and eliminate non-stormwater discharges, including illegal disposal, throughout the storm sewer system? If yes, provide a summary: Education of the public and targeted employees. Implementing standard operating procedures for municipal operations. Complaint tracking, site plan review, and inspections. ☒ Yes ☐ No
- F. How many illicit discharge related complaints were received this reporting period? 4
- G. How many illicit discharge investigations were performed this reporting period? 4
- H. Of those investigations performed, how many resulted in valid illicit discharges that were addressed and/or eliminated? 4

5. Construction Site Stormwater Runoff Pollutant Control (Section 4.2.4)

- A. Do you have an ordinance or other regulatory mechanism requiring:
- Construction site operators to implement appropriate erosion prevention and sediment control BMPs consistent with those described in the TDEC EPSC Handbook? ☒ Yes ☐ No
- Construction site operators to control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste? ☒ Yes ☐ No
- Design storm and special conditions for unavailable parameters waters or Exceptional Tennessee Waters consistent with those of the current Tennessee Construction General Permit (TNR100000)? ☒ Yes ☐ No

Phase II Small Municipal Separate Storm Sewer System (MS4) Annual Report

- B. Do you have specific procedures for construction site plan (including erosion prevention and sediment BMPs) review and approval? ☒ Yes ☐ No
- C. Do you have sanctions to enforce compliance? ☒ Yes ☐ No
- D. Do you hold pre-construction meetings with operators of priority construction activities and inspect priority construction sites at least monthly? ☒ Yes ☐ No
- E. How many construction sites disturbing at least one acre or greater were active in your jurisdiction this reporting period? 31
- F. How many active priority and non-priority construction sites were inspected this reporting period? 31
- G. How many construction related complaints were received this reporting period? 7

6. Permanent Stormwater Management at New Development and Redevelopment Projects (Section 4.2.5)

- A. Do you have a regulatory mechanism (e.g. ordinance) requiring permanent stormwater pollutant removal for development and redevelopment projects? If no, have you submitted an Implementation Plan to the Division? ☒ Yes ☐ No
☐ Yes ☐ No
- B. Do you have an ordinance or other regulatory mechanism requiring:
Site plan review and approval of new and re-development projects? ☒ Yes ☐ No
A process to ensure stormwater control measures (SCMs) are properly installed and maintained? ☒ Yes ☐ No
Permanent water quality riparian buffers? If yes, specify requirements: Refer to Ordinance Section 38-169(d) and Chapter 6 of the Stormwater Management Manual. ☒ Yes ☐ No
- C. What is the threshold for development and redevelopment project plans plan review (e.g., all projects, projects disturbing greater than one acre, etc.)? All projects
- D. How many development and redevelopment project plans were reviewed for this reporting period? 28
- E. How many development and redevelopment project plans were approved? 22
- F. How many permanent stormwater related complaints were received this reporting period? 1
- G. How many enforcement actions were taken to address improper installation or maintenance? 1
- H. Do you have a system to inventory and track the status of all public and private SCMs installed on development and redevelopment projects? ☒ Yes ☐ No
- I. Does your program include an off-site stormwater mitigation or payment into public stormwater fund? If yes, specify. ☐ Yes ☒ No

7. Stormwater Management for Municipal Operations (Section 4.2.6)

- A. As applicable, have stormwater related operation and maintenance plans that include information related to maintenance activities, schedules and the proper disposal of waste from structural and non-structural stormwater controls been developed and implemented at the following municipal operations:
- Streets, roads, highways? ☒ Yes ☐ No
- Municipal parking lots? ☒ Yes ☐ No
- Maintenance and storage yards? ☒ Yes ☐ No
- Fleet or maintenance shops with outdoor storage areas? ☒ Yes ☐ No

Phase II Small Municipal Separate Storm Sewer System (MS4) Annual Report

- | | | |
|---|---|--|
| Salt and storage locations? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Snow disposal areas? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Waste disposal, storage, and transfer stations? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| B. Do you have a training program for employees responsible for municipal operations at facilities within the jurisdiction that handle, generate and/or store materials which constitute a potential pollutant of concern for MS4s? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If yes, are new applicable employees trained within six months, and existing applicable employees trained and/or retrained within the permit term? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

8. Reviewing and Updating Stormwater Management Programs (Section 4.4)

- A. Describe any revisions to your program implemented during this reporting period including but not limited to:
- Modifications or replacement of an ineffective activity/control measure. N/A
- Changes to the program as required by the division to satisfy permit requirements. N/A
- Information (e.g. additional acreage, outfalls, BMPs) on newly annexed areas and any resulting updates to your program. No newly annexed areas
- B. In preparation for this annual report, have you performed an overall assessment of your stormwater management program effectiveness? If yes, summarize the assessment results, and any modifications and improvements scheduled to be implemented in the next reporting period. Stormwater Management Plan available upon request
- ☐ Yes ☒ No

Phase II Small Municipal Separate Storm Sewer System (MS4) Annual Report

9. Enforcement Response Plan (Section 4.5)

- A. Have you implemented an enforcement response plan that includes progressive enforcement actions to address non-compliance, and allows the maximum penalties specified in TCA 68-221-1106? If no, explain. _____ ☒ Yes ☐ No
- B. As applicable, identify which of the following types of enforcement actions (or their equivalent) were used during this reporting period; indicate the number of actions, the minimum measure (e.g., construction, illicit discharge, permanent stormwater management), and note those for which you do not have authority:

<u>Action</u>	<u>Construction</u>	<u>Permanent Stormwater</u>	<u>Illicit Discharge</u>	<u>In Your ERP?</u>	
Verbal warnings	#13	#_____	#4	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Written notices	#19	#15	#_____	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Citations with administrative penalties	#1	#_____	#_____	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Stop work orders	#1	#_____	#_____	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Withholding of plan approvals or other authorizations	#_____	#_____	#_____	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Additional Measures	#_____	#_____	#_____	Describe: _____	

- C. Do you track instances of non-compliance and related enforcement documentation? ☒ Yes ☐ No
- D. What were the most common types of non-compliance instances documented during this reporting period?
Inadequate EPSC installation and maintenance

10. Monitoring, Recordkeeping and reporting (Section 5)

- A. Summarize any analytical monitoring activities (e.g., planning, collection, evaluation of results) performed during this reporting period. None.
- B. Summarize any non-analytical monitoring activities (e.g., planning, collection, evaluation of results) performed during this reporting period. None.
- C. If applicable, are monitoring records for activities performed during this reporting period submitted with this report. ☐ Yes ☒ No

11. Certification

Phase II Small Municipal Separate Storm Sewer System (MS4) Annual Report

This report must be signed by a ranking elected official or by a duly authorized representative of that person. See signatory requirements in sub-part 6.7.2 of the permit.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Patrick W. Shull, Mayor

Printed Name and Title

Signature

Date

Annual reports must be submitted by September 30 of each calendar year (Section 5.4) to the appropriate Environmental Field Office (EFO), identified in the table below:

EFO	Street Address	City	Zip Code	Telephone
Chattanooga	1301 Riverfront Pkwy, Suite 206	Chattanooga	37402	(423) 634-5745
Columbia	1421 Hampshire Pike	Columbia	38401	(931) 380-3371
Cookeville	1221 South Willow Ave.	Cookeville	38506	(931) 520-6688
Jackson	1625 Hollywood Drive	Jackson	38305	(731) 512-1300
Johnson City	2305 Silverdale Road	Johnson City	37601	(423) 854-5400
Knoxville	3711 Middlebrook Pike	Knoxville	37921	(865) 594-6035
Memphis	8383 Wolf Lake Drive	Bartlett	38133	(901) 371-3000
Nashville	711 R S Gass Boulevard	Nashville	37216	(615) 687-7000

2A. LIST

ID305B	WATER_NAME	LOCATION	WATER_TYPE	WATER_SIZE	CAUSE_NAME	TMDL_PRIORITY	POTENTIAL_SOURCE_NAME
TN06010102001_0100	Madd Branch	Sullivan County	RIVER	2.7	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102001_0100	Madd Branch	Sullivan County	RIVER	2.7	PHYSICAL SUBSTRATE HABITAT ALTERATIONS	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102001_1000	South Fork Holston River	Sullivan County	RIVER	5.5	PHOSPHORUS, TOTAL	Low	MUNICIPAL POINT SOURCE DISCHARGES
TN06010102001_1000	South Fork Holston River	Sullivan County	RIVER	5.5	PHOSPHORUS, TOTAL	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102003_0600	Little Horse Creek	Sullivan County	RIVER	6.46	ALTERATION IN STREAM-SIDE OR LITTORAL VEGETATIVE COVERS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102003_0600	Little Horse Creek	Sullivan County	RIVER	6.46	SEDIMENTATION/ SILTATION	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102003_1000	Horse Creek	Sullivan County	RIVER	3.1	ALTERATION IN STREAM-SIDE OR LITTORAL VEGETATIVE COVERS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102006T_0100	Gammon Creek	Sullivan County	RIVER	3.8	NITRATE/NITRITE (NITRITE + NITRATE AS N)	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102006T_0100	Gammon Creek	Sullivan County	RIVER	3.8	ALTERATION IN STREAM-SIDE OR LITTORAL VEGETATIVE COVERS	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102006T_0200	Wagner Creek	Sullivan County	RIVER	5.5	SEDIMENTATION/ SILTATION	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102045_2000	Fall Creek	Sullivan County	RIVER	15.72	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN06010102046_0100	Tranbarger Branch	Sullivan County	RIVER	1.4	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)

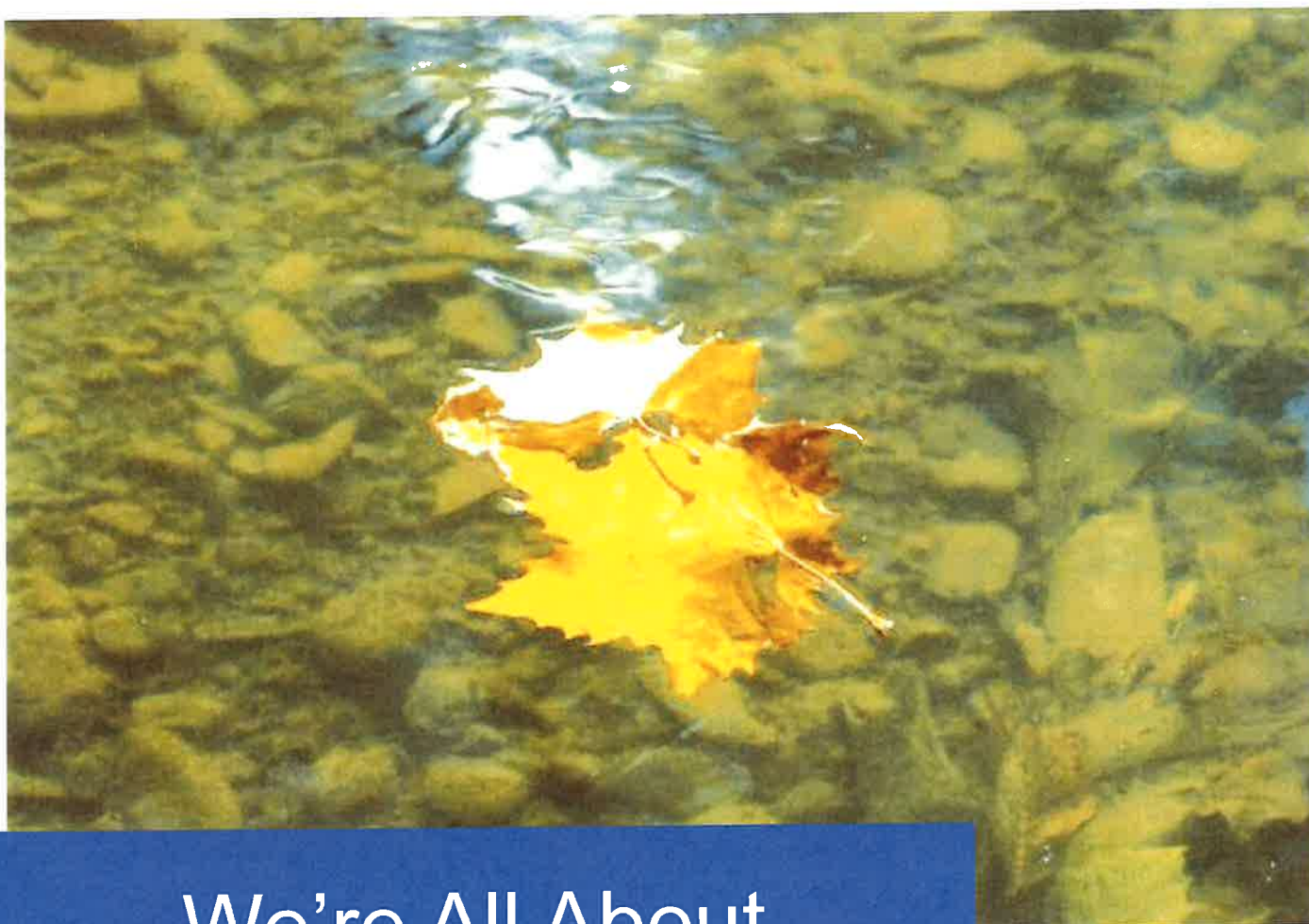
TN0601010204 6_0100	Tranbarger Branch	Sullivan County	RIVER	1.4	OTHER ANTHROPOGENIC SUBSTRATE ALTERATIONS	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0200	Gravelly Branch	Sullivan County	RIVER	4.9	ALTERATION IN STREAM-SIDE OR LITTORAL VEGETATIVE COVERS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0200	Gravelly Branch	Sullivan County	RIVER	4.9	NITRATE/NITRITE (NITRITE + NITRATE AS N)	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0400	Miller Branch	Sullivan County	RIVER	2.15	SEDIMENTATION/ SILTATION	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0400	Miller Branch	Sullivan County	RIVER	2.15	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0500	Unnamed Trib to Reedy Creek	Sullivan County	RIVER	1.8	PHYSICAL SUBSTRATE HABITAT ALTERATIONS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0500	Unnamed Trib to Reedy Creek	Sullivan County	RIVER	1.8	OTHER ANTHROPOGENIC SUBSTRATE ALTERATIONS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0500	Unnamed Trib to Reedy Creek	Sullivan County	RIVER	1.8	SEDIMENTATION/ SILTATION	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0500	Unnamed Trib to Reedy Creek	Sullivan County	RIVER	1.8	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0600	Unnamed Trib to Reedy Creek	Sullivan County	RIVER	3.88	SEDIMENTATION/ SILTATION	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0600	Unnamed Trib to Reedy Creek	Sullivan County	RIVER	3.88	ALTERATION IN STREAM-SIDE OR LITTORAL VEGETATIVE COVERS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0600	Unnamed Trib to Reedy Creek	Sullivan County	RIVER	3.88	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0700	Clark Branch	Sullivan County	RIVER	3.75	SEDIMENTATION/ SILTATION	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0700	Clark Branch	Sullivan County	RIVER	3.75	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)

TN0601010204 6_0800	Gaines Branch	Sullivan County	RIVER	2.7	SEDIMENTATION/ SILTATION	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0800	Gaines Branch	Sullivan County	RIVER	2.7	ALTERATION IN STREAM-SIDE OR LITTORAL VEGETATIVE COVERS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_0800	Gaines Branch	Sullivan County	RIVER	2.7	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_1000	Reedy Creek	Sullivan County	RIVER	5.42	SEDIMENTATION/ SILTATION	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_1000	Reedy Creek	Sullivan County	RIVER	5.42	OTHER ANTHROPOGENIC SUBSTRATE ALTERATIONS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_1000	Reedy Creek	Sullivan County	RIVER	5.42	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010204 6_2000	Reedy Creek	Sullivan County	RIVER	7.99	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010205 7_1000	Kendrick Creek	Sullivan County	RIVER	4.8	ALTERATION IN STREAM-SIDE OR LITTORAL VEGETATIVE COVERS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010205 7_1000	Kendrick Creek	Washin gton County	RIVER	4.8	ALTERATION IN STREAM-SIDE OR LITTORAL VEGETATIVE COVERS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010205 7_1000	Kendrick Creek	Sullivan County	RIVER	4.8	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010205 7_1000	Kendrick Creek	Washin gton County	RIVER	4.8	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010272 9_1000	Rock Springs Branch	Sullivan County	RIVER	6.6	ALTERATION IN STREAM-SIDE OR LITTORAL VEGETATIVE COVERS	Low	MUNICIPAL (URBANIZED HIGH DENSITY AREA)
TN0601010272 9_1000	Rock Springs Branch	Sullivan County	RIVER	6.6	ESCHERICHIA COLI (E. COLI)	NA	MUNICIPAL (URBANIZED HIGH DENSITY AREA)

2B. LIST

Hydrologic Unit Code	Watershed Name	Pollutant Parameter	Year of EPA Approval
06010102	South Fork Holston River	E coli	2017
06010102	South Fork Holston River	chlordanes, PCBs	2007
06010102	South Fork Holston River	E coli	2006
06010102	South Fork Holston River	siltation, habitat alteration	2006

Showing 1 to 4 of 4 entries



We're All About
CLEAN Water



2022 MS4 Annual Report

STORMWATER MANAGEMENT

Solutions. Accomplishments. CLEAN Water

City of Kingsport Stormwater Utility

HISTORY In November 2011, the Stormwater Management Utility was established, as required by The Federal Clean Water Act for cities with more than 10,000 residents, to implement a stormwater program to control and monitor polluted stormwater runoff.

PURPOSE To address stormwater pollution and flooding issues, allowing the City to reduce runoff contaminants, while prioritizing and initiating flood mitigation projects.

The utility is responsible for the operation, construction, maintenance, and rehabilitation of stormwater facilities; for stormwater system planning, property acquisition related to stormwater management, and for review of stormwater development plans for compliance with federal and state regulations, stormwater management ordinances, policies, procedures and manuals.

GOALS Comprehensively examine flooding and stormwater issues in the community;

As a Tennessee Department of Environment and Conservation qualified local program, allow the development community greater flexibility and timeliness in determining how best to meet federal mandates;

Adequately fund stormwater management needs at the lowest possible cost by proactive action;

Reduce flooding;

Improve stream habitat, conditions and water quality. Work toward de-listing of impaired streams within the City limits.



ACTIVITIES / ACCOMPLISHMENTS

In accordance with the City's MS4 NPDES permit, the Stormwater Division must file this report with the Tennessee Department of Environment and Conservation (TDEC) to document the activities completed in the past fiscal year. The activities noted are within the required program areas of the MS4 permit. The City's permit compliance activities are subject to periodic audits by TDEC.

Many activities have been completed that go beyond the requirements of the NPDES permit. This report provides opportunity for activity updates:

- In September 2021 the Stormwater Division held its fourth annual Storm Drain Art Contest. Five storm drains were enhanced with public art, done by local amateur artists, with the purpose being environmental education. The contest, its progress, and the final artworks were publicized in the newspaper and Facebook.

ACTIVITIES / ACCOMPLISHMENTS (continued)

- In April 2022 the Stormwater Division constructed and distributed 40 rain barrels to local residents, with all proceeds going to Keep Kingsport Beautiful. When used, these will catch stormwater runoff and utilize it for lawns and gardens.
- In January 2022 the Stormwater Division distributed stormwater activity booklets to 560 4th graders within Kingsport City Schools.
- In March/April 2022 the Stormwater Division distributed 800 tree seedlings to local residents. As these seedlings grow, they will reduce stormwater runoff from residents' yards.
- Between July 1, 2021 and June 30, 2022 the Stormwater Division sponsored two stream clean-ups. Madd Branch was done in the Fall of 2021 and Miller Branch was done in the Spring of 2022. Volunteers collected litter and dumped items from in and around the creeks.
- During Spring 2022 a Stormwater Division's staff member performed litter removal on sections of Reedy Creek via kayak, which totaled 31 bags of trash.
- In Fall 2021, the Stormwater Division contracted a biologist to plant a riparian buffer (including 60 trees) and establish a no-mow zone along Horse Creek at Eastman Park.
- In May 2021, Stormy the raindrop appeared at Publics Work Day, and along with a Stormwater staff member, helped distribute educational materials to attendees.
- In June 2022, Stormy the raindrop visited the Summer Program at V.O. Dobbins and also at Lynnview Community Center. A Stormwater staff member gave a short talk to children about Stormwater issues.
- In Spring 2022 the Stormwater Division began inspecting Stormwater Control Measures (SCMs), including all private storage basins and water quality units. These facility inspections are documented in the Cartegraph database.
- The City of Kingsport continues to encourage re-development and awards Water Quality credit for reduction of impervious surface. An example is the Eastman Credit Union on Clinchfield Street, completed in Summer 2022.
- Barge Design Solutions, Inc. continues to inventory all remaining stormwater infrastructure into the GIS system. This includes a surveyed location and condition assessment.
- The 'ConnectKingsport' cell phone app continues to provide citizens with the ability for real time input of drainage issues and concerns. This app gives citizens a means to notify City staff of drainage problems such as clogged drains and pipes, illicit discharges, and construction site issues.
- 'ConnectKingsport' requests, as well as any subsequent repair work by City staff, is documented within the Cartegraph asset management system. Cartegraph data allow City leaders to optimize decision making processes and increase level of service to citizens.
- Continuing inspections of certain 'hot spots' before and after significant storm events are managed via the Cartegraph asset management system. Crews are dispatched to inspect and clean obstructions from culverts and catch basins that are known to trap debris.
- A Stormwater staff member currently holds a Regional Chair leadership position with the Tennessee Stormwater Association (TNSA). A member of the Stormwater Division attends the TNSA annual conference.
- A Stormwater staff member currently attends monthly meetings of the Keep Kingsport Beautiful Council.

ACTIVITIES / ACCOMPLISHMENTS (continued)

Miller Branch Stream Clean-up



Stormy visits VO Dobbins



4th Annual Storm Drain Art Contest



Horse Creek tree planting



We're All About
CLEAN Water



AGENDA ACTION FORM

A Resolution Authorizing the Assignment of all Employee Benefit Policies Under one Broker of Record

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

Action Form No.: AF 283-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Mike Wessely
 Presentation By: T. Copas

Recommendation:

Approve the resolution.

Executive Summary:

A Broker of Record is an agent designated by a policyholder to represent and manage the policyholder's insurance policies. Brokers have access to a variety of insurance companies and policies and represent employers in the insurance marketplace to assist employers in selecting benefit plans. In addition, Brokers also provide periodic reviews of the employer's benefit plans in relation to cost, utilization, and market competitiveness.

Currently Mark III Brokerage is our Broker of Record for our medical, dental, vision, stop loss, and COBRA policies. To align all of our benefit policies under one umbrella, HR recommends assigning Broker of Record responsibilities for our Flexible Spending and Long Term Disability policies to Mark III and transferring Broker of Record responsibilities for our Group Life policy to Mark III.

There is no cost associated with making the Broker of Record changes. Having all benefit policies under one umbrella will expand the City of Kingsport's negotiating ability.

Attachments:

1. Resolution
2. Letters

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: *aw*

	Y	N	O
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olteman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING THE ASSIGNMENT OF ALL EMPLOYEE BENEFITS POLICIES UNDER ONE BROKER OF RECORD, MARK III, AUTHORIZING THE CHANGE AND AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, a broker of record is an agent designated by a policyholder to represent and manage the policyholder's insurance policies, and they have access to a variety of insurance companies and policies and represent employers in the insurance marketplace to assist employers in selecting benefit plans; and

WHEREAS, brokers also provide periodic reviews of the employer's benefit plans in relation to cost, utilization, and market competitiveness; and

WHEREAS, currently Mark III Brokerage is our broker of record for our medical, dental, vision, stop loss, and COBRA policies; and

WHEREAS, to align all of our benefit policies under one umbrella, the Human Resources Department recommends assigning broker of record responsibilities for our flexible spending and long term disability policies to Mark III and transferring broker of record responsibilities for our group life policy to Mark III Brokerage; and

WHEREAS, there is no cost associated with making the Broker of Record changes, and having all benefit policies under one umbrella will expand the city's negotiating ability.

Now therefore,

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

SECTION I. That the assignment of the city's flexible spending, long term disability and group life policies to Mark III Brokerage, 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, any and all agreements to assist with the assignment of the city's flexible spending, long term disability and group life policies to Mark III Brokerage, to deliver the agreements and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreements and this resolution.

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

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

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

ADOPTED this the 13th day of September.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



August 25, 2022

Flores & Associates, LLC
PO Box 31397
Charlotte, NC. 28231
Sarah Hackman, Director of Account Management
Sarah.Hackman@flores247.com

**Re: City of Kingsport
Group # 1000764400**

AGENT OF RECORD LETTER

Effective August 25, 2002, please recognize:

Mark III Brokerage, Inc.
300 W. Watauga Ave.
Johnson City, TN. 37604

As our Broker of Record and Representative on all matters relating to our **Flexible Spending Accounts for Medical and Dependent Care.**
This letter revokes all authority under any letter previously filed by us in connection with this coverage.

City of Kingsport
415 Broad Street
Kingsport, TN. 37660

Signature

Tyra Copas
Director of Human Resources

City Hall | Human Resources
415 Broad Street | Kingsport, TN 37660-4265 | P: 423-224-2520 | F: 423-224-2566
www.kingsporttn.gov



August 25, 2022

Dearborn National
Melissa Thomas
Account Manager
630-824-6626
Melissa_A_Thomas@mydearborngroup.com

Re: **City of Kingsport**
Group # MG17055

AGENT OF RECORD LETTER

Effective August 25, 2022, please recognize:

Mark III Brokerage, Inc.
300 W. Watauga Ave.
Johnson City, TN. 37604

As our Broker of Record and Representative on all matters relating to our **Group Term Life Plan**.
This letter revokes all authority under any letter previously filed by us in connection with this coverage.

City of Kingsport
415 Broad Street
Kingsport, TN. 37660

Signature

Tyra Copas
Director of Human Resources

City Hall | Human Resources
415 Broad Street | Kingsport, TN 37660-4265 | P: 423-224-2520 | F: 423-224-2566
www.kingsporttn.gov



August 25, 2022

MetLife
Anthony Guarcello
Charlotte, NC.
770-401-7461
Anthony.guarcello@metlife.com

**Re: City of Kingsport
Group # 153751-1-G**

BROKER OF RECORD LETTER

Effective August 25, 2022, please recognize:

Mark III Brokerage, Inc.
300 W. Watauga Ave.
Johnson City, TN. 37604

As our Broker of Record and Representative on all matters relating to our **Group Long Term Disability Plan.**

This letter revokes all authority under any letter previously filed by us in connection with this coverage.

City of Kingsport
415 Broad Street
Kingsport, TN. 37660

Signature

Tyra Copas
Director of Human Resources

City Hall | Human Resources
415 Broad Street | Kingsport, TN 37660-4265 | P: 423-224-2520 | F: 423-224-2566
www.kingsporttn.gov



AGENDA ACTION FORM

A Resolution to Authorize the Addition of Voluntary Benefits to the City's Benefits Portfolio

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

Action Form No.: AF-266-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Mike Wessely
 Presentation By: T. Copas

Recommendation:

Approve the resolution.
 Approve the resolution.

Executive Summary:

To enhance the City's employee benefits package, HR is requesting to add the following voluntary benefits: Accident, Critical Illness, Universal Life-Long Term Care.

The addition of these benefit offerings aligns the City's benefit package with other employers in the geographical area. It also provides our employees the opportunity to purchase these benefits at group rates which is cheaper than purchasing as an individual.

Attachments:

1. Resolution
2. Resolution

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: *aw*

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

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

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH TRUSTMARK FOR EMPLOYEE PAID ACCIDENT INSURANCE AND UNIVERSAL LIFE INSURANCE AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT OR THIS RESOLUTION

WHEREAS, the city would like to make available to eligible full-time employees working under the authority of the board of mayor and aldermen an optional benefit of accident insurance and universal life insurance paid fully by the participating employees; and

WHEREAS, Trustmark has offered insurance to the city for the purpose stated above; and

WHEREAS, the insurance plans are fully funded by the employees; and

WHEREAS, this will provide our employees the opportunity to purchase these benefits at group rates which is cheaper than purchasing as an individual.

Now therefore,

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

SECTION I. That an agreement with Trustmark as a provider of accident insurance and universal life insurance, that is fully paid by participating eligible employees 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, an agreement and all documents necessary and proper to enter into the employee paid accident insurance and universal life insurance through Trustmark and to effectuate the purpose of the agreement or this resolution.

SECTION III. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the 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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH THE STANDARD FOR EMPLOYEE PAID CRITICAL ILLNESS INSURANCE AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT OR THIS RESOLUTION

WHEREAS, the city would like to make available to eligible full-time employees working under the authority of the board of mayor and aldermen an optional benefit of critical illness insurance paid fully by the participating employees; and

WHEREAS, The Standard has offered insurance to the city for the purpose stated above; and

WHEREAS, the insurance plans are fully funded by the employees; and

WHEREAS, this will provide our employees the opportunity to purchase these benefits at group rates which is cheaper than purchasing as an individual.

Now therefore,

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

SECTION I. That an agreement with The Standard as a provider of critical illness insurance, that is fully paid by participating eligible employees 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, an agreement and all documents necessary and proper to enter into the employee paid critical illness insurance through The Standard, and to effectuate the purpose of the agreement or this resolution.

SECTION III. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the 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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



AGENDA ACTION FORM

A Resolution Authorizing Vacation Roll Over Exception for Calendar Year 2022

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

Action Form No.: AF-267-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Tyra Copas
 Presentation By: T. Copas

Recommendation:

Approve the resolution.

Executive Summary:

The Vacation Leave Policy (Policy #14), allows employees to carry over 80 hours, or 144 hours for those working 24-hour shifts, of the previous year's accrued but unused vacation. Employees with greater than 80 hours, or 144 hours for those working 24-hour shifts, as of January 1, 2023, will forfeit the vacation hours.

The City has experienced a higher than usual number of vacancies in 2022 and as a result, employees have been asked to work additional time to cover the workload which reduced their ability to use their vacation time.

By approving this resolution, you are granting a one-time exception to the vacation policy to allow employees to roll over an additional week of vacation into the 2023 calendar year. The additional week carried over would need to be used by the end of December 2023.

Vacation time is already part of the FY23 budget; therefore, there is no impact on the budget for this exception.

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: *aw*

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

RESOLUTION NO. _____

A RESOLUTION AMENDING RESOLUTION NO. 2021-023, VACATION LEAVE POLICY FOR CITY EMPLOYEES

WHEREAS, the city adopted Vacation Leave Policy Resolution No. 2021-023, effective July 21, 2020; and

WHEREAS, the city would like to amend the Vacation Leave Policy to conform the language of the policy with the city's custom and practice for carrying unused vacation leave over to the subsequent calendar year and to allow the city manager discretion in the administration of the Vacation Leave Policy in calendar years 2022 and 2023 only.

Now, therefore,

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

SECTION I. That Section I of Resolution No. 2021-023 adopting a Vacation Leave Policy is amended as follows:

POLICY

Vacation leave is available for all board approved regular full-time employees

Vacation leave accrues on a monthly basis from January 1 through December 31 of each calendar year. The amount of paid vacation leave an employee accrues each month is based upon designated accrual rates and months of service as follows:

Board Approved Regular Full-Time

Vacation accrual rates: Service Time

1 month* through 60 months of service:	6.67 hours per month (80 hours maximum per year)
61 through 156 months of service:	10 hours per month (120 hours maximum per year)
157 through 336 months of service:	13.33 hours per month (160 hours maximum per year)
337 months or more of service:	16.67 hours per month (200 hours maximum per year)

**For the purpose of computing vacation leave, accrual for the full month will be granted if the employee's hire date is on or before the 15th day of the month. For employees with a hire date on or after the 16th of the month there will be no accrual of vacation for that month.*

Vacation leave accrues only for employees while serving in board approved regular full-time positions. Accruals are based on continuous service with the city, which includes approved leave. Effective January 1, 2017, and prospectively, except as set out herein below, all prior service as a board approved full-time employee, working under the city manager, will be used in determining service time for vacation accrual rates only, except as otherwise required by law. This policy does not apply to employees who have received credit for previous service in determining accrual of vacation.

Employees who work 24 hour shifts will be given vacation leave in blocks of three (3) scheduled work shifts extending from scheduled four (4) days off to the next scheduled four (4) days off. Vacation leave may be taken as one (1), two (2), three (3), four (4), or five (5) blocks according to accrued time and as approved by the department head or designee.

Vacation leave is accrued at the end of each month and is available for use, in accordance with the requirements contained in this policy, in the month/months following such accrual.

Beginning on January 1 of each calendar year, an employee's vacation leave will not exceed the vacation leave accrued but unused in the previous year, and a maximum of 80 hours vacation leave accrued but unused from previous calendar years.* However, for those employees who work 24 hour shifts vacation leave will not exceed the vacation leave accrued but unused in the previous year, and a maximum of 144 hours vacation leave accrued but unused from previous calendar years. Any unused vacation leave beyond the annual designated accrual plus 80 hours, or 144 hours for those employees who work 24 hour shifts, will be forfeited.

The city manager shall have discretion in the administration of this policy to alter or amend the policy so as to permit an additional 40 hours of vacation accrued but unused in 2022, or 72 hours for those employees who work 24 hour shifts, to be used by December 30, 2023, and if not used then forfeited

at the end of that time. The city does not provide vacation pay for forfeited vacation leave. Once forfeited, such vacation leave is no longer accrued and is removed from the official record.

**By way of explanation, it is the intent of this policy that employees may carry over the previous year's accrued but unused vacation leave plus up to an additional eighty (80) hours, or 144 hours for those employees who work 24 hour shifts, of vacation leave. Eligible employees may request to use vacation leave upon its accrual.*

All vacation leave must be approved in advance by the employee's department head or designee. Although vacation leave may "accrue" it may not be used until the employee's request to use the vacation leave is approved by the department head or designee.

Each department head or designee will schedule vacation leave with particular regard to departmental work requirements. Vacation leave may not be taken before being accrued. Department heads or designees will, to the extent possible, schedule vacation leave for each of their employees at the beginning of the calendar year. When the need arises and the requirements of the city demand it, vacation leave may be suspended by the department head or designee temporarily to meet those needs. Additionally, a department head or designee may require an employee take vacation leave when the department head or designee determines it in the best interest of the city.

Official holidays occurring during vacation leave will be counted as holiday leave, not as vacation leave.

Vacation leave does not accrue for overtime hours.

Vacation leave does not accrue and cannot be used while an employee is placed on suspension, pursuant to the city's corrective action policy.

An employee, who in the normal scope of their job handles city monies, is required to take one (1) contiguous work week of vacation leave during the calendar year.

An employee whose employment with the city is terminated (voluntarily or involuntarily – including retirement) may receive pay for any vacation leave which has accrued but is unused up to the date of termination. Provided, however, an employee whose employment is terminated, voluntarily or involuntarily, on or before the expiration of their six month probationary period will not be eligible for and will not receive any pay for vacation leave.

The city payroll office will keep the official records of vacation leave accrual and use. If a reporting error is discovered in the official records, a correction of the error will be made only for the ninety (90) calendar days immediately preceding notification of such error to the Human Resources Manager.

Other Provisions

Nothing in this policy should be construed to conflict with or supersede state or federal law, or as interfering with the constitutional rights of employees. While the city is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the city and its employees. This policy supersedes all policies that conflict with the terms of this policy. Furthermore, this statement constitutes ONLY the policy of the city. A finding of a violation of this policy does not mean that the conduct violates state and/or federal laws.

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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



AGENDA ACTION FORM

Consideration of Resolutions to Amend Personnel Policies

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

Action Form No.: AF-271-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Tyra Copas
 Presentation By: T. Copas

Recommendation:

Approve the resolution.
 Approve the resolution.
 Approve the resolution.

Executive Summary:

The Human Resources Department periodically reviews city personnel policies and procedures for updating. The attached resolution amends three employment policies with slight modifications to better align with the current workforce environment, the City's structure, and Tennessee's updated employment law related to E-verify.

Attachments:

1. Resolution
2. Resolution
3. Resolution
4. Policy #25 - Employment Verification Policy
5. Policy #31 - Employment Policy
6. Policy #20 - Personal Leave Without Pay Policy

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
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Montgomery	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

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

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

RESOLUTION NO. _____

A RESOLUTION AMENDING RESOLUTION NO. 2009-176, AN EMPLOYMENT VERIFICATION POLICY FOR CITY EMPLOYEES

WHEREAS, the city adopted Employment Verification Policy Resolution No. 2009-176, effective February 18, 2009; and

WHEREAS, the city would like to amend the Employment Verification Policy to promote the efficient operation of the city.

Now, therefore,

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

SECTION I. That Section I of Resolution No. 2009-176, adopting an Employment Verification Policy is amended as follows:

Employment Verifications

All requests for employment verification shall be referred to the Human Resources Department. Response to telephone requests for employment verification shall only acknowledge employment, position, salary, and dates of employment.

Supervisors and department heads while acting in the scope and course of their employment are not authorized to give employment references to any outside person, organization, or agency. All requests for employment references and or employer verifications shall be submitted to the Human Resources Department. Any variance from this policy must be approved by the Human Resources Director, or designee.

Nothing in this policy should be construed to conflict with or supersede state or federal law to include but not limited to the city's obligation to provide information pursuant to a request to inspect or receive copies of records pursuant to the Tennessee Public Records Act. Nothing in this policy is to be construed as interfering with the constitutional rights of employees.

SECTION II. That nothing herein shall be construed to conflict with or supersede any applicable state or federal law.

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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

RESOLUTION NO. _____

A RESOLUTION AMENDING RESOLUTION NO. 2020-033,
EMPLOYMENT POLICY FOR CITY EMPLOYEES

WHEREAS, the city adopted Employment Policy Resolution No. 2020-033, effective August 20, 2019; and

WHEREAS, the city would like to amend the Employment Policy to promote the efficient operation of the city.

Now, therefore,

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

SECTION I. That Section I of Resolution No. 2020-033, adopting an Employment Policy is amended as follows:

APPOINTMENT OR REMOVAL OF OFFICERS OR EMPLOYEES

Except as otherwise provided by the Charter of the City of Kingsport, Tennessee, the City Manager shall appoint and remove all officers and employees of the city.

POSITION AUTHORIZATION

No person shall be employed in any regular, full-time or regular, part-time position which has not been authorized and funded by the board of mayor and aldermen (BMA). Positions of a temporary duration may be authorized by the City Manager, or designee (assumed throughout the remainder of this policy), without BMA approval when additional manpower is required for an emergency, efficient service delivery, or completion of capital and/or special projects.

VACANCY OF POSITIONS

The Human Resources (HR) Department shall be informed by department directors, or their designees (assumed throughout the remainder of this document), of all staffing requirements and anticipated changes in staffing within departments and divisions.

When a vacancy exists or is anticipated, the department director shall:

- Fill out a position vacancy requisition and send to the HR Department; and
- Consult with the HR Department to evaluate the vacancy and the needs of the department.

If, following the consultation, it is determined that the request to fill the vacancy should proceed, the HR Department shall obtain approval from the City Manager, prior to the advertising, posting and/or filling of the vacancy.

The City Manager may abolish or transfer a position for economic, efficiency, organizational realignment, or other reasons.

The City Manager retains the authority to suspend or freeze some or all hiring.

RECRUITMENT

The HR Department, in conjunction with the department director, shall have discretionary authority to utilize appropriate internal and external recruitment sources. This may include posting vacant postings internally and/or externally including using reasonable means of advertisement as well as posting to external job boards. In departments where hiring is ongoing, the department director will work with the HR Department to establish a talent pipeline or a continuous feeder posting.

APPLICATIONS

Applicants for positions with the City of Kingsport must complete, sign, and submit the city's designated application for employment form to be considered for employment. A resume is not a substitute for an application of employment form.

FALSE STATEMENTS

No person shall willfully make any false statement, mark, rating, report, or omit material information in regard to any application, test, certification, or appointment.

Any misrepresentation by an applicant on an application, or during the interview process, shall disqualify the applicant from consideration for employment or in immediate separation from city service regardless of when discovered.

TESTING

The HR Department shall assist department directors in the selection of methods and materials that may be needed in the assessment of a job applicant's knowledge, skills, and ability required for a job.

The HR Department shall approve all testing methods and materials. In-house testing shall be administered by a designated HR Department representative. Test security agreements shall be followed at all times.

INTERVIEWS

Submission of an application for employment does not guarantee the opportunity to interview. Interviews are by invitation only and shall be extended by the HR Department.

BACKGROUND, CREDIT, AND REFERENCE CHECKS

Background and reference checks are the responsibility of the HR Department.

Except for credit reports, authorization for background and reference checks must be granted by the applicant. Such authorization is automatically granted by the applicant's signature on the application for employment form.

For some positions, including those handling money or of a fiduciary responsibility, the city may require a credit check of personal financial records. Pursuant to the Fair Credit Reporting Act, the city shall obtain, separate from the employment application, written permission from the individual before obtaining a credit report. The city shall provide the employee or job applicant a copy of the credit report and a summary of his or her rights before taking any adverse employment action, i.e. denying an applicant a position.

OFFERS OF EMPLOYMENT

The HR Department is responsible for extending all offers of employment. An offer of employment is contingent upon the completion of satisfactory reference and background checks as well as credit checks and an employment physical, if so required.

All negotiations for pay shall be conducted by the HR Director after consultation with the hiring department director and budget director.

The HR Department is responsible for informing all applicants of the final decision pertaining to their candidacy for employment.

PROBATIONARY STATUS

As required by the City Charter, all regular full-time and part-time employees shall be on probationary status for six (6) months from the date such employee begins work. Except as otherwise provided by law, an employee who leaves city service and is re-employed by the city is considered a new employee and the probationary status applies. The probationary period shall be utilized by the department director and supervisors as an opportunity to observe the new employee's work, to train and aid the new employee in adjusting to the position, and to reject the confirmation of any employee whose performance or attendance fails to meet acceptable standards.

During the probationary period, the department director and supervisors shall evaluate the performance of the probationary employee and relate those findings to the employee on an ongoing basis. A Probationary Evaluation Form shall be prepared after two months, four months, and five months of service, reviewed with the employee, and submitted to the HR department. After the five-month evaluation meeting, the department director shall submit the probationary evaluation form for the employee to the HR Department recommending confirmation of the appointment. If the department director plans to recommend separation from employment, a Recommended Action Form (from the Corrective Action Policy) shall be prepared and sent to the HR Department and City Manager for their approval and records. Notwithstanding anything to the contrary, the city's probationary policy does not, nor is it intended to, convey property rights or constitute contractual agreements with new employees. At any time during the probationary period, a department director may recommend separation from employment of a probationary employee. A probationary employee who is separated from employment prior to or at the completion of the probationary period does not have the right to a hearing as provided by the city charter.

WORK PERIOD/WORK WEEK

Generally, the work week of the city begins at 12:00 AM on Sunday and ends at 11:59 PM the following Saturday. There are exceptions to the general work week as permitted by the Fair Labor Standards Act.

The work week for all full-time, regular employees is forty (40) hours per week. The work day generally is eight (8) hours. For shift personnel of the fire department, a work period is 648 hours in duration, consisting of twenty-seven (27) consecutive 24-hour periods, and beginning and ending according to the fire department's official schedule for each shift employee. For shift personnel of the police department, a work period is 336 hours in duration, consisting of fourteen (14) consecutive 24-hour periods, and beginning and ending according to the police department's official schedule for each shift employee.

The city does not "guarantee" work or work hours.

All employees who are non-exempt pursuant to the Fair Labor Standards Act must maintain an accurate record of daily hours worked. This record must be signed by both the employee and his/her supervisor verifying the correctness of the hours worked and leave taken. All employees who are exempt pursuant to the Fair Labor Standards Act shall report any leave time used during a workweek. Each department manager shall approve and submit an attendance and leave record for their department to the finance department (payroll) at the end of each pay period.

SCHEDULING

The scheduling of shifts and work hours may vary among departments. Each department director is responsible for recommending to the City Manager any change in hours or shifts which may be deemed necessary. Upon approval by the City Manager the department head shall submit a written notice of the change to the HR Department and the Finance Department (payroll).

The city reserves the right to establish emergency call-in lists or to designate relief personnel who shall be expected to be available, and such assignment shall be considered as a condition of employment where applicable. Refusal of an employee to report for any work during an emergency call-in or for relief may render the employee subject to corrective action up to and including termination of employment.

For safety reasons, no employee is to work beyond sixteen (16) cumulative hours in a given workday (with the exception of the Fire Department and for certain emergency situations). A minimum of eight (8) hours of off duty rest time is required before returning to work.

When it is necessary or desirable to change or adjust an employee's established work schedule, it is preferable that the changes are discussed with the employee(s) two (2) weeks prior to the change. This does not apply to emergency scheduling or relief duty.

EMPLOYEE STATUS CHANGES

Every appointment, promotion, transfer, demotion, dismissal, or other temporary or permanent change in the status of employees shall be approved by the HR Department and the City Manager. A record of such changes shall be maintained in the employee's personnel file.

Status Changes include:

Promotion – A promotion is a movement upward within the pay plan that is not temporary work in a higher capacity. Approval by the department director, the HR Department, and the City Manager is required for a promotion.

When an employee is promoted, the employee and the respective department director shall have an initial thirty work day evaluation period in which to mutually agree that the promotion shall be confirmed.

If for any reason during the evaluation period the promoted employee decides to decline the promotion, the employee may do so and return to the position vacated at the former pay.

If, during the evaluation period, the department director determines that the promoted employee cannot perform the new, increased responsibilities in an acceptable manner, the department director may return the promoted employee to the position vacated and at the former pay.

The promotion may be confirmed at any time during the evaluation period. Normally, an individual may apply for a promotion only after a minimum of twelve

(12) months from initial employment with the city or from receiving a promotion.

When it is in the interest of the city to allow an individual to apply for promotion within the twelve (12) months' time-frame, it shall be approved by the HR Department and the City Manager. Individuals may apply for promotions within

their department after successful completion of probationary period.

Temporary Work in Higher Classification - Temporary work in a higher classification is a temporary assignment that is expected to last longer than two (2) consecutive work weeks. Pay for such assignments will follow the Wage and

Salary Policy. An employee's rate of pay will not change for temporary work in a higher classification to last less than two (2) consecutive work weeks. The employee is responsible and accountable for the full range of duties during such assignment.

- Lateral Move – A lateral move is an assignment that is not temporary, from one position to another position on the same pay grade. The city shall not, under normal circumstances, consider employees for lateral moves, unless extenuating circumstances (e.g., career pathing, the city's best interest, or reasonable accommodation for a disability) are shown.

- Demotion – A demotion is permanent movement from a higher pay grade to a lower pay grade. The demoted employee's rate of pay shall follow the Wage and Salary Policy.

An employee may not be promoted, temporarily assigned to work in a higher classification, laterally moved, or demoted without consent of the department director, the HR Department, and the City Manager.

OUTSIDE EMPLOYMENT OR BUSINESS INTERESTS

Outside employment of regular full-time employees must be reported to the department director. Full-time employment by the City of Kingsport is primary and shall be the overriding consideration in all issues regarding outside employment. Outside employment or business interests of any employee shall not:

- cause a conflict of interest;
- be incompatible with the employee's position with the city;
- interfere with the satisfactory performance of the employee's duties;
- reflect discredit upon or create embarrassment for the city; or
- interfere with city work requirements, including work hours.

Department directors may make additional rules concerning outside employment that are not inconsistent with this policy.

HOLDING TWO CITY POSITIONS

Employment of a person in more than one city job is not encouraged. However, there may be times when this situation is advantageous to the city. A department director who wishes to employ a city employee in a second city job shall consult with the HR Department and the other department director. If following such consultation, it is determined that the action should proceed, both department directors requesting the action shall send a memorandum to the City Manager which sets forth the situation and requests approval for the appointment.

LIMITED SERVICE EMPLOYMENT

The city may, at its discretion, re-employ a person who is officially retired from the city when the following criteria are met:

- the retiree must be duly qualified and competent for performance of the duties of the position in which he/she is to be employed;
- there is a need for the retiree's service in such a position; and
- the employment of the retiree is advantageous to the city.

A retiree working in the capacity of limited service employment can be paid no more than the percentage of pre-retirement salary listed on the Tennessee Consolidated Retirement System (TCRS) Temporary Employment Report form for the appropriate year after retirement. During a twelve (12) month period the retiree shall not work more than one hundred twenty (120) days or the equivalent (nine hundred sixty (960) hours) dependent upon the needs of the city.

Persons officially retired from service with the city must wait sixty (60) calendar days from their effective date of retirement to be re-employed by the city unless:

- the HR Department certifies in writing to TCRS that no other qualified person is reasonably available; and
- the retiree returns to service in a position wherein the retiree renders no more than one-half the hours the retiree was scheduled to work prior to retirement.

Limited service employees are not eligible for city benefits other than those required by law and are not eligible to accrue additional retirement credit as a result of limited service employment.

EMPLOYMENT OF NON-CITIZENS

In compliance with the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA), the city shall not knowingly hire, recruit, or refer for a fee any individual who is not authorized to work in the United States. In addition, the city shall not knowingly continue to employ an undocumented worker or one who loses authorization to work; however, those hired before November 6, 1986 do not fall within this category.

All employees hired after November 6, 1986, regardless of national origin or citizenship, must provide documents that establish both identity and work authorization prior to any offer of work.

The city shall complete the USCIS Employment Eligibility Verification Form I-9 for every new employee – U.S. citizens and noncitizens. Documents proving identity and work authorization shall be in accordance with I-9 requirements.

Beginning in December 2022, the city will use e-verify to confirm the eligibility of new hires to work in the United States.

RESIDENCY REQUIREMENT

While it is the policy of the City of Kingsport to encourage all its employees to live in the City of Kingsport, the employees holding the position of City Manager, City Recorder, Deputy City Manager, City Attorney, Police Chief, Fire Chief, Public Works Director, and Assistant City Manager shall reside within the corporate limits of Kingsport within one hundred twenty (120) days after assuming the position. With the exception of the position of City Manager, the period in which the aforementioned employees shall reside within the city may be extended at the discretion of the City Manager for up to one (1) year. The City Manager shall inform the members of the BMA of any extension granted pursuant to this provision and notice of the same shall be spread upon the minutes of the next regularly scheduled meeting of the board of mayor and aldermen immediately following the granted extension. These requirements may be further modified or waived for good cause upon

recommendation of the City Manager and concurrence of the BMA. This residence requirement shall not apply to any person holding any of the positions in an acting, interim, or temporary capacity and shall not be construed to conflict with state law. At the discretion of the City Manager, other employees may be required to live in the city or close to their responsibility center.

OTHER PROVISIONS

Nothing in this policy should be construed to conflict with or supersede state or federal law, or as interfering with the constitutional rights of employees.

While the city is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the city and its employees. This policy supersedes all policies that conflict with the terms of this policy. Furthermore, this statement constitutes ONLY the policy of the city. A finding of a violation of this policy does not mean that the conduct violates state and/or federal laws.

SECTION II. That nothing herein shall be construed to conflict with or supersede any applicable state or federal law.

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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

RESOLUTION NO. _____

A RESOLUTION AMENDING RESOLUTION NO. 2009-082, PERSONAL LEAVE WITHOUT PAY POLICY FOR CITY EMPLOYEES

WHEREAS, the city adopted Personal Leave Without Pay Policy Resolution No. 2009-082, effective September 16, 2008; and

WHEREAS, the city would like to amend the Personal Leave Without Pay Policy to promote the efficient operation of the city.

Now, therefore,

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

SECTION I. That Section I of Resolution No. 2009-082 adopting a Personal Leave Without Pay Policy is amended as follows:

PERSONAL LEAVE WITHOUT PAY

The city recognizes employees may have certain unforeseen and unanticipated personal needs that may merit consideration for leave time without compromising the needs of the city. Subject to other provisions in these personnel policies, all board approved regular full-time and part-time, non-probationary employees, may apply for an approved leave without pay for personal reasons by submitting a written request to the Human Resources Director, or designee. The request must include the reason for the leave, as well as the beginning and end dates of the leave. The employee should provide as much advance notice as possible so appropriate arrangements can be made to cover any work that needs to be performed during the absence. Denial or delay of the leave may result from failure to provide timely notice. The minimum required notice is as follows:

- When the need for leave is foreseeable, the employee must provide 30 days advance notice.
- If 30 days notice is not practicable, notice must be provided as soon as practicable, which generally means within one or two business days of learning of the need to take leave.

The Human Resources Director, or designee, will forward the request for personal leave without pay to the City Manager for consideration. Only the City Manager can grant the leave.

Personal leave without pay is approved or denied on an individual basis subject to the needs and requirements of the city and its departments. The leave may be approved or denied in the sole discretion of the City Manager. A denial of personal leave without pay is final.

The City Manager is authorized to grant only one (1) personal leave without pay in a twelve month consecutive period to an eligible employee. Personal leave without pay is not a benefit an employee can demand or that the city must provide. Therefore, this voluntary arrangement can be terminated at any time if it is determined that the city's needs are not being met.

Employees may be granted personal leave without pay only after exhausting all other eligible leave including applicable sick leave, vacation leave, or compensatory time. It may be granted only when no other leave, paid or unpaid, provided in these policies or required by law is applicable.

Employees who have exhausted all other leave and have been granted personal leave without pay will be eligible to receive holiday pay pursuant to wage and salary policy.

In no case will a personal leave without pay be approved for more than 30 calendar days in a twelve consecutive month period beginning with the first day of granted personal leave.

Employees will not work for any other employer while on personal leave without pay.

Employees on personal leave without pay must provide periodic reports to the Human Resources Director, or designee, regarding their status and intent to return to work, as instructed.

Employees should contact the Human Resources Director, or designee, for appropriate forms and further information about personal leave without pay and eligibility for various benefits during such leave.

Other Provisions

Special provisions for leave for military, family and medical leave (FMLA), adoption, pregnancy, childbirth, and infant nursing, and on the job injuries are addressed in separate policies. Nothing in this policy should be construed to conflict with or supersede state or federal law, or as interfering with the constitutional rights of employees. While the city is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the city and its employees. This policy supersedes all policies that conflict with the terms of this policy. Furthermore, this statement constitutes ONLY the policy of the city. A finding of a violation of this policy does not mean that the conduct violates state and/or federal laws.

SECTION II. That nothing herein shall be construed to conflict with or supersede any applicable state or federal law.

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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

**CITY OF KINGSPORT
PERSONNEL POLICIES**

Section No: 25

Effective Date: September 14, 2022

Subject: Employment Verifications

Resolution No: TBD

All requests for employment verification shall be referred to the Human Resources Department. Response to telephone requests for employment verification shall only acknowledge employment, position, salary, and dates of employment.

Supervisors and department heads while acting in the scope and course of their employment are not authorized to give employment references to any outside person, organization, or agency. All requests for employment references and or employer verifications shall be submitted to the Human Resources Department. Any variance from this policy must be approved by the Human Resources Director, or designee.

Nothing in this policy should be construed to conflict with or supersede state or federal law to include but not limited to the city's obligation to provide information pursuant to a request to inspect or receive copies of records pursuant to the Tennessee Public Records Act. Nothing in this policy is to be construed as interfering with the constitutional rights of employees.



SECTION NO: 31 SUBJECT: Employment Policy	REPLACES/AMENDS: Employment, Effective Date June 16, 2009 (Res. No. 2009-256)
RESOLUTION NUMBER:	EFFECTIVE DATE: September 13, 2022

APPOINTMENT OR REMOVAL OF OFFICERS OR EMPLOYEES

Except as otherwise provided by the Charter of the City of Kingsport, Tennessee, the City Manager shall appoint and remove all officers and employees of the city.

POSITION AUTHORIZATION

No person shall be employed in any regular, full-time or regular, part-time position which has not been authorized and funded by the board of mayor and aldermen (BMA). Positions of a temporary duration may be authorized by the City Manager, or designee (assumed throughout the remainder of this policy), without BMA approval when additional manpower is required for an emergency, efficient service delivery, or completion of capital and/or special projects.

VACANCY OF POSITIONS

The Human Resources (HR) Department shall be informed by department directors, or their designees (assumed throughout the remainder of this document), of all staffing requirements and anticipated changes in staffing within departments and divisions.

When a vacancy exists or is anticipated, the department director shall:

- Fill out a position vacancy requisition and send to the HR Department; and
- Consult with the HR Department to evaluate the vacancy and the needs of the department.

If, following the consultation, it is determined that the request to fill the vacancy should proceed, the HR Department shall obtain approval from the City Manager, prior to the advertising, posting and/or filling of the vacancy.

The City Manager may abolish or transfer a position for economic, efficiency, organizational realignment, or other reasons.

The City Manager retains the authority to suspend or freeze some or all hiring.

RECRUITMENT

The HR Department, in conjunction with the department director, shall have discretionary authority to utilize appropriate internal and external recruitment sources. This may include posting **vacant postings internally and/or externally including using reasonable means of advertisement as well as posting to external job boards.** In departments where hiring is ongoing, the department director will work with the HR Department to establish a talent pipeline or a continuous feeder posting.

APPLICATIONS

Applicants for positions with the City of Kingsport must complete, sign, and submit the city's designated application for employment form to be considered for employment. A resume is not a substitute for an application of employment form.

FALSE STATEMENTS

No person shall willfully make any false statement, mark, rating, report, or omit material information in regard to any application, test, certification, or appointment.

Any misrepresentation by an applicant on an application, or during the interview process, shall **disqualify the applicant** from consideration for employment or in immediate separation from city service regardless of when discovered.

TESTING

The HR Department shall assist department directors in the selection of methods and materials that may be needed in the assessment of a job applicant's knowledge, skills, and ability required for a job.

The HR Department shall approve all testing methods and materials. In-house testing shall be administered by a designated HR Department representative. Test security agreements shall be followed at all times.

INTERVIEWS

Submission of an application for employment does not guarantee the opportunity to interview. Interviews are by invitation only and shall be extended by the HR Department.

BACKGROUND, CREDIT, AND REFERENCE CHECKS

Background and reference checks are the responsibility of the HR Department.

Except for credit reports, authorization for background and reference checks must be granted by the applicant. Such authorization is automatically granted by the applicant's signature on the application for employment form.

For some positions, including those handling money or of a fiduciary responsibility, the city may require a credit check of personal financial records. Pursuant to the Fair Credit Reporting Act, the city shall obtain, separate from the employment application, written permission from the individual before obtaining a credit report. The city shall provide the employee or job applicant a copy of the credit report and a summary of his or her rights before taking any adverse employment action, i.e. denying an applicant a position.

OFFERS OF EMPLOYMENT

The HR Department is responsible for extending all offers of employment. An offer of employment is contingent upon the completion of satisfactory reference and background checks as well as credit checks and an employment physical, if so required.

All negotiations for pay shall be conducted by the HR Director after consultation with the hiring department director and budget director.

The HR Department is responsible for informing all applicants of the final decision pertaining to their candidacy for employment.

PROBATIONARY STATUS

As required by the City Charter, all regular full-time and part-time employees shall be on probationary status for six (6) months from the date such employee begins work. Except as otherwise provided by law, an employee who leaves city service and is re-employed by the city is considered a new employee and the probationary status applies. The probationary period shall be utilized by the department director and supervisors as an opportunity to observe the new employee's work, to train and aid the new employee in adjusting to the position, and to reject the confirmation of any employee whose performance or attendance fails to meet acceptable standards.

During the probationary period, the department director and supervisors shall evaluate the performance of the probationary employee and relate those findings to the employee on an ongoing basis. A Probationary Evaluation Form shall be prepared after two months, four months, and five months of service, reviewed with the employee, and submitted to the HR department. After the five-month evaluation meeting, the department director shall submit the probationary evaluation form for the employee to the HR Department recommending confirmation of the appointment. If the department director plans to recommend separation from employment, a Recommended Action Form (from the Corrective Action Policy) shall be prepared and sent to the HR Department and City Manager for their approval and records. Notwithstanding anything to the contrary, the city's probationary policy does not, nor is it intended to, convey property rights or constitute

contractual agreements with new employees. At any time during the probationary period, a department director may recommend separation from employment of a probationary employee. A probationary employee who is separated from employment prior to or at the completion of the probationary period does not have the right to a hearing as provided by the city charter.

WORK PERIOD/WORK WEEK

Generally, the work week of the city begins at 12:00 AM on Sunday and ends at 11:59 PM the following Saturday. There are exceptions to the general work week as permitted by the Fair Labor Standards Act.

The work week for all full-time, regular employees is forty (40) hours per week. The work day generally is eight (8) hours. For shift personnel of the fire department, a work period is 648 hours in duration, consisting of twenty-seven (27) consecutive 24-hour periods, and beginning and ending according to the fire department's official schedule for each shift employee. For shift personnel of the police department, a work period is 336 hours in duration, consisting of fourteen (14) consecutive 24-hour periods, and beginning and ending according to the police department's official schedule for each shift employee.

The city does not "guarantee" work or work hours.

All employees who are non-exempt pursuant to the Fair Labor Standards Act must maintain an accurate record of daily hours worked. This record must be signed by both the employee and his/her supervisor verifying the correctness of the hours worked and leave taken. All employees who are exempt pursuant to the Fair Labor Standards Act shall report any leave time used during a workweek. Each department manager shall approve and submit an attendance and leave record for their department to the finance department (payroll) at the end of each pay period.

SCHEDULING

The scheduling of shifts and work hours may vary among departments. Each department director is responsible for recommending to the City Manager any change in hours or shifts which may be deemed necessary. Upon approval by the City Manager the department head shall submit a written notice of the change to the HR Department and the Finance Department (payroll).

The city reserves the right to establish emergency call-in lists or to designate relief personnel who shall be expected to be available, and such assignment shall be considered as a condition of employment where applicable. Refusal of an employee to report for any work during an emergency call-in or for relief may render the employee subject to corrective action up to and including termination of employment.

For safety reasons, no employee is to work beyond sixteen (16) cumulative hours in a given workday (with the exception of the Fire Department and for certain emergency situations). A minimum of eight (8) hours of off duty rest time is required before returning to work.

When it is necessary or desirable to change or adjust an employee's established work schedule, it is preferable that the changes are discussed with the employee(s) two (2) weeks prior to the change. This does not apply to emergency scheduling or relief duty.

EMPLOYEE STATUS CHANGES

Every appointment, promotion, transfer, demotion, dismissal, or other temporary or permanent change in the status of employees shall be approved by the HR Department and the City Manager. A record of such changes shall be maintained in the employee's personnel file.

Status Changes include:

- Promotion – A promotion is a movement upward **within the pay plan** that is not temporary work in a higher capacity. Approval by the department director, the HR Department, and the City Manager is required for a promotion.

When an employee is promoted, the employee and the respective department director shall have an initial thirty work day evaluation period in which to mutually agree that the promotion shall be confirmed.

If for any reason during the evaluation period the promoted employee decides to decline the promotion, the employee may do so and return to the position vacated at the former pay.

If, during the evaluation period, the department director determines that the promoted employee cannot perform the new, increased responsibilities in an acceptable manner, the department director may return the promoted employee to the position vacated and at the former pay.

The promotion may be confirmed at any time during the evaluation period. Normally, an individual may apply for a promotion only after a minimum of twelve (12) months from initial employment with the city or from receiving a promotion. When it is in the interest of the city to allow an individual to apply for promotion within the twelve (12) months' time-frame, it shall be approved by the HR Department and the City Manager. Individuals may apply for promotions within their department after successful completion of probationary period.

Temporary Work in Higher Classification - Temporary work in a higher classification is a temporary assignment that is expected to last longer than two (2) consecutive work weeks. Pay for such assignments will follow the Wage and

Salary Policy. An employee's rate of pay will not change for temporary work in a higher classification to last less than two (2) consecutive work weeks. The employee is responsible and accountable for the full range of duties during such assignment.

- Lateral Move – A lateral move is an assignment that is not temporary, from one position to another position **on the same pay grade**. The city shall not, under normal circumstances, consider employees for lateral moves, unless extenuating circumstances (e.g., career pathing, the city's best interest, or reasonable accommodation for a disability) are shown.
- Demotion – A demotion is permanent movement from a higher pay grade to a lower pay grade. The demoted employee's rate of pay shall follow the Wage and Salary Policy.

An employee may not be promoted, temporarily assigned to work in a higher classification, laterally moved, or demoted without consent of the department director, the HR Department, and the City Manager.

OUTSIDE EMPLOYMENT OR BUSINESS INTERESTS

Outside employment of regular full-time employees must be reported to the department director. Full-time employment by the City of Kingsport is primary and shall be the overriding consideration in all issues regarding outside employment. Outside employment or business interests of any employee shall not:

- cause a conflict of interest;
- be incompatible with the employee's position with the city;
- interfere with the satisfactory performance of the employee's duties;
- reflect discredit upon or create embarrassment for the city; or
- interfere with city work requirements, including work hours.

Department directors may make additional rules concerning outside employment that are not inconsistent with this policy.

HOLDING TWO CITY POSITIONS

Employment of a person in more than one city job is not encouraged. However, there may be times when this situation is advantageous to the city. A department director who wishes to employ a city employee in a second city job shall consult with the HR Department and the other department director. If following such consultation, it is determined that the action should proceed, both department directors requesting the

action shall send a memorandum to the City Manager which sets forth the situation and requests approval for the appointment.

LIMITED SERVICE EMPLOYMENT

The city may, at its discretion, re-employ a person who is officially retired from the city when the following criteria are met:

- the retiree must be duly qualified and competent for performance of the duties of the position in which he/she is to be employed;
- there is a need for the retiree's service in such a position; and
- the employment of the retiree is advantageous to the city.

A retiree working in the capacity of limited service employment can be paid no more than the percentage of pre-retirement salary listed on the Tennessee Consolidated Retirement System (TCRS) Temporary Employment Report form for the appropriate year after retirement. During a twelve (12) month period the retiree shall not work more than one hundred twenty (120) days or the equivalent (nine hundred sixty (960) hours) dependent upon the needs of the city.

Persons officially retired from service with the city must wait sixty (60) calendar days from their effective date of retirement to be re-employed by the city unless:

- the HR Department certifies in writing to TCRS that no other qualified person is reasonably available; and
- the retiree returns to service in a position wherein the retiree renders no more than one-half the hours the retiree was scheduled to work prior to retirement.

Limited service employees are not eligible for city benefits other than those required by law and are not eligible to accrue additional retirement credit as a result of limited service employment.

EMPLOYMENT OF NON-CITIZENS

In compliance with the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA), the city shall not knowingly hire, recruit, or refer for a fee any individual who is not authorized to work in the United States. In addition, the city shall not knowingly continue to employ an undocumented worker or one who loses authorization to work; however, those hired before November 6, 1986 do not fall within this category.

All employees hired after November 6, 1986, regardless of national origin or citizenship, must provide documents that establish both identity and work authorization prior to any offer of work.

The city shall complete the USCIS Employment Eligibility Verification Form I-9 for every new employee – U.S. citizens and noncitizens. Documents proving identity and work authorization shall be in accordance with I-9 requirements.

Beginning in December 2022, the city will use e-verify to confirm the eligibility of new hires to work in the United States.

RESIDENCY REQUIREMENT

While it is the policy of the City of Kingsport to encourage all its employees to live in the City of Kingsport, the employees holding the position of City Manager, Deputy City Manager, City Recorder, City Attorney, Police Chief, Fire Chief, Public Works Director, and Assistant City Manager shall reside within the corporate limits of Kingsport within one hundred twenty (120) days after assuming the position. With the exception of the position of City Manager, the period in which the aforementioned employees shall reside within the city may be extended at the discretion of the City Manager for up to one (1) year. The City Manager shall inform the members of the BMA of any extension granted pursuant to this provision and notice of the same shall be spread upon the minutes of the next regularly scheduled meeting of the board of mayor and aldermen immediately following the granted extension. These requirements may be further modified or waived for good cause upon recommendation of the City Manager and concurrence of the BMA. This residence requirement shall not apply to any person holding any of the positions in an acting, interim, or temporary capacity and shall not be construed to conflict with state law. At the discretion of the City Manager, other employees may be required to live in the city or close to their responsibility center.

OTHER PROVISIONS

Nothing in this policy should be construed to conflict with or supersede state or federal law, or as interfering with the constitutional rights of employees.

While the city is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the city and its employees. This policy supersedes all policies that conflict with the terms of this policy. Furthermore, this statement constitutes ONLY the policy of the city. A finding of a violation of this policy does not mean that the conduct violates state and/or federal laws.



City of Kingsport

Probation Evaluation

Name: _____

Date of Hire: _____

ID #: _____

Job Title: _____

Manager: _____

Department: _____

Dates of Evaluations

2-month _____

4-month _____

5-month _____

Job Knowledge / Initiative

2-month: _____

4-month: _____

5- month: _____

Dependability / Attendance

2-month: _____

4-month: _____

5- month: _____

Productivity / Quality of Work

2-month: _____

4-month: _____

5- month: _____

Teamwork / Communication

2-month: _____

4-month: _____

5- month: _____

Problem Solving / Decision Making

2-month: _____

4-month: _____

5- month: _____

Employee or Supervisor Objectives

Employee Acknowledgement of Receipt of Evaluations

2-month _____

Date _____

4-month _____

Date _____

5-month _____

Date _____

Recommendation for Permanent Employment

Permanent Employment _____

Extend Probation _____

Discontinue Employment _____

Manager Signature: _____ Date: _____



Section No: 20

Effective Date: Sept. 16, 2008

Subject: Personal Leave Without Pay

Resolution Number: 2009-082

The city recognizes employees may have certain unforeseen and unanticipated personal needs that may merit consideration for leave time without compromising the needs of the city. Subject to other provisions in these personnel policies, all board approved regular full-time and part-time, non-probationary employees, ~~except seasonal or temporary employees~~, may apply for an approved leave without pay for personal reasons by submitting a written request to the Human Resources ~~Manager~~Director, or designee. The request must include the reason for the leave, as well as the beginning and end dates of the leave. The employee should provide as much advance notice as possible so appropriate arrangements can be made to cover any work that needs to be performed during the absence. Denial or delay of the leave may result from failure to provide timely notice. The minimum required notice is as follows:

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- When the need for leave is foreseeable, the employee must provide 30 days advance notice.
- If 30 days notice is not practicable, notice must be provided as soon as practicable, which generally means within one or two business days of learning of the need to take leave.

The Human Resources ~~Manager~~Director, or designee, will forward the request for personal leave without pay to the City Manager for consideration. Only the City Manager can grant the leave.

Personal leave without pay is approved or denied on an individual basis subject to the

needs and requirements of the city and its departments. The leave may be approved or denied in the sole discretion of the City Manager. A denial of personal leave without pay is final.

The City Manager is authorized to grant only one (1) personal leave without pay in a twelve month consecutive period to an eligible employee. Personal leave without pay is not a benefit an employee can demand or that the city must provide. Therefore, this voluntary arrangement can be terminated at any time if it is determined that the city's needs are not being met.

Employees may be granted personal leave without pay only after exhausting all other eligible leave including applicable sick leave, vacation leave, or compensatory time. It may be granted only when no other leave, paid or unpaid, provided in these policies or required by law is applicable.

Employees who have exhausted all other leave and have been granted personal leave without pay will be eligible to receive holiday pay pursuant to wage and salary policy.

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In no case will a personal leave without pay be approved for more than 30 calendar days in a twelve consecutive month period beginning with the first day of granted personal leave.

Employees will not work for any other employer while on personal leave without pay.

Employees on personal leave without pay must provide periodic reports to the Human Resources Manager Director, or designee, regarding their status and intent to return to work, as instructed.

Employees should contact the Human Resources Manager Director, or designee, for appropriate forms and further information about personal leave without pay and eligibility for various benefits during such leave.

Other Provisions

Special provisions for leave for military, family and medical leave (FMLA), adoption, pregnancy, childbirth, and infant nursing, and on the job injuries are addressed in separate policies.

Nothing in this policy should be construed to conflict with or supersede state or federal law, or as interfering with the constitutional rights of employees.

While the city is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the city and its employees. This policy supersedes all policies that conflict with the terms of this policy. Furthermore, this statement constitutes ONLY the policy of the city. A finding of a violation of this policy does not mean that the conduct violates state and/or federal laws.



AGENDA ACTION FORM

Resolution Authorizing an Application for Voluntary Vision Benefits through Davis Vision

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

Action Form No.: AF-284-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Mike Wessely
 Presentation By: T. Copas

Recommendation:

Approve the resolution.

Executive Summary:

In 2018, the board approved to offer a vision plan as an optional benefit to eligible full-time employees working under the authority of the Board of Mayor and Aldermen an optional benefit of vision insurance paid fully by the participating employees.

Staff recommends renewing our current voluntary employee paid Vision plan with Davis Vision. The new agreement is for 4 years with a 5% cost reduction for the employees.

Attachments:

1. Resolution
2. Supplemental Information

Funding source appropriate and funds are available: *Jim*

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*

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

RESOLUTION NO. _____

A RESOLUTION APPROVING AN APPLICATION WITH DAVIS VISION FOR EMPLOYEE PAID VISION INSURANCE AND AUTHORIZING THE MAYOR TO EXECUTE THE APPLICATION AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT OR THIS RESOLUTION

WHEREAS, since 2018, the city has offered eligible full-time employees working under the authority of the board of mayor and aldermen an optional benefit of vision insurance paid fully by the participating employees; and

WHEREAS, the original agreement was for 4 years with no cost changes; and

WHEREAS, staff recommends renewing with Davis Vision with a five (5%) percent cost reduction to employees; and

WHEREAS, Davis Vision will provide the same rate for four years for the employees.

Now therefore,

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

SECTION I. That the city manager is authorized and directed to offer vision insurance to eligible full-time employees, working under the authority of the board of mayor and aldermen, on the same basis the city offers dental insurance, provided it is fully paid for by the participating employee.

SECTION II. That an agreement with Davis Vision as a provider of vision insurance, that is fully paid by participating eligible employees 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, an agreement and all documents necessary and proper to enter into the employee paid vision insurance through Davis Vision and to effectuate the purpose of the agreement or this resolution.

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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



City of Kingsport
Davis Vision Renewal
1/1/2023 – 12/31/2026

August 4th, 2022

August 4, 2022

Jon Manfull
Mark III Employee Benefits
300 W. Watauga Avenue
Johnson City, TN 37604

Re: City of Kingsport
Policy #506025

Dear Jon,

We would like to thank you for your continued support. As previously announced, Metropolitan Life Insurance Company ("MetLife") acquired Versant Health (*Superior Vision* and *Davis Vision*) in December 2020. We are excited to welcome you to *Davis Vision by MetLife* for your client's vision benefits needs and look forward to continuing to provide the highest level of service you would expect from us.

City of Kingsport's policy will transition to being underwritten by Metropolitan Life Insurance Company (MLIC) effective January 1, 2023.

The new rates are outlined below and will remain in effect for four year(s):

City of Kingsport 4 Year Rate Guarantee		
Plan	Designer Plan	
	Expiring Rates 12/31/2022	Renewal Rates Effective 1/1/2023 through 12/31/2026
Employee Only	\$7.99	\$7.59
Employee + Spouse	\$15.98	\$15.18
Employee + Children	\$16.78	\$15.94
Employee + Family	\$23.37	\$22.20

Rate Period: January 1, 2023 – December 31, 2026

MetLife is honored to partner with you, and we appreciate the trust you have placed in us. We look forward to working with you to ensure a smooth transition through this process for you, your clients, and their employees. Should you have any questions or need more information please contact me.

Thank you,

Alejandro M. Ibanez
Client Services Consultant II
Alejandro.ibanez@metlife.com
(210) 245-2346



AGENDA ACTION FORM

A Resolution to Authorize the Mayor to Execute a Letter of Agreement with the Tennessee Department of Intellectual & Developmental Disabilities to Receive a Grant for Miracle Field

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

Action Form No.: AF-290-2022
 Work Session: September 12, 2022
 First Reading: N/A

Final Adoption: September 13, 2022
 Staff Work By: Michael Borders
 Presentation By: M. Borders

Recommendation:

Approve the resolution.

Executive Summary:

The Tennessee Department of Intellectual & Developmental Disabilities has awarded the City, through the Kingsport Parks and Recreation Department, grant funds in the amount of \$250,000.00 for construction expenditures for Miracle Field.

Staff recommends the mayor execute the Letter of Agreement and any and all documents needed to receive the grant funds.

Attachments:

1. Resolution
2. Letter of 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: *20*

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

RESOLUTION NO. _____

A RESOLUTION APPROVING A LETTER OF AGREEMENT WITH THE TENNESSEE DEPARTMENT OF INTELLECTUAL & DEVELOPMENTAL DISABILITIES TO RECEIVE GRANT FUNDS FOR CONSTRUCTION COSTS OF MIRACLE FIELD, AND AUTHORIZING THE MAYOR TO EXECUTE THE LETTER OF AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE LETTER OF AGREEMENT

WHEREAS, the Tennessee Department of Intellectual & Developmental Disabilities has granted the city, through the Kingsport Parks and Recreation Department, grant funds in the amount of \$250,000.00 for construction expenditures for Miracle Field; and

WHEREAS, staff recommends the mayor execute the Letter of Agreement and any and all documents needed to receive the grant funds; and

WHEREAS, there is no local match.

Now therefore,

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

SECTION I. That a Letter of Agreement with Tennessee Department of Intellectual & Developmental Disabilities for grant funds for the construction expenditures for Miracle Field, 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 Letter of Agreement with Tennessee Department of Intellectual & Developmental Disabilities for grant funds for the construction expenditures for Miracle Field, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said agreement being as follows:

LETTER OF AGREEMENT:
DIRECT APPROPRIATION GRANT
FOR GOVERNMENTAL ENTITIES

Date: July 15, 2022

To: City of Kingsport
Kingsport Parks and Recreation Department
1550 Fort Henry Dr
Kingsport, TN 37664

From: Brad Turner, Commissioner

The State's budget for the fiscal year beginning July 1, 2022, includes a direct appropriation grant payable to your organization.

This appropriation is in addition to any other funding or appropriation provided to you by the State of Tennessee. Section 61, Item 67, of the 2023 Appropriations Act reads as follows:

Item 67. In addition to any other funds appropriated by the provisions of this act, there is appropriated the sum of \$250,000 (nonrecurring) to the Department of Finance and Administration for the sole purpose of making a grant in such amount to the government

of the City of Kingsport, to be used by the Kingsport Parks and Recreation Department for construction expenditures for Miracle Field.

If you choose to accept this award:

1. Sign this agreement (include your taxpayer identification number and a daytime phone number) in the space provided as your acceptance of the following terms and conditions:

a) If you fail to fulfill your obligations under this agreement, the State shall have the right to seek restitution, pursuant to the laws of the State of Tennessee, from you for payments made to you under this agreement.

b) Your records and documents, insofar as they relate to the performance of your obligations or to payments received under this agreement, shall be maintained in a manner consistent with the accounting procedures of the Comptroller of the Treasury, pursuant to T.C.A. 4-3-304 and applicable rules and regulations thereunder.

c) The funds received shall be placed in an interest bearing account until such time as they are needed for the purposes set out in the Appropriations Act. In the event that any portion of the funds is not expended, the unexpended portion plus any accrued interest shall be returned to the State.

d) You must complete the attached Substitute W-9 Form and return it with this signed Letter of Agreement. You are responsible for and assume the liability for failure to provide the correct taxpayer identification number for IRS purposes.

2. Return to the State agency head the following materials together:

a) This signed Letter of Agreement; and

b) Substitute W-9 Form.

We encourage you to return these materials as soon as possible. The State is prepared to process this agreement and issue payment in a timely fashion, upon receipt of these materials.

If you should have any questions or comments or need any assistance responding to this request, please contact *Clayton Wells 615-253-3166*

Please retain a copy of this letter for your records. Payment status and accounting inquiries may be directed to the following staff of this department:

Clayton Wells | Budget Director

Department of Intellectual and Developmental Disabilities

UBS Tower, 8th Floor

315 Deaderick Street,

Nashville, TN 37243

p. 615-253-3166

On behalf of City of Kingsport, Kingsport Parks and Recreation Department, I hereby agree to the aforementioned terms and conditions.

[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 13th day of September, 2022.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY