



## **AGENDA**

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

**Monday, March 4, 2019, 4:30 p.m.  
City Hall, 225 W. Center St., Courtroom, 2<sup>nd</sup> Floor**

#### **Board of Mayor and Aldermen**

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

Alderman Betsy Cooper  
Alderman Colette George  
Alderman Tommy Olterman

#### **Leadership Team**

Jeff Fleming, City Manager  
Chris McCartt, Assistant City Manager for Administration  
Ryan McReynolds, Assistant City Manager for Operations  
J. Michael Billingsley, City Attorney  
Jim Demming, City Recorder/Chief Financial Officer  
David Quillin, Police Chief

Scott Boyd, Fire Chief  
Lynn Tully, Development Services Director  
George DeCroes, Human Resources Director  
Heather Cook, Marketing and Public Relations Director

1. Call to Order
2. Roll Call
3. KOSBE – Aundrea Wilcox
4. Review of Items on March 5, 2019 Business Meeting Agenda
5. Adjourn

**Next Work Session, Tues., March 19, 4pm:** KEDB / NETWORKS, Bays Mountain Park

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

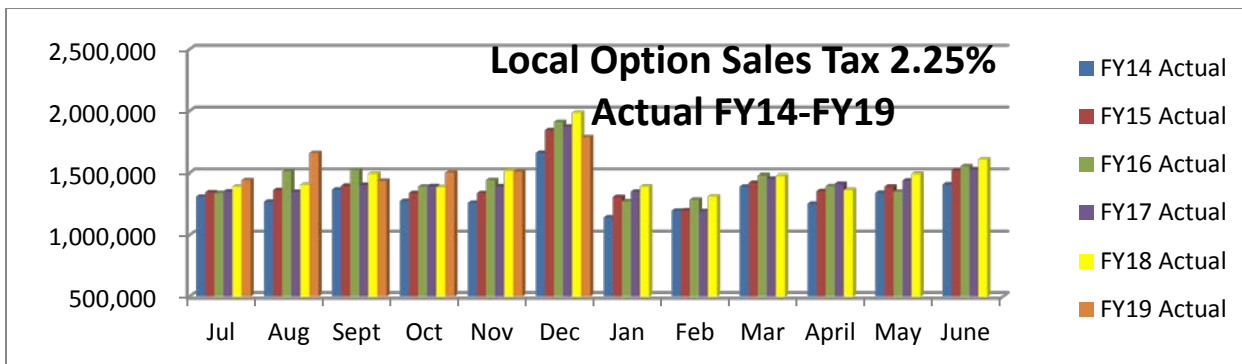
# BMA Report, March 4, 2019

## Financial Comments – Judy Smith



### Local Option Sales Tax 2.25% - Five Year History

	FY14	FY15	FY16	FY17	FY18	FY19	Adopted	Variance		% of Growth	
	Actual	Actual	Actual	Actual	Actual	Actual	FY19 Budget	FY19 Over/Under Budget	FY19 Over/Under Prev. Year Actual	FY19 Over/Under Prev. Year Actual	FY19 Over/Under Budget
Jul	\$ 1,312,286	\$ 1,346,896	\$ 1,341,027	\$ 1,354,948	\$ 1,392,147	\$ 1,444,727	\$ 1,432,701	\$ 12,026	\$ 52,580	3.78%	0.84%
Aug	\$ 1,271,614	\$ 1,365,262	\$ 1,513,366	\$ 1,351,703	\$ 1,408,119	\$ 1,660,189	\$ 1,488,256	\$ 171,933	\$ 252,070	17.90%	11.55%
Sept	\$ 1,369,878	\$ 1,401,017	\$ 1,523,474	\$ 1,407,707	\$ 1,493,952	\$ 1,440,056	\$ 1,517,534	\$ (77,478)	\$ (53,896)	-3.61%	-5.11%
Oct	\$ 1,278,027	\$ 1,342,308	\$ 1,392,699	\$ 1,397,511	\$ 1,389,451	\$ 1,503,032	\$ 1,449,212	\$ 53,820	\$ 113,581	8.17%	3.71%
Nov	\$ 1,261,963	\$ 1,340,457	\$ 1,446,687	\$ 1,396,643	\$ 1,515,210	\$ 1,510,894	\$ 1,495,411	\$ 15,483	\$ (4,316)	-0.28%	1.04%
Dec	\$ 1,661,378	\$ 1,845,794	\$ 1,911,650	\$ 1,873,531	\$ 1,985,601	\$ 1,788,766	\$ 1,991,377	\$ (202,611)	\$ (196,835)	-9.91%	-10.17%
Jan	\$ 1,143,685	\$ 1,309,305	\$ 1,274,292	\$ 1,353,575	\$ 1,392,917		\$ 1,377,116				
Feb	\$ 1,198,993	\$ 1,201,182	\$ 1,287,536	\$ 1,194,890	\$ 1,312,713		\$ 1,325,780				
Mar	\$ 1,392,759	\$ 1,424,090	\$ 1,481,645	\$ 1,457,518	\$ 1,477,699		\$ 1,535,585				
April	\$ 1,255,243	\$ 1,357,635	\$ 1,396,651	\$ 1,416,452	\$ 1,366,099		\$ 1,457,999				
May	\$ 1,343,786	\$ 1,393,582	\$ 1,353,162	\$ 1,442,890	\$ 1,492,028		\$ 1,496,047				
June	\$ 1,411,977	\$ 1,520,599	\$ 1,552,713	\$ 1,529,681	\$ 1,608,149		\$ 1,567,722				
<b>Total</b>	<b>\$ 15,901,589</b>	<b>\$ 16,848,127</b>	<b>\$ 17,474,902</b>	<b>\$ 17,177,049</b>	<b>\$ 17,834,085</b>	<b>\$ 9,347,665</b>	<b>\$ 18,134,740</b>	<b>\$ (26,826)</b>	<b>\$ 163,184</b>	<b>2.67%</b>	<b>0.31%</b>



# Status Updates on Active Projects sorted by Cost

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$7,500,000.00	Ryan McReynolds	<b>SR 347 (Rock Springs Road) [State &amp; MTPO funded]</b>	TDOT Managed, joint funded reconstruction of the State portion of Rock Springs Road	12/31/2020	Final ROW / Utility plans expected Summer 2019
\$6,600,000.00	Niki Ensor	<b>Water &amp; Wastewater Facilities SCADA/Telemetry Project</b>	Design and installation of SCADA/Telemetry system that will serve both water and sewer plants, sewer lift stations, water pump stations and boosters, along with monitoring in the distribution and collection systems.	4/1/2020	1/22/18 - CDM agreement amendment for BMA Approval. 1/21/18 - Bid advertisement. 2/6/18 - Pre bid meeting. 2/19/18 - Bid opening.
\$4,400,000.00	Niki Ensor	<b>WWTP Electrical Improvements</b>	Design of wastewater treatment plant improvements. Project includes replacement of the Main Switchgear, Switchgear SB-1 and related equipment at the wastewater treatment plant.	5/1/2020	Finalizing plans. Tentative bid set for April.
\$4,186,000.00	Chris McCartt	<b>New KATS Transit Center</b>	Construction of a new KATS Transit Center on the former foundry property.	4/29/2019	Concrete work on plaza continues; decorative clock has been installed at the entrance.
\$3,867,000.00	Chad Austin	<b>Border Regions Sewer Extensions</b>	Sewer extensions to serve the Border Regions Annexations in the vicinity of Tri-Cities Crossing and Fordtown Rd.	2/17/2020	Survey is nearing completion. Final design is underway.
\$3,750,000.00	Niki Ensor	<b>Chemical Feed Design</b>	Design of WTP Chemical Feed improvements. Project will include new facilities for pre and post chemical feed and implementation of bulk bleach for disinfection.	11/1/2020	Awaiting proposal for final design and construction phase services. Funding included in FY20 CIP.
\$3,740,000.00	Niki Ensor	<b>West Kingsport Forcemain and Pump Station Improvements</b>	Elimination of Pendragon SLS (#120) with gravity. Rehab of West Kingsport SLS (#119) and installation of new forcemain to the WWTP.	6/1/2020	Hazen and Sawyer finalizing plans. Tentative bid date set for second week of February.
\$3,300,000.00	Michael Thompson	<b>Indian Trail Drive Extension</b>	The extension of Indian Trail Drive to Eastman Road at the current Reedy Creek Road / Eastman Road intersection. The project includes a bridge over Reedy Creek and realigning Reedy Creek Road to tie into the new Indian Trail Drive Extension.	6/30/2021	Still awaiting RPAI (East Stone Commons Owner) coordination with designer on access needs.
\$2,380,000.00	Ryan McReynolds	<b>Regions Building - Phase 1</b>	Renovations of floors 3 thru 6 for the consolidation of City offices to one location.	12/31/2019	City now is the official owner of the facility. Working with Cain Rash West architects on building renovation plans.
\$2,300,000.00	Ryan McReynolds	<b>Justice Center Renovations</b>	Renovations and expansion of Justice Center that will accommodate court space and county offices currently residing in City Hall.	12/31/2020	Architect is under contract and has begun working on plans to expand and modify the existing Justice Center.
\$1,700,000.00	Michael Thompson	<b>Main Street Rebuild</b>	The reconstruction of Main Street from Sullivan Street to Clay Street. [City & MTPO Funded]	4/1/2020	MOU for AEP design and easements is being routed for signatures. Expect to have construction contract information for BMA consideration June 2019. Spring 2020 construction start anticipated.

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$1,203,149.00	Kitty Frazier	<b>Kingsport Greenbelt - Eastern Extension - Phase 1</b>	New 1 mile long Greenbelt section from the 0.4 mile marker (bottom of the hill from Exchange Place) to Cleek Road. [Fed. Grant & City funded]	11/1/2019	Preconstruction conference scheduled for March
\$1,074,738.00	Chad Austin	<b>Phase 4 Water Improvements</b>	Waterline replacement in Sullivan Gardens area.	12/6/2019	Working on contract.
\$961,140.00	Michael Thompson	<b>Stone Drive - Phase 2 (SR 1, US 11W) Sidewalk Improvements</b>	Construction of sidewalk along Stone Drive from Stonebrook Place Pvt. Dr. to Lynn Garden Dr. [95% State Funded 5%]	8/31/2020	Contract amendment coming to BMA 2/19/19 to shift funding from Phase 2 (this project) to Phase 1. Plan to bid together.
\$881,182.00	Schools	<b>J Fred Johnson Stadium - Turf Replacement</b>	The replacement of approximately 162,100 square feet of artificial grass surface at J Fred Johnson Stadium (football and baseball fields) and associated logos/markings. Work also includes the removal and offsite disposal of the existing artificial surfac	6/30/2019	The standard turf project is complete. Decals and custom color work will be completed after baseball season.
\$697,475.00	Michael Thompson	<b>Stone Drive - Phase 1 (SR 1, US 11W) Sidewalk Improvements</b>	Construction of sidewalk along Stone Drive from Stonebrook Place Pvt. Dr. to American Way where current sidewalk gaps exist. Includes work to make existing driveways ADA accessible. [95% State Funded 5% City]	12/7/2019	Contract amendments coming to BMA 2/19/19 to adjust timeframe to align with Phase 2 project and shift funding from Phase 2 to Phase 1 (this project). Plan to bid together.
\$577,000.00	Niki Ensor	<b>Tri-County Tank Replacement Project</b>	Replacement of 160,000 gallon steel water storage tank in Tri-County Pressure Zone, located on Big Ridge Rd.	7/1/2019	Eastern Tank almost complete with steel work for shell and roof of tank. Completion of tank has been moved forward to July 1, 2019.
\$468,001.00	Rob Cole	<b>Bays Mountain Parking Improvements</b>	Construction of new asphalt parking lot and asphalt paving improvements to the overflow parking lot and access road.	4/30/2019	Rock hammering and grading is about complete. Installation of basestone and stone pug subgrade is ongoing.
\$415,000.00	Chad Austin	<b>SR 93- Fall Branch section (TDOT)</b>	TDOT project to improve State Route 93 in the Fall Branch area. Impacted waterlines in this area will be are to be relocated as part of the TDOT project.	12/31/2020	Project moved to 2019; "B Date" package due 9/26/2018; TDOT Letting Date: December 2018
\$391,711.50	David Edwards	<b>Bloomington Culvert Replacement</b>	Exist. double 7' x 7' box culvert is failing adjacent to Bloomington Dr. Project will be a replacement of the double box within the ROW and will create a separation from the private section of the culvert that extends downstream from Bloomington Dr.	6/1/2019	Bids opened 1/16/19. Summers-Taylor is the low bidder at \$391,711.50.
\$384,689.00		<b>Area 10 Concrete - Phase 1</b>	Concrete roadway and sidewalk repairs on Colfax Ave, Camden Dr, Clearwood Ave, and Broadwood Dr	3/29/2019	Contractor is working on replacing roadway panels and sidewalk panels.
\$373,871.00	Rob Cole	<b>Bays Mountain Septic System Upgrades</b>	Replacement of septic system at Bays Mountain Park with installation of sewer lift station and force main to base of park road to allow for more capacity.	5/31/2019	American Environmental was the low bidder. Contract documents are being prepared.

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\$262,770.00	Chris McCart	<b>Lynn View Community Center Site Improvements Phase 2</b>	New metal bleachers and two new pre-Engineered metal building for Electrical Room and Storage Building.	4/12/2019	Crews are preparing footers for concrete placement.
	Niki Ensor	<b>SLS Rehab and Replacement</b>	Rehabilitation of SLS # 108 (Oak Glen Drive). Replacement of SLS #307 (Cooks Valley) and #308 (Lakeside Drive).	1/1/2020	Received drawings for review 12/21/18

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## **AGENDA**

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

#### **BUSINESS MEETING**

**Tuesday, March 5, 2019, 7:00 p.m.  
City Hall, 225 W. Center St., Courtroom, 2<sup>nd</sup> Floor**

#### **Board of Mayor and Aldermen**

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

Alderman Betsy Cooper  
Alderman Colette George  
Alderman Tommy Olterman

#### **City Administration**

Jeff Fleming, City Manager  
Chris McCartt, Assistant City Manager for Administration  
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J. Michael Billingsley, City Attorney  
James Demming, City Recorder/Chief Financial Officer  
David Quillin, Police Chief  
Scott Boyd, Fire Chief  
Lynn Tully, Development Services Director  
George DeCroes, Human Resources Director  
Heather Cook, Marketing and Public Relations Director

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

#### **II.A. PLEDGE OF ALLEGIANCE TO THE FLAG**

#### **II.B. INVOCATION – Stan Leonard, Mustard Seed Ministries**

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

#### **IV.A. RECOGNITIONS & PRESENTATIONS (Alderman Begley)**

1. Home Builders Association Builder of the Year – Travis Patterson
2. Home Builders Association Associate of the Year – Mike Draine

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

1. Reappointment to the Gateway Review Commission (AF: 46-2019) (Mayor Clark)
  - Reappointment

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

1. Work Session – February 18, 2019
2. Business Meeting – February 19, 2019

#### **VI. COMMUNITY INTEREST ITEMS**

##### **A. PUBLIC HEARINGS**

None

#### **COMMENT**

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

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

None

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

1. Amend the FY 2019 the General Purpose School Fund Budget (AF: 40-2019) (David Frye)
  - Ordinance – **Second Reading & Final Adoption**
2. Budget Adjustment Ordinance for FY19 (AF: 08-2019) (Jeff Fleming)
  - Ordinance – **Second Reading & Final Adoption**

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

1. Awarding the Bid for the Purchase of One (1) 72 Passenger School Bus to Mid-South Bus Center (AF: 44-2019) (Steve Hightower)
  - Resolution
2. Award the Bid for John F. Kennedy Elementary Playground Improvements Project to Armstrong Construction Company, Inc. (AF: 17-2019) (David Frye)
  - Resolution
3. Enter into a Construction Agreement with CSX Transportation (CSXT) for South Wilcox Drive Bridge Enhancements (AF: 35-2019) (Ryan McReynolds)
  - Resolution

#### **VII. CONSENT AGENDA**

1. Approve LGOC and Pee Wee Football User Agreements and Concession Usage (AF: 22-2019) (Chris McCartt)
  - Resolution
  - Resolution

2. Extending the Bid Award for Rental Uniforms Mats and Mops (AF: 45-2019) (Ryan McReynolds)
  - 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**

**Reappointment to the Gateway Review Commission**

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

Action Form No.: AF-46-2019  
 Work Session: March 4, 2019  
 First Reading: N/A

Final Adoption: March 5, 2019  
 Staff Work By: Committee  
 Presentation By: Mayor Clark

**Recommendation:**  
 Approve reappointment.

**Executive Summary:**

It is recommended to reappoint John Perdue to his first full five-year term as he was fulfilling an unexpired term. If approved by the Board of Mayor and Aldermen the recommended table reflects term dates.

The commission is composed of seven (7) members; five (5) appointed by the Board of Mayor and Aldermen consisting of one (1) in private business, one (1) from an educational institute, one (1) architect and two (2) serving at-large. The sixth member is the Director of Planning and the seventh is a member of the Board of Mayor and Aldermen, as appointed.

Current Commission				
Member	Eligibility	Term Expires	Appointed	Terms Served
Betsy Cooper	BMA	Term of office		
John Perdue	At-large	2/28/19	2/16/16	fulfilling unexpired term
Dr. Josh Davis	Educ.	6/30/22	6/6/17	1
Vivian Crymble	At-large	2/28/21	2/15/00	5
Debra Bridwell	Private Business	6/30/22	7/1/10	3
Jim Wright	Architect	2/28/21	2/15/00	5

Recommended Commission				
Member	Eligibility	Term Expires	Appointed	Terms Served
Betsy Cooper	BMA	Term of office		
John Perdue	At-large	3/31/24	2/16/16	1
Dr. Josh Davis	Educ.	6/30/22	6/6/17	1
Vivian Crymble	At-large	2/28/21	2/15/00	5
Debra Bridwell	Private Business	6/30/22	7/1/10	3
Jim Wright	Architect	2/28/21	2/15/00	5

**Attachments:**  
 1. None

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

Minutes of the Regular Work Session of the  
Board of Mayor and Aldermen, City of Kingsport, Tennessee  
Monday, February 18, 2019, 4:30 PM  
Council Room – City Hall

PRESENT: Board of Mayor and Aldermen

Mayor John Clark

Vice-Mayor Mike McIntire

Alderman Jennifer Adler

Alderman Joe Begley

Alderman Betsy Cooper

Alderman Colette George

Alderman Tommy Olterman

City Administration

Jeff Fleming, City Manager

J. Michael Billingsley, City Attorney

James H. Demming, City Recorder

1. **CALL TO ORDER:** 4:30 p.m. by Mayor Clark.
2. **ROLL CALL:** By Deputy City Recorder Marshall.
3. **FIRE DEPARTMENT UPDATE.** Fire Chief Scott Boyd presented this item and answered questions regarding the fire department, which was followed by some discussion. Mr. Jim Salyers, citizen, 1092 Lynn Garden Drive, made comments also.
4. **REVIEW OF AGENDA ITEMS ON THE FEBRUARY 19, 2019 REGULAR BUSINESS MEETING AGENDA.** City Manager Fleming and members of staff gave a summary or presentation for each item on the proposed agenda. The following items were discussed at greater length or received specific questions or concerns.

**VI.D.1 Bid Award to Purchase E-Rate Category Two Hardware to Personal Computer Systems, Inc.** (AF: 39-2019). City Manager Fleming gave information on this item, noting this purchase was for the elementary schools. He pointed out the same purchase had already been approved for the middle and high schools. David Frye provided further details.

**VI.D.2 Settlement of a Claim - 918 Dale Street** (AF: 42-2019). City Attorney Billingsley explained the property owner acquired this lot from the city after a tax sale and found the contractor originally hired by the city had not cleared all the debris. He recommended settling the claim to make restitution to the owner. Development Services Director Lynn Tully confirmed steps have been taken to ensure this does not happen in the future.

**VI.D.5 TDOT Grant Contract Amendment Two (Time Extension) for Stone Drive Multi-Modal Access Project Phase 1** (AF: 30-2019). City Manager Fleming provided details on this item, stating this grant was a five percent match from the city. He noted all issues have been worked out and the project is ready to move forward. Assistant City Manager Ryan McReynolds commented the bid will go out this fall and it should be finished in fall of 2020.

**Minutes of the Regular Work Session of the Board of Mayor and Aldermen of Kingsport, Tennessee, Monday, February 18, 2019**

Alderman Olterman commented to David Frye on the turf at Dobyys Bennett, stating they are doing a good job.

5. **ADJOURN.** Seeing no other matters presented for discussion at this work session, Mayor Clark adjourned the meeting at 5:36 p.m.

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ANGELA MARSHALL  
Deputy City Recorder

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JOHN CLARK  
Mayor

Minutes of the Regular Business Meeting of the  
Board of Mayor and Aldermen of the City of Kingsport, Tennessee  
Tuesday, February 19, 2019, 7:00 PM  
Large Court Room – City Hall

PRESENT:

Board of Mayor and Aldermen

Mayor John Clark, Presiding

Vice Mayor Mike McIntire

Alderman Jennifer Adler

Alderman Joe Begley

Alderman Betsy Cooper

Alderman Colette George

Alderman Tommy Olterman

City Administration

Jeff Fleming, City Manager

J. Michael Billingsley, City Attorney

James Demming, City Recorder/Chief Financial Officer

- I. **CALL TO ORDER:** 7:00 p.m., by Mayor John Clark.
- II.A. **PLEDGE OF ALLEGIANCE TO THE FLAG:** Led by Matthew Lane.
- II.B. **INVOCATION:** Pastor Ed Clevinger, Grace Covenant Church.
- III. **ROLL CALL:** By City Recorder Demming. All Present.
- IV.A. **RECOGNITIONS AND PRESENTATIONS.**
  1. Kingsport Area Transit Update – Chris Campbell.
- IV.B. **APPOINTMENTS/REAPPOINTMENTS.** None.
- V. **APPROVAL OF MINUTES.**

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

- A. February 5, 2019 Regular Business Meeting

Approved: All present voting “aye.”

VI. **COMMUNITY INTEREST ITEMS.**

- A. **PUBLIC HEARINGS.** None.

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

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen  
of the City of Kingsport, Tennessee, Tuesday, February 19, 2019**

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

**1. Amend the FY19 General Purpose School Fund Budget (AF: 40-2019) (David Frye).**

Motion/Second: McIntire/George, to pass:

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

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

**2. Budget Adjustment Ordinance for FY19 (AF: 08-2019) (Jeff Fleming).**

Motion/Second: McIntire/George, to pass:

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

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

~~**3. Enter into a Materials Agreement with School House, LLC Related to the Cherokee Bend Development and an Ordinance to Appropriate the Funds (AF: 17-2019) (Ryan McReynolds).**~~

This agenda item was withdrawn on February 19, 2019.

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

**1. Amend Zoning of 2400 and 2404 North John B. Dennis Highway (AF: 25-2019) (Ken Weems).**

Motion/Second: McIntire/George, to pass:

**ORDINANCE NO. 6782**, AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY LOCATED ALONG NORTH JOHN B DENNIS HIGHWAY FROM P-1, PROFESSIONAL OFFICES DISTRICT TO B-4P, PLANNED BUSINESS DISTRICT IN THE 11<sup>TH</sup> CIVIL DISTRICT OF SULLIVAN COUNTY; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

**2. Amend Code of Ordinances for 2018 International Building, Fire and Related Codes, Property Maintenance Codes and 2017 National Electric Code (AF: 31-2019) (Lynn Tully).**



**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, Tuesday, February 19, 2019**

Motion/Second: George/Olterman, to pass:

**ORDINANCE NO. 6783**, AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF KINGSFORT, TENNESSEE, SECTIONS 22-96, 22-121,22-391, 22-411, 22-522 and 42-46 RELATING TO ADOPTION BY REFERENCE OF VARIOUS INTERNATIONAL CODES PERTAINING TO PROPERTY; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

**D. OTHER BUSINESS.**

**1. Bid Award to Purchase E-Rate Category Two Hardware to Personal Computer Systems, Inc.** (AF: 39-2019) (Scott Pierce, David Frye).

Motion/Second: Olterman/Adler, to pass:

**Resolution No. 2019-111**, A RESOLUTION AWARDED THE BID FOR PURCHASE OF E-RATE CATEGORY TWO HARDWARE TO PERSONAL COMPUTER SYSTEMS, INC., AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting “aye.”

**2. Settlement of a Claim - 918 Dale Street** (AF: 42-2019) (Jeff Fleming)

Motion/Second: Olterman/Adler, to pass:

**Resolution No. 2019-112**, A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND APPROVE A SETTLEMENT OF A CLAIM BY GERALD SENSABAUGH, SR. AND WIFE JONYA SENSABAUGH

Passed: All present voting “aye.”

**3. Amend T-Mobile Lease Agreement for the Addition of a Backup Generator at the Browder Road Water Tank** (AF: 41-2019) (Ryan McReynolds).

Motion/Second: George/Cooper, to pass:

**Resolution No. 2019-113**, A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH T-MOBILE FOR THE ADDITION OF A BACK-UP GENERATOR AT THE BROWDER ROAD WATER TANK; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

Passed: All present voting “aye.”

**4. Bid Award for Mowing & Trimming of Various Locations** (AF: 43-2019) (Ryan McReynolds).

Motion/Second: McIntire/Cooper, to pass:

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen  
of the City of Kingsport, Tennessee, Tuesday, February 19, 2019**

**Resolution No. 2019-114**, A RESOLUTION AWARDDING THE BID FOR MOWING AND TRIMMING SERVICES TO YARD DOGS LAWN CARE & LANDSCAPING AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting “aye.”

**5. TDOT Grant Contract Amendment Two (Time Extension) for Stone Drive Multi-Modal Access Project Phase 1 (AF: 30-2019) (Ryan McReynolds).**

Motion/Second: George/Olterman, to pass:

**Resolution No. 2019-115**, A RESOLUTION APPROVING AMENDMENT TWO FOR GRANT CONTRACT 150074, PIN #121997.00 WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE STONE DRIVE MULTI-MODAL ACCESS PROJECT; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

Passed: All present voting “aye.”

**6. TDOT Grant Contract Amendments for Phases 1 and 2 of the Stone Drive Multi-Modal Access Project Authorizing the Mayor to Sign all Applicable Documents (AF: 34-2019) (Ryan McReynolds).**

Motion/Second: George/Cooper, to pass:

**Resolution No. 2019-116**, A RESOLUTION APPROVING AMENDMENT ONE FOR GRANT CONTRACT 160089, PIN#123629.00, AND AMENDMENT THREE FOR GRANT CONTRACT 150074, PIN #121997.00 WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE STONE DRIVE MULTI-MODAL ACCESS PROJECT; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENTS; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENTS

Passed: All present voting “aye.”

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

Motion/Second: McIntire/Adler, to adopt:

**1. Apply for and Receive a 2019 Traffic Safety Grant from the American Automobile Association (AAA) for Traffic Incident Management Equipment (AF: 36-2019) (David Quillin).**

Pass:

**Resolution No. 2019-117**, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE A 2019 TRAFFIC SAFETY GRANT FROM THE AMERICAN AUTOMOBILE

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, Tuesday, February 19, 2019**

ASSOCIATION

Passed: All present voting “aye.”

**2. Enter into a Lease Agreement with Congressman Phil Roe for Office Space at the Kingsport Center for Higher Education (AF: 37-2019) (Chris McCartt).**

Pass:

**Resolution No. 2019-118**, A RESOLUTION APPROVING AN AMENDMENT TO THE TERM OF THE LEASE AGREEMENT WITH U.S HOUSE OF REPRESENTATIVES DISTRICT OFFICE FOR OFFICE SPACE FOR CONGRESSMEN PHIL ROE AT THE KINGSFORT CENTER FOR HIGHER EDUCATION; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

Passed: All present voting “aye.”

**4. Bid Award for School Nutrition Grocery and Beverage Items to Gordon Food Service (AF: 38-2019) (David Frye, Jennifer Walker).**

Pass:

**Resolution No. 2019-119**, A RESOLUTION AWARDED THE BID FOR SCHOOL NUTRITION GROCERY AND BEVERAGE ITEMS TO GORDON FOOD SERVICE 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.”

**VIII. COMMUNICATIONS.**

**A. CITY MANAGER.** None.

**B. MAYOR AND BOARD MEMBERS.** Alderman Adler invited everyone to the ribbon cutting at the Inventor Center on March 1<sup>st</sup>, noting there would be activities the whole weekend. She also invited everyone to the upcoming Neighborhood Commission meeting at City Hall. Alderman Cooper commented on the library renovations, encouraging citizens to check out the programs offered to the public each month. Alderman Olterman commented on the new turf at Dobyys Bennett, noting baseball season starts this weekend and the basketball team plays tonight. He also wished his wife a happy birthday. Alderman George stated the Homebuilders show would be at Meadowview the weekend of March 1<sup>st</sup>. Mayor Clark commented on all the construction projects underway, including the aquatic center, apartments, transit center and road paving, noting it was a positive sign of a healthy city.

**C. VISITORS.** None.

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen  
of the City of Kingsport, Tennessee, Tuesday, February 19, 2019**

**IX. ADJOURN.** Seeing no other business for consideration at this meeting, Mayor Clark adjourned the meeting at 8:05 p.m.

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ANGELA MARSHALL  
Deputy City Recorder

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JOHN CLARK  
Mayor



**AGENDA ACTION FORM**

**Consideration of an Ordinance to Amend the FY 2019 the General Purpose School Fund Budget**

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

Action Form No.: AF-40-2019  
Work Session: February 18, 2019  
First Reading: February 19, 2019

**Final Adoption: March 5, 2019**  
Staff Work By: David Frye  
Presentation By: David Frye

**Recommendation:**  
Approve the Ordinance.

**Executive Summary:**

The Board of Education approved fiscal year 2019 budget amendment number two at their meeting on February 12, 2019. This amendment appropriates funds from the General Purpose School Fund Unreserved Fund Balance, in the amount of \$437,318. \$50,000 of these funds will be used to fund the purchase of new risers or various components at several schools. The remaining funds in addition to a donation from Kennedy Elementary School of \$45,210 will fund a new playground at Kennedy Elementary.

**Attachments:**

- 1. Ordinance
- 2. BOE Budget Amendment Number Two – FY 2019

Funding source appropriate and funds are available:  \_\_\_\_\_

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



**AGENDA ACTION FORM**

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**Attachments:**

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

Funding source appropriate and funds are available: \_\_\_\_\_

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

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

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

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

SECTION I. That the General Purpose School Fund Budget be amended by increasing the estimated revenue for Fund Balance Appropriations by \$437,318; increasing the estimated revenue for Other Local Revenue by \$45,210, and by increasing the appropriation for Capital Improvement Projects by \$432,528; increasing the appropriation for Fixtures, Furniture, and Equipment by \$50,000.

**Fund 141: General Purpose School Fund**

<b><u>Revenues:</u></b>	\$	\$	\$
141-0000-369-4990 Other Local Revenue	500,000	45,210	545,210
141-0000-392-0100 Fund Balance Appropriations	730,543	437,318	1,167,861
<b>Total:</b>	<b>1,230,543</b>	<b>482,528</b>	<b>1,713,071</b>

<b><u>Expenditures:</u></b>	\$	\$	\$
141-7650-871-0707 Capital Improvements	322,993	432,528	755,521
141-7650-871-0790 Fixtures, Furniture & Equip.	102,150	50,000	152,150
<b>Total:</b>	<b>425,143</b>	<b>482,528</b>	<b>907,671</b>

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

\_\_\_\_\_  
JOHN CLARK, Mayor

ATTEST:

\_\_\_\_\_  
JAMES H. DEMMING  
City Recorder

APPROVED AS TO FORM:

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

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

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

February 12, 2019

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

**GENERAL PURPOSE SCHOOL FUND**

**ITEM ONE: RISERS**

Not all of our schools have risers or they don't have a complete set of risers. This results in our maintenance personnel having to move risers between schools. Not only does this take time away from other maintenance activities, it also results in wear and tear on the risers. We have taken an inventory of risers and the needs range from a complete set of risers at some schools to additional components at other schools. A complete set of risers, with four steps and rails is approximately \$11,000. An appropriation of \$50,000 will cover most of the needs.

It is recommended that the estimated revenue for fund balance appropriations be increased by \$50,000 and that the appropriation for Fixture, Furniture and Equipment be increased by \$50,000.

**ITEM TWO: KENNEDY ELEMENTARY PLAYGROUND IMPROVEMENTS**

We have received bids for the improvements to the Kennedy Playground. It is being recommended that we accept the low bid of \$311,900. With architect fees (\$17,750) and contingency (\$18,714), the total project costs are \$348,364. Funding for the project will come from a donation from Kennedy Elementary School of \$45,210 and from a fund balance appropriation of \$303,154.

It is recommended that the estimated revenue for Fund Balance Appropriations be increased by \$303,154 and that the estimated revenue for Other Local Revenue be increased by \$45,210 and that the appropriation for Capital Improvement Projects be increased by \$348,364.

After discussion at the Board of Education meeting, it was decided to investigate if it may be more cost effective to install a complete poured-in-place surface instead of a partial surface. In the interest of time, it was decided to increase the budget amendment to cover the cost of the complete surface. If the final decision is to do the partial surface then the excess funds would revert back to the Unreserved Fund Balance.

If the final decision is to do the complete surface, then to the total project cost would be \$432,528. The final recommendation is to increase the estimated revenue for Fund Balance Appropriations by \$387,318 and Other Local Revenue by \$45,210 and to increase the appropriation for Capital Improvement Projects by \$432,528.



### **ITEM THREE: FUND BALANCE APPROPRIATION**

The audited Unreserved Fund Balance at June 30, 2018, was \$6,127,644. This amount is almost eight percent of the FY 2019 General Purpose School Fund budget. As recommended above this budget amendment will appropriate \$437,318 from the Unreserved Fund Balance. When this amount and previous appropriations are deducted from the June 30, 2018 balance, the revised Unreserved Fund balance will be \$5,126,755. Three percent of the FY 2019 budget is \$2,302,581.



**AGENDA ACTION FORM**

**Budget Adjustment Ordinance for FY19**

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

Action Form No.: AF-08-2019  
Work Session: February 18, 2019  
First Reading: February 19, 2019

**Final Adoption: March 5, 2019**  
Staff Work By: Judy Smith  
Presentation By: Jeff Fleming

**Recommendation:**

Approve the Ordinance.

**Executive Summary:**

The budget adjustment ordinance will appropriate funds collected as part of the e-citation program to offset the maintenance of the e-citation programs. The \$5.00 fee is divided with \$1.00 going to the clerk's office for their expenses related to the program (printer cartridges, receipt paper, etc.) and \$4.00 going to the law enforcement agency for their expenses related to the program (portable printers, thermal ticket paper, etc.). The appropriation for the Clerk's Office E Citations project is \$9,474 and the appropriation for the Enforcement E Citations project is \$37,931.

The budget adjustment will transfer \$75,400 to the Storm Water Infrastructure project, \$50,000 to the Court/Public Facility project to transfer utilities, etc., and \$415,000 from One Kingsport for the Riverbend parking area in the amount of \$150,000, \$140,000 for construction of a turn-a-round at Riverfront Landing, and \$125,000 for Kingsport Parks and River Masterplan.

**Attachments:**

1. Ordinance

Funding source appropriate and funds are available:

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



**AGENDA ACTION FORM**

**Budget Adjustment Ordinance for FY19**

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

Action Form No.: AF-08-2019  
Work Session: February 18, 2019  
First Reading: February 19, 2019

Final Adoption: March 5, 2019  
Staff Work By: Judy Smith  
Presentation By: Jeff Fleming

**Recommendation:**

Approve the Ordinance.


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The budget adjustment will transfer \$75,400 to the Storm Water Infrastructure project, \$50,000 to the Court/Public Facility project to transfer utilities, etc., and \$415,000 from One Kingsport for the Riverbend parking area in the amount of \$150,000, \$140,000 for construction of a turn-a-round at Riverfront Landing, and \$125,000 for Kingsport Parks and River Masterplan.

**Attachments:**

- 1. Ordinance

Funding source appropriate and funds are available: 

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

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

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

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

SECTION I. That the General Project Special Revenue Fund budgets be amended by appropriating \$9,474 in e-citation receipts from the e-citation program from clerk's office to Clerks Office E Citations project (NC1507), \$37,931 in e-citation receipts for Enforcement E Citations project (GP1508), \$9,000 from Coca Cola for annual sponsorship to the Coca Cola Appropriation project (NC1604), by appropriating \$12,500 in hotel motel tax for the Visitors Enhancement fund to KCVB and by appropriating \$114,141 from the Visitors Enhancement fund balance for improvements; and that the General Project Fund budgets be amended by transferring \$50,000 from General Projects (GP1750) to the Court/Public Facility PLN (GP1820), by transferring \$4,759 from Lynn View Site Improvements (GP1802) to the Lynn View Site Improvement project (GP1714), by transferring \$150,000 from the One Kingsport project (GP1821) to the River Bend project (GP1512) and appropriating \$666,000 received from KHRA for construction, by transferring \$140,000 from One Kingsport project (GP1821) to Riverfront Landing project (GP1923) and by transferring \$125,000 from the One Kingsport project (GP1821) to the Kingsport Parks & River Masterplan (GP1924).

SECTION II. That the Storm Water Project Fund budgets be amended by transferring \$4,511 from the Colonial Heights Phase 3 project (ST1603), \$25,596 from the Water/Sewer/Traffic TMT project (ST1703), \$42,860 from the Belvedere Drainage Improvement project (ST1709), \$395 from the Horse Creek Improvement project (ST1301) and \$2,038 from the Reedy Creek Land/Improvement project (ST1700) to the Storm Water Infrastructure project (ST1602). The total amount transferred to ST1602 is \$75,400.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/&lt;Decr&gt;</u>	<u>New Budget</u>
<b>Fund 111: General Project Special Revenue</b>			
<b>Fund</b>			
<b>Clerks Office E Citations (NC1507)</b>			
<b>Revenues:</b>	\$	\$	\$
111-0000-351-3310 Clerk's Office	3,468	9,474	12,942
<b>Totals:</b>	<b>3,468</b>	<b>9,474</b>	<b>12,942</b>
<b>Expenditures:</b>	\$	\$	\$
111-0000-601-2045 Training	150	0	150
111-0000-601-2055 Repairs & Maintenance	1,030	5,000	6,030

111-0000-601-3020 Operating Supplies & Tools	2,288	4,474	6,762
<b>Totals:</b>	<b>3,468</b>	<b>9,474</b>	<b>12,942</b>

**Fund 111: General Project Special Revenue Fund**

**Enforcement E Citations (NC1508)**

<b>Revenues:</b>	\$	\$	\$
111-0000-351-3320 Enforcement Agency	13,856	37,931	51,787
<b>Totals:</b>	<b>13,856</b>	<b>37,931</b>	<b>51,787</b>

<b>Expenditures:</b>	\$	\$	\$
111-0000-601-2045 Training	1,150	0	1,150
111-0000-601-2055 Repairs & Maintenance	7,700	10,000	17,700
111-0000-601-3020 Operating Supplies & Tools	5,006	27,931	32,937
<b>Totals:</b>	<b>13,856</b>	<b>37,931</b>	<b>51,787</b>

**Fund 111: General Project Special Revenue Fund**

**Coca Cola Appropriation (NC1604)**

<b>Revenues:</b>	\$	\$	\$
110-0000-364-2000 From Corporations	23,000	9,000	32,000
<b>Totals:</b>	<b>23,000</b>	<b>9,000</b>	<b>32,000</b>

<b>Expenditures:</b>	\$	\$	\$
111-0000-601-2020 Professional Consultant	5,000	(5,000)	0
111-0000-601-3020 Operating Supplies & Tools	10,000	(10,000)	0
111-0000-601-9004 Equipment	8,000	24,000	32,000
<b>Totals:</b>	<b>23,000</b>	<b>9,000</b>	<b>32,000</b>

**Fund 457 Storm Water Fund Colonial Heights PH 3 (ST1603)**

<b>Revenues:</b>	\$	\$	\$
457-0000-391-9500 From Storm Water Fund	78,945	(4,511)	74,434
<b>Totals:</b>	<b>78,945</b>	<b>(4,511)</b>	<b>74,434</b>

<b>Expenditures:</b>	\$	\$	\$
457-0000-622-2022 Construction Contracts	69,245	(3,955)	65,290
457-0000-622-2023 Arch/Eng/Landscaping	9,700	(556)	9,144
<b>Totals:</b>	<b>78,945</b>	<b>(4,511)</b>	<b>74,434</b>

**Fund 457 Storm Water Fund Water/Sewer/Traffic TMT (ST1703)**

<b>Revenues:</b>	\$	\$	\$
457-0000-391-9500 From Storm Water Fund	27,000	(25,596)	1,404

**Totals:**

<b>27,000</b>	<b>(25,596)</b>	<b>1,404</b>
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**Expenditures:**

457-0000-622-2022 Construction Contracts

\$ 27,000	\$ (25,596)	\$ 1,404
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**Totals:**

<b>27,000</b>	<b>(25,596)</b>	<b>1,404</b>
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**Fund 457 Storm Water Fund**

**Belvedere Drainage Imp. (ST1709)**

**Revenues:**

457-0000-391-9500 From Storm Water Fund

\$ 168,263	\$ (42,860)	\$ 125,403
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**Totals:**

<b>168,263</b>	<b>(42,860)</b>	<b>125,403</b>
----------------	-----------------	----------------

**Expenditures:**

457-0000-622-2022 Construction Contracts

\$ 118,263	\$ (51,369)	\$ 66,894
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457-0000-622-2023 Arch/Eng/Landscaping

0	9,018	9,018
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457-0000-622-9001 Land

50,000	(509)	49,491
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**Totals:**

<b>168,263</b>	<b>(42,860)</b>	<b>125,403</b>
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**Fund 457 Storm Water Fund**

**Horse Creek Imp (ST1301)**

**Revenues:**

457-0000-391-9500 From Storm Water Fund

\$ 200,000	\$ (395)	\$ 199,605
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**Totals:**

<b>200,000</b>	<b>(395)</b>	<b>199,605</b>
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**Expenditures:**

457-0000-622-2022 Construction Contracts

\$ 185,000	\$ (395)	\$ 184,605
------------	----------	------------

457-0000-622-2023 Arch/Eng/Landscaping

15,000	0	15,000
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**Totals:**

<b>200,000</b>	<b>(395)</b>	<b>199,605</b>
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**Fund 457 Storm Water Fund**

**Reedy Creek Land/Imp (ST1700)**

**Revenues:**

457-0000-391-9500 From Storm Water Fund

\$ 182,000	\$ (2,038)	\$ 179,962
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**Totals:**

<b>182,000</b>	<b>(2,038)</b>	<b>179,962</b>
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**Expenditures:**

457-0000-622-2023 Arch/Eng/Landscaping

\$ 10,900	\$ (2,038)	\$ 8,862
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457-0000-622-9001 Land

171,100	0	171,100
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**Totals:**

<b>182,000</b>	<b>(2,038)</b>	<b>179,962</b>
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**Fund 457 Storm Water Fund**

**Storm Water Infrastructure (ST1602)**

**Revenues:**

457-0000-391-9500 From Storm Water Fund

\$ 463,355	\$ 75,400	\$ 538,755
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**Totals:**

<b>463,355</b>	<b>75,400</b>	<b>538,755</b>
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**Expenditures:**

	\$	\$	\$
457-0000-622-2022 Construction Contracts	415,265	0	415,265
457-0000-622-2023 Arch/Eng/Landscaping	38,800	19,200	58,000
457-0000-622-9001 Land	1,000	0	1,000
457-0000-622-9003 Improvements	0	56,200	56,200
457-0000-622-9004 Equipment	8,290	0	8,290
<b>Totals:</b>	<b>463,355</b>	<b>75,400</b>	<b>538,755</b>

**Fund 311: General Project Fund**

**General Projects (GP1750)**

**Revenues:**

	\$	\$	\$
311-0000-391-0100 From General Fund	916,977	(50,000)	866,977
<b>Totals:</b>	<b>916,977</b>	<b>(50,000)</b>	<b>866,977</b>

**Expenditures:**

	\$	\$	\$
311-0000-601-9003 Improvements	916,977	(50,000)	866,977
<b>Totals:</b>	<b>916,977</b>	<b>(50,000)</b>	<b>866,977</b>

**Fund 311: General Project Fund**

**Court/Public Facility PLN (GP1820)**

**Revenues:**

	\$	\$	\$
311-0000-368-1055 Series 2017A GO Bonds	1,078,687	0	1,078,687
311-0000-368-1056 Series 2018A GO Bonds	3,649,223	0	3,649,223
311-0000-368-2101 Premium From Bond Sale	308,178	0	308,178
311-0000-391-0100 From General Fund	2,700,000	50,000	2,750,000
<b>Totals:</b>	<b>7,736,088</b>	<b>50,000</b>	<b>7,786,088</b>

**Expenditures:**

	\$	\$	\$
311-0000-601-2022 Construction Contracts	0	10,000	10,000
311-0000-601-2023 Arch/Eng/Landscaping	361,000	0	361,000
311-0000-601-2030 Electric Service	0	20,000	20,000
311-0000-601-2033 Water and Sewer Service	0	15,000	15,000
311-0000-601-2034 Telephone	0	5,000	5,000
311-0000-601-4041 Bond Sale Expense	136,088	0	136,088
311-0000-601-9002 Buildings	2,700,000	127,493	2,827,493
311-0000-601-9006 Purchases \$5,000 & Over	4,539,000	(127,493)	4,411,507
<b>Totals:</b>	<b>7,736,088</b>	<b>50,000</b>	<b>7,786,088</b>

**Fund 311: General Project Fund**

**Lynn View Site Improvements (GP1802)**

**Revenues:**

	\$	\$	\$
311-0000-368-1055 Series 2017A GO Bonds	630,266	(4,759)	625,507

311-0000-368-2101 Premium From Bond Sale	28,805	0	28,805
<b>Totals:</b>	<b>659,071</b>	<b>(4,759)</b>	<b>654,312</b>

**Expenditures:**

311-0000-601-2023 Arch/Eng/Landscaping	14,463	8,196	22,659
311-0000-601-4041 Bond Sale Expense	8,571	0	8,571
311-0000-601-9003 Improvements	636,037	(12,955)	623,082
<b>Totals:</b>	<b>659,071</b>	<b>(4,759)</b>	<b>654,312</b>

**Fund 311: General Project Fund**

**Lynn View Site Improvements (GP1714)**

**Revenues:**

311-0000-368-1054 Series 2016 GO (Nov 4)	186,653	0	186,653
311-0000-368-1055 Series 2017A GO Bonds	0	4,759	4,759
311-0000-368-2101 Premium From Bond Sale	15,471	0	15,471
<b>Totals:</b>	<b>202,124</b>	<b>4,759</b>	<b>206,883</b>

**Expenditures:**

311-0000-601-2022 Construction Contracts	174,000	0	174,000
311-0000-601-2023 Arch/Eng/Landscaping	26,000	4,759	30,759
311-0000-601-4041 Bond Sale Expense	2,124	0	2,124
<b>Totals:</b>	<b>202,124</b>	<b>4,759</b>	<b>206,883</b>

**Fund 311: General Project Fund**

**One Kingsport (GP1821)**

**Revenues:**

311-0000-391-0100 From General Fund	924,700	(415,000)	509,700
<b>Totals:</b>	<b>924,700</b>	<b>(415,000)</b>	<b>509,700</b>

**Expenditures:**

311-0000-601-2020 Professional Consultant	50,000	75,000	125,000
311-0000-601-2022 Construction Contracts	200,000	(100,000)	100,000
311-0000-601-2023 Arch/Eng/Landscaping	100,000	(50,000)	50,000
311-0000-601-9003 Improvements	574,700	(340,000)	234,700
<b>Totals:</b>	<b>924,700</b>	<b>(415,000)</b>	<b>509,700</b>

**Fund 311: General Project Fund**

**River Bend (GP1512)**

**Revenues:**

311-0000-334-5010 Other Agencies/KHRA	0	666,000	666,000
311-0000-368-1047 Series 2014A Go Bonds	1,099,802	0	1,099,802
311-0000-368-2101 Premium From Bond Sales	115,166	0	115,166
311-0000-391-0100 From General Fund	0	150,000	150,000
<b>Totals:</b>	<b>1,214,968</b>	<b>816,000</b>	<b>2,030,968</b>



<b>Expenditures:</b>	\$	\$	\$
311-0000-601-2023 Arch/Eng/Landscaping	0	150,000	150,000
311-0000-601-4041 Bond Sale Expense	14,968	0	14,968
311-0000-601-9001 Land	6,827	0	6,827
311-0000-601-9003 Improvements	1,193,173	666,000	1,859,173
<b>Totals:</b>	<b>1,214,968</b>	<b>816,000</b>	<b>2,030,968</b>

**Fund 311: General Project Fund  
Riverfront Landing (GP1923)**

<b>Revenues:</b>	\$	\$	\$
311-0000-391-0100 From General Fund	0	140,000	140,000
<b>Totals:</b>	<b>0</b>	<b>140,000</b>	<b>140,000</b>

<b>Expenditures:</b>	\$	\$	\$
311-0000-601-2023 Arch/Eng/Landscaping	0	15,000	15,000
311-0000-601-9003 Improvements	0	125,000	125,000
<b>Totals:</b>	<b>0</b>	<b>140,000</b>	<b>140,000</b>

**Fund 311: General Project Fund  
Kingsport Parks & River Masterplan (GP1924)**

<b>Revenues:</b>	\$	\$	\$
311-0000-391-0100 From General Fund	0	125,000	125,000
<b>Totals:</b>	<b>0</b>	<b>125,000</b>	<b>125,000</b>

<b>Expenditures:</b>	\$	\$	\$
311-0000-601-2020 Professional Consultant	0	125,000	125,000
<b>Totals:</b>	<b>0</b>	<b>125,000</b>	<b>125,000</b>

**Fund 135: Visitors Enhancement Fund**

<b>Revenues:</b>	\$	\$	\$
135-0000-316-2000 Visitors Enhancement Fund	415,000	12,500	427,500
135-0000-392-0100 Fund Balance Appropriation	1,824	114,141	115,965
<b>Totals:</b>	<b>416,824</b>	<b>126,641</b>	<b>543,465</b>

<b>Expenditures:</b>	\$	\$	\$
135-1015-405-80515 KCVB	52,154	12,500	64,654
135-1015-405-9003 Improvements	37,487	114,141	151,628
<b>Totals:</b>	<b>89,641</b>	<b>126,641</b>	<b>216,282</b>

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

\_\_\_\_\_  
JOHN CLARK, Mayor

ATTEST:

\_\_\_\_\_  
JAMES H. DEMMING, City Recorder

APPROVED AS TO FORM:

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

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



**AGENDA ACTION FORM**

**Awarding the Bid for the Purchase of One (1) 72 Passenger School Bus to Mid-South Bus Center**

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

Action Form No.: AF-44-2019  
Work Session: March 4, 2019  
First Reading: N/A

Final Adoption: March 5, 2019  
Staff Work By: Committee  
Presentation By: Steve Hightower

**Recommendation:**  
Approve the Resolution.

**Executive Summary:**

Bids were opened on January 31, 2019 for the purchase of one (1) 72 Passenger Type 'D' School Bus. The advertisement for the Invitation to Bid was published in the Kingsport Times News on January 6, 2019 and placed on our website for 26 calendar days. It is the recommendation of the committee to accept the compliant bid from Mid-South Bus Center for one (1) Thomas Saf-T-Liner EFX 1318S bus and to accept Option A – Additional Hard Drive for the recording system needed on the bus.

\$104,432.00	Unit Price
add \$2,230.00	Option A - Additional Hard Drive for Recording System
\$106,662.00	Total Purchase Price


This unit will be a new addition to the Fleet.

Additional information is included in the recommendation memo.

Funding is identified in Project/Account # 511-5008-501-90-10.

**Attachments:**

1. Resolution
2. Bid Opening Minutes
3. Recommendation Memo w/ Photo

Funding source appropriate and funds are available: 

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

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

A RESOLUTION AWARDING THE BID FOR THE PURCHASE OF ONE 72 PASSENGER SCHOOL BUS TO MID-SOUTH BUS CENTER, INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

WHEREAS, bids were opened January 31, 2019, for the purchase of one (1) 72 passenger type 'D' school bus, for the Kingsport City Schools; and

WHEREAS, the city accepted Option A – Additional Hard Drive for Recording System, for an additional amount of \$2,230.00 to be added to the total; and

WHEREAS, the city will not receive a trade-in allowance. This unit is a new addition to the Fleet; and

WHEREAS, upon review of the bids, the board finds Mid-South Bus Center, Inc. is the lowest responsible compliant bidder meeting specifications for the particular grade or class of material, work or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to purchase one (1) Thomas Saf-T-Liner EFX1318S 72 passenger type 'D' school bus, with option A – Additional Hard Drive for Recording System for the bus from Mid-South Bus Center, Inc., at a total purchase cost of \$106,662.00, which includes the option addition of \$2,230.00; and,

WHEREAS, funding is identified in account #51150085019010.

Now therefore,

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

SECTION I. That the bid for the purchase of one (1) Thomas Saf-T-Liner EFX1318S 72 passenger type 'D' school bus, with Option A – Additional Hard Drive for the Recording System for the bus at a total purchase cost of \$106,662.00, which addition of \$2,230.00, is awarded to Mid-South Bus Center, Inc., and the city manager is authorized to execute a purchase order for same.

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

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

ADOPTED this the 5th day of March, 2019.

\_\_\_\_\_  
JOHN CLARK, MAYOR

ATTEST:

\_\_\_\_\_  
JAMES H. DEMMING, CITY RECORDER  
APPROVED AS TO FORM:

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

MINUTES  
BID OPENING  
January 31, 2019  
4:00 P.M.

Present: Michelle Ramey, Assistant Procurement Manager; Nikisha Eichmann, Assistant Procurement Manager;  
David Frye, Chief Finance Officer; Jennifer Salyers, Barge Design

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

The Assistant Procurement Manager opened with the following bids:

72 PASSENGER SCHOOL BUS				
VENDOR	QUANTITY	UNIT COST	OPTION A	MAKE/MODEL
Central States Bus Sales Inc.	1	\$105,492.00	\$1,808.00	Bluebird All American T3FE Type D
Mid-South Bus Center	1	\$104,432.00	\$2,230.00	Thomas Saf-T Liner EFX 13188

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



FLEET MAINTENANCE DIVISION
City of Kingsport, Tennessee

To: Michelle Ramey, Assistant Procurement Manager
From: Steve Hightower, Fleet Manager
Tommy Starnes, Schools Transportation Director
Date: February 11, 2019
Re: School Bus Purchase Recommendation

This will confirm our review and recommendation to purchase the low compliant bid of the "Thomas Saf-T-Liner EFX 1318S" 72 passenger bus (\$104,432) from the following vendor and to accept Option A - Additional Hard Drive (\$2,230) for the recording system needed on the bus for the total purchase price of \$106,662.

Table with 5 columns: Item, Quantity, Description, Award to Vendor, Fuel Economy. Row 1: 1, 1, 72 Passenger School Bus, Mid-South Bus Center, 7 City/ 9 Hwy

Low Compliant Bidder

The bid offering of Mid-South Bus Center is compliant to all the minimum specification requirements outlined in the bid document for this Schools purchase.

The bid offerings were reviewed with the Schools Transportation Director, Tommy Starnes, who is in agreement with this recommendation. Mr. Starnes's memo confirming agreement is attached.

Fuel Economy Improvement

0%

No fuel economy improvements noted because this unit is an addition to the fleet.

Trade In

- 1. Trade in(s):
a. N/A

Origin/ Dealer Information

- 2. New Unit(s) Origin of Manufacture:
a. Bus - High Point, North Carolina
i. 80 % Domestic/ 20 % Foreign Materials
3. New Unit(s) Purchase Dealer:
a. Bus - Mid South Bus Center - Murfreesboro, TN.

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

Thank you.



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Picture is for demonstration purposes only and does not reflect the actual unit(s) being purchased.



## Transportation

635 W Industry Dr  
Kingsport, TN 37660

p: (423) 392-4416  
f: (423) 245-1346

[www.k12k.com](http://www.k12k.com)

February 11, 2019

I, Tommy Starnes am in agreement with the recommendation to award this school bus purchase to Mid-South Bus.

A handwritten signature in blue ink that reads "Tommy Starnes". The signature is fluid and cursive, with a large initial "T" and "S".

**Tommy Starnes**  
**Director of Transportation, Kingsport City Schools**

*Inspire. Cultivate. Impact*

Facebook KptSchools  
Twitter @KCS\_District

WWW.K12K.COM

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**AGENDA ACTION FORM**

**Award the Bid for John F. Kennedy Elementary Playground Improvements Project to Armstrong Construction Company, Inc.**

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

Action Form No.: AF-17-2019  
 Work Session: March 4, 2019  
 First Reading: N/A

Final Adoption: March 5, 2019  
 Staff Work By: Committee  
 Presentation By: David Frye

**Recommendation:**  
 Approve the Resolution.

**Executive Summary:**


City of Kingsport for its Kingsport City Schools opened bids on January 31, 2019 for the John F Kennedy Elementary Playground Improvements Project. The advertisement for the Invitation to Bid was published in the Kingsport Times News and the City of Kingsport website on Sunday, January 6, 2019. Three bids were received with base bids ranging from \$214,000.00 to \$266,630.00. It is the recommendation of Architect from Barge Design and KCS to accept the base bid of \$217,700.00 submitted by Armstrong Construction Company, Inc. and accept bid Alternate #1 (PIP Surfacing Option1 - \$30,700.00), Alternate #3 (Additional Play Equipment - \$39,800.00), and Alternate #3A (PIP Surfacing Option 3A - \$23,700.00).

The Board of Education approved the recommendation to award the bid to Armstrong Construction Company, Inc. on February 26, 2019. It is recommended that the Board of Mayor and Aldermen approve the resolution to award the bid for John F. Kennedy Playground Improvements Project to Armstrong Construction Company, Inc. for a total of \$311,900.00 and establish a 6% contingency of \$18,714.00.

Funding for the project (\$311,900.00), 6% Contingency (\$18,714.00) and for the Architect's Fee (\$17,750.00) will come from funds raised by Kennedy Elementary (\$45,210.00) and from funds in the Kingsport City Schools Capital Improvements Account (\$303,154.00).

**Attachments:**

1. Resolution
2. Bid Tab
3. Recommendation

Funding source appropriate and funds are available: 

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

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

A RESOLUTION AWARDING THE BID FOR THE JOHN F. KENNEDY ELEMENTARY PLAYGROUND IMPROVEMENTS PROJECT TO ARMSTRONG CONSTRUCTION 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

WHEREAS, bids were opened January 31, 2019, for the John F. Kennedy Elementary Playground Improvements project; and

WHEREAS, upon review of the bids, the board finds Armstrong Construction Company, is the lowest responsible compliant bidder meeting specifications for the particular grade or class of material, work or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to enter into a contract for the construction of the playground, with Alternate 1 (PIP Surfacing Option #1), Alternate 3 (Additional Play Equipment), and Alternate 3A (PIP Surfacing Option #3A) from Armstrong Construction Company, Inc. at an estimated construction cost of \$303,154.00; and

WHEREAS, funding for the project in the amount of \$303,154.00, is available in the Kingsport City Schools Capital Improvements Account.

Now therefore,

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

SECTION I. That the bid for the John F, Kennedy Elementary Playground Improvements project with Alternate 1 (PIP Surfacing Option #1), Alternate 3 (Additional Play Equipment), and Alternate 3A (PIP Surfacing Option #3A) at an estimated cost of \$303,154.00 is awarded to Armstrong Construction Company, Inc., and the mayor is authorized to execute an agreement for same and all documents necessary and proper to effectuate the purpose of the agreement.

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

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

ADOPTED this the 5th day of March, 2019.

\_\_\_\_\_  
JOHN CLARK, MAYOR

ATTEST:

\_\_\_\_\_  
JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

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J. MICHAEL BILLINGSLEY, CITY ATTORNEY

**Bid Summary**

**John F. Kennedy Elementary School - Playground Improvements**

Kingsport, Tennessee  
 Project No.: 36938-00

Bid Date: January 31, 2019

Bid Time: 4:00 p.m. ET

Addenda Issued: 2

Bidder	Tennessee License #	Expiration Date	License Classification	Electrical	Plumbing	HVAC	Geo-thermal	Masonry	Additional Documentation	Base Bid	Add Alt. #1 PIP Surfacing Option #1	Add Alt. #2 PIP Surfacing Option #2	Add Alt. #3 Additional Play Equipment	Add Alt. #3A PIP Surfacing Option #3A	Add Alt. #3B PIP Surfacing Option #3B	Comments
Duco Construction	42676	3/31/2020		None	None	None	None	None	✓ Bid Security ✓ Affidavits Form ✓ Signed Bid Form 2 Addenda	\$214,000.00	\$66,200.00	\$110,500.00	\$46,400.00	\$27,800.00	\$38,400.00	Playground Vendor - Little Tikes Commercial CD not provided
Armstrong Construction	1554	4/30/2020		None	None	None	None	None	✓ Bid Security ✓ Affidavits Form ✓ Signed Bid Form 2 Addenda	\$217,700.00	\$30,700.00	\$99,800.00	\$39,800.00	\$23,700.00	\$34,000.00	Playground Vendor - Playworld
Kennedy Construction Company	62819	10/31/2019		None	None	None	None	None	✓ Bid Security ✓ Affidavits Form ✓ Signed Bid Form 2 Addenda	\$266,630.00	\$26,327.52	\$88,645.13	\$28,322.90	\$48,673.42	\$53,693.18	
Great Southern Recreation	The subcontractor section on the envelop cover was not completed, and thus the bid could not be opened.															



February 5, 2019

Ms. Michelle Ramey  
Assistant Procurement Manager  
Kingsport City Schools  
400 Clinchfield St., Suite 200  
Kingsport, TN 37660

RE: Recommendation of Award  
John F. Kennedy Elementary School Playground Improvements

Dear Ms. Ramey:

The aforementioned project was publicly advertised in the Kingsport Times-News on January 06, 2019. Bids were received on Thursday January 31, 2019, at the Council Room of City Hall, Kingsport, TN. There were four contractors that provided a bid. One bid did not complete Part 2 – Subcontractors on the envelope cover, thus, that bid was not opened. The bids included a Base Bid and 6 potential Add Alternates. The bids were reviewed for both pricing and compliance with the basis of design. The apparent low bidder, based solely on the Base Bid, used an alternative playground product which did not meet the design requirements outlined in the drawings and specifications. The second low bidder was Armstrong Construction Company. Their bid was reviewed for technical accuracy and responsiveness by Barge Design Solutions. The Base Bid plus Add Alternates #1,3, and 3A is the Kingsport City School's desired award combination. This combination results in Armstrong being the low bidder. Based on this review, Barge Design Solutions recommends Armstrong Construction Company as the successful, responsive and responsible low bidder for the project.

Sincerely,

**Barge Design Solutions, Inc.**

Jennifer A. Salyer, PLA  
Project Manager

c: Mr. David Frye, Kingsport City Schools CFO

Enclosures:

Bid Tabulation

Bid Award Options

Barge project #36938-00

**Bid Summary**

**John F. Kennedy Elementary School - Playground Improvements**

Kingsport, Tennessee  
Project No.: 36938-00

Bid Date: January 31, 2019

Bid Time: 4:00 p.m. ET

Addenda Issued: 2

Bidder	Tennessee License #	Expiration Date	License Classification	Electrical	Plumbing	HVAC	Geo-thermal	Masonry	Additional Documentation	Base Bid	Add Alt. #1 PIP Surfacing Option #1	Add Alt. #2 PIP Surfacing Option #2	Add Alt. #3 Additional Play Equipment	Add Alt. #3A PIP Surfacing Option #3A	Add Alt. #3B PIP Surfacing Option #3B	Comments
Duco Construction	42676	3/31/2020	BC-AB	N/A	N/A	N/A	N/A	N/A	<ul style="list-style-type: none"> <li>✓ Bid Security</li> <li>✓ Affidavits Form</li> <li>✓ Signed Bid Form</li> <li>2 Addenda</li> </ul>	\$214,000.00	\$66,200.00	\$110,500.00	\$46,400.00	\$27,800.00	\$38,400.00	Playground Vendor - Little Tikes Commercial CD not provided
Armstrong Construction Company, Inc	1554	4/30/2020	BC, LMC, MU A.2; MU-A.3, MU-B	N/A	N/A	N/A	N/A	N/A	<ul style="list-style-type: none"> <li>✓ Bid Security</li> <li>✓ Affidavits Form</li> <li>✓ Signed Bid Form</li> <li>2 Addenda</li> </ul>	\$217,700.00	\$30,700.00	\$99,800.00	\$39,800.00	\$23,700.00	\$34,000.00	Playground Vendor - Playworld
Kennedy Construction Co., LLC	62819	10/31/2019	BC-A; BC-b(sm)	None	None	None	None	None	<ul style="list-style-type: none"> <li>✓ Bid Security</li> <li>✓ Affidavits Form</li> <li>✓ Signed Bid Form</li> <li>2 Addenda</li> </ul>	\$266,630.00	\$26,327.52	\$88,645.13	\$28,322.90	\$48,673.42	\$53,693.18	Playground Vendor - Play Mart Playgrounds
Great Southern Recreation	The subcontractor section on the envelop cover was not completed, and thus the bid could not be opened.															

Information provided in this spreadsheet is as written on the bid envelope

To the best of my knowledge, this is a true and exact tabulation of bids received

Jennifer A. Salyer

Date

**Bid Summary - Award Options**

**John F. Kennedy Elementary School - Playground Improvements**

Kingsport, Tennessee  
Project No.: 36938-00

Bidder	Base Bid	Add Alt. #1 PIP Surfacing Option #1	Add Alt. #2 PIP Surfacing Option #2	Add Alt. #3 Additional Play Equipment	Add Alt. #3A PIP Surfacing Option #3A	Add Alt. #3B PIP Surfacing Option #3B	Base Bid + Add Alt. #1	Base Bid + Add Alt. #2	Base Bid + Add Alt. #3	Base Bid + Add Alt. #1 & 3	Base Bid + Add Alt. #2 & 3	Base Bid + Add Alt. #1, 3, & 3A	Base Bid + Add Alt. #1, 3, & 3B	Base Bid + Add Alt. #2, 3, & 3A	Base Bid + Add Alt. #2, 3, & 3B
Duco Construction	\$214,000.00	\$66,200.00	\$110,500.00	\$46,400.00	\$27,800.00	\$38,400.00	\$280,200.00	\$324,500.00	\$260,400.00	\$326,600.00	\$370,900.00	\$354,400.00	\$365,000.00	\$398,700.00	\$409,300.00
Armstrong Construction	\$217,700.00	\$30,700.00	\$99,800.00	\$39,800.00	\$23,700.00	\$34,000.00	\$248,400.00	\$317,500.00	\$257,500.00	\$288,200.00	\$357,300.00	\$311,900.00	\$322,200.00	\$381,000.00	\$391,300.00
Kennedy Construction Company	\$266,630.00	\$26,327.52	\$88,645.13	\$28,322.90	\$48,673.42	\$53,693.18	\$292,957.52	\$355,275.13	\$294,952.90	\$321,280.42	\$383,598.03	\$369,953.84	\$374,973.60	\$432,271.45	\$437,291.21

MEMORANDUM

TO: Board of Education  
Dr. Jeff Moorhouse

FROM: David J. Frye, Chief Finance Officer

DATE: February 12, 2019

SUBJECT: Kennedy Playground Improvements

Bids were opened for the improvements to the Kennedy Elementary playground on January 31, 2019. The base bids ranged from \$214,000 to \$266,630. The base bid includes a main play structure with swings and engineered wood fiber (EFW) mulch. There were several alternates on this bid. These options are listed below:

- Alternate 1: Partial PIP (poured in place) surfacing in base bid area.
- Alternate 2: Complete PIP surfacing in the base bid area.
- Alternate 3: An additional play area with a slider and spinner with EFW mulch.
- Alternate 3A: Partial PIP surfacing on additional play area.
- Alternate 3B: Complete PIP surfacing on additional play area.

Ms. Jennifer Salyers from Barge Design Solutions has recommended that we accept the compliant low bid from Armstrong Construction for improvements to the Kennedy Elementary playground.

Staff is recommending that we accept the base bid and alternate # 1, at a total cost of \$248,800. Kennedy Elementary has raised approximately \$45,210 for this project and they have requested that those funds be used to purchase the additional play area for \$39,800. If we are going to install the additional play area it is also recommended to we accept Alternate 3A for the partial PIP surfacing for the additional play area for 23,700. The remaining Kennedy funds of \$5,410 will be used to fund a portion of alternate 3A.

Total funding for the project is \$348,364, as shown below:

Base Bid	\$ 217,700
Alternate 1	30,700
Alternate 3	39,800
Alternate 3A	23,700
Architect Fees	17,750
Contingency - 6%	<u>18,714</u>
Total	<u>\$ 348,364</u>



With the approval of budget amendment number two there is funding for this work in the Capital Improvement Account.

It is recommended that the Board approve a motion to award the bid (including the base bid and alternates 2, 3, and 3A) for to the Kennedy Elementary playground to Armstrong Construction, Inc. in the amount of \$311,900 and establish a 6% contingency of \$18,714.



**AGENDA ACTION FORM**

**Enter into a Construction Agreement with CSX Transportation (CSXT) for South Wilcox Drive Bridge Enhancements**

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

Action Form No.: AF-35-2019  
Work Session: March 4, 2019  
First Reading: N/A

Final Adoption: March 5, 2019  
Staff Work By: Tim Elsea  
Presentation By: Ryan McReynolds

**Recommendation:**

Approve the Resolution.

**Executive Summary:**

On June 5, 2018 the BMA approved a Preliminary Engineering Agreement with CSXT for the South Wilcox Drive Bridge Enhancements project. CSXT approved the design engineering services for this project, which was the first step of the city facilitating the development of the proposed bridge enhancements. The project consists of landscaping of all four quadrants at each bridge site, and a total of four girders will be re-painted. One girder will contain the word "Kingsport".

It is recommended to enter into a construction agreement with CSXT, Inc. for construction oversight in an estimated amount of \$33,550.00 (reimbursable expenses). Entering into this agreement is the next step for the development of the project in order to proceed with construction.

Funding is available and identified in GP1701; GP1822; and GP1916.

This bridge is a CSXT asset (State Highway 126 MP Z 94.75 DOT 243980H Florence Div Kingsport Sub Div).

**Attachments:**

- 1. Resolution
- 2. Agreement
- 3. Rendering

Funding source appropriate and funds are available: *JF*

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

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

A RESOLUTION APPROVING A CONSTRUCTION AGREEMENT WITH CSX TRANSPORTATION, INC., FOR SOUTH WILCOX DRIVE BRIDGE ENHANCEMENTS AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, on June 5, 2018 the board approved a Preliminary Engineering Agreement with CSX Transportation, Inc., (CSXT) for the South Wilcox Drive Bridge Enhancements project, and CSXT approved the design engineering services; and

WHEREAS, the project consists of landscaping of all four quadrants at each bridge site, and a total of four girders will be re-painted, with one girder to contain the word "Kingsport"; and

WHEREAS, staff recommends entering into a construction agreement with CSXT for construction oversight in an estimated amount of \$33,550.00;

WHEREAS, funding is available and identified in GP1701; GP1822; and GP1916.

Now therefore,

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

SECTION I. That an agreement with CSX Transportation, Inc., for the South Wilcox Drive Bridge Enhancements project is approved.

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

**CONSTRUCTION AGREEMENT**

This Construction Agreement ("Agreement") is made as of 20\_\_\_\_, by and between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business in Jacksonville, Florida ("CSXT"), and the City of Kingsport, a body corporate and political subdivision of the State of Tennessee ("Agency").

**EXPLANATORY STATEMENT**

1. Agency has proposed to construct, or to cause to be constructed, the painting, cleaning and landscaping of the CSXT bridge, located on S. Wilcox Drive (SR-126), Milepost Z-94.75 DOT 243980H, Florence Zone, Kingsport Subdivision, in the city of Kingsport, Sullivan County Tennessee, (the "Project").

2. Agency has obtained, or will obtain, all authorizations, permits and approvals from all local, state and federal agencies (including Agency), and their respective governing bodies and regulatory agencies, necessary to proceed with the Project and to appropriate all funds necessary to construct the Project.

3. Agency acknowledges that: (i) by entering into this Agreement, CSXT will provide services and accommodations to promote public interest in this Project, without profit or other economic inducement typical of other Agency contractors; (ii) neither CSXT nor its affiliates (including their respective directors, officers, employees or agents) will incur any costs, expenses, losses or liabilities in excess of payments made to CSXT, by or on behalf of Agency or its contractors, pursuant to this Agreement; and (iii) CSXT retains the paramount right to regulate all activities affecting its property

and operations.

NOW, THEREFORE, in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

I. Project Plans and Specifications

1.1 Preparation and Approval. Pursuant to Exhibit A of this Agreement, all plans, specifications, drawings and other documents necessary or appropriate to the design and construction of the Project shall be prepared, at Agency's sole cost and expense, by Agency or CSXT or their respective contractors. Project plans, specifications and drawings prepared by or on behalf of Agency shall be subject, at CSXT's election, to the review and approval of CSXT. Such plans, specifications and drawings, as prepared or approved by CSXT, are referred to as the "Plans", and shall be incorporated and deemed a part of this Agreement. Plans prepared or submitted to and approved by CSXT as of the date of this Agreement are set forth in Exhibit B to this Agreement.

1.2 Effect of CSXT Approval or Preparation of Plans. By its review, approval or preparation of Plans pursuant to this Agreement, CSXT signifies only that such Plans and improvements constructed in accordance with such Plans satisfy CSXT's requirements. CSXT expressly disclaims all other representations and warranties in connection with the Plans, including, but not limited to, the integrity, suitability or fitness for the purposes of Agency or any other persons of the Plans or improvements constructed in accordance with the Plans.

1.3 Compliance with Plans. The Project shall be constructed in accordance with the Plans.

2. Allocation and Conduct of Work

Work in connection with the Project shall be allocated and conducted as follows:

2.1 CSXT Work. Subject to timely payment of Reimbursable Expenses as provided by Section 4, CSXT shall provide, or cause to be provided, the services as set forth by Exhibit A to this Agreement. Agency agrees that CSXT shall provide all services that CSXT deems necessary or appropriate (whether or not specified by Exhibit A) to preserve and maintain its property and operations, without impairment or exposure to liability of any kind and in compliance with all applicable federal, state and local regulations and CSXT's contractual obligations, including, but not limited to, CSXT's existing or proposed third party agreements and collective bargaining agreements.

2.2 Agency Work. Agency shall perform, or cause to be performed, all work as set forth by Exhibit A, at Agency's sole cost and expense.

2.3 Conduct of Work. CSXT shall commence its work under this Agreement following: (i) delivery to CSXT of a notice to proceed from Agency; (ii) payment of Reimbursable Expenses (as provided by Section 4.1) as required by CSXT prior to the commencement of work by CSXT; (iii) issuance of all permits, approvals and authorizations necessary or appropriate for such work; and (iv) delivery of proof of insurance acceptable to CSXT, as required by Section

9. The initiation of any services by CSXT pursuant to this Agreement, including, but not limited to, the issuance of purchase orders or bids for materials or services, shall constitute commencement of work for the purposes of this Section. The parties intend that all work by CSXT or on CSXT property shall conclude no later than October 30, 2023, unless the parties mutually agree to extend such date.

3. Special Provisions. Agency shall observe and abide by, and shall require its contractors ("Contractors") to observe and abide by the terms, conditions and provisions set forth in Exhibit C to this Agreement (the "Special Provisions"). To the extent that Agency performs Project work itself, Agency shall be deemed a Contractor for purposes of this Agreement.

4. Cost of Project and Reimbursement Procedures

4.1 Reimbursable Expenses. Agency shall reimburse CSXT for all costs and expenses incurred by CSXT in connection with the Project, including, without limitation: (1) all out of pocket expenses, (2) travel and lodging expenses, (3) telephone, facsimile, and mailing expenses, (4) costs for equipment, tools, materials and supplies, (5) sums paid to CSXT's consultants and subcontractors, and (6) CSXT labor in connection with the Project, together with CSXT labor overhead percentages established by CSXT pursuant to applicable law (collectively, "Reimbursable Expenses"). Reimbursable Expenses shall also include expenses incurred by CSXT prior to the date of this Agreement to the extent identified by the Estimate provided pursuant to Section 4.2.

4.2 Estimate. CSXT has estimated the total Reimbursable Expenses for the Project as shown on Exhibit D (the "Estimate", as amended or revised). In the event CSXT anticipates that actual Reimbursable Expenses for the Project may exceed such Estimate, it shall provide Agency with the revised Estimate of the total Reimbursable Expenses, together with a revised Payment Schedule (as defined by Section 4.3.1), for Agency's approval and confirmation that sufficient funds have been appropriated to cover the total Reimbursable Expenses of such revised Estimate. CSXT may elect, by delivery of notice to Agency, to immediately cease all further work on the Project, unless and until Agency provides such approval and confirmation.

4.3 Payment Terms.

4.3.1 Agency shall pay CSXT for Reimbursable Expenses as set forth in the Payment Schedule as shown on Exhibit E(the "Payment Schedule", as revised pursuant to Section 4.2).

4.3.2 Following completion of the Project, CSXT shall submit to Agency a final invoice that reconciles the total Reimbursable Expenses incurred by CSXT against the total payments received from Agency. Agency shall pay to CSXT the amount by which Reimbursable Expenses exceed total payments as shown by the final invoice, within thirty (30) days following delivery of such invoice to Agency. In the event that the payments received by CSXT from Agency exceed the Reimbursable Expenses, CSXT shall remit such excess to Agency.

4.3.3 In the event that Agency fails to pay CSXT any sums due CSXT under this Agreement:

(i) Agency shall pay CSXT interest at the lesser of 1.0% per month or the maximum rate of interest permitted by applicable law on the delinquent amount until paid in full; and

(ii) CSXT may elect, by delivery of notice to Agency: (A) to immediately cease all further work on the Project, unless and until Agency pays the entire delinquent sum, together with accrued interest; and/or (B) to terminate this Agreement.

4.3.4 All invoices from CSXT shall be delivered to Agency in accordance with Section 16 of this Agreement. All payments by Agency to CSXT shall be made by certified check and mailed to the following address or such other address as designated by CSXT's notice to Agency:

CSX Transportation, Inc. P. O. Box 530192

Atlanta, GA 30353-0192

4.4 Effect of Termination. Agency's obligation to pay to CSXT Reimbursable Expenses in accordance with Section 4 shall survive termination of this Agreement for any reason.

5. Appropriations. Agency represents to CSXT that: (i) Agency has appropriated funds sufficient to reimburse CSXT for the Reimbursable Expenses encompassed by the Estimate attached as Exhibit D;

(ii) Agency shall use its best efforts to obtain appropriations necessary to cover Reimbursable Expenses encompassed by subsequent Estimates approved by Agency; and (iii) Agency shall promptly notify CSXT in the event that Agency is unable to obtain such appropriations.

6. Easements and Licenses

6.1 Agency Obligation. Agency shall acquire all necessary licenses, permits and easements required for the Project.

7. Permits. At its sole cost and expense, Agency or its Contractors shall procure all permits and approvals required by any federal, state, or local governments or governmental agencies for the construction, maintenance and use of the Project, copies of which shall be provided to CSXT.

8. Termination

8.1 By Agency. For any reason, Agency may, as its sole remedy, terminate this Agreement by delivery of notice to CSXT. Agency shall not be entitled to otherwise pursue claims for consequential, direct, indirect or incidental damages or lost profits as a consequence of CSXT's default or termination of this Agreement or Work on the Project by either party.

8.2 By CSXT. In addition to the other rights and remedies available to CSXT under this Agreement, CSXT may terminate this Agreement by delivery of notice to Agency in the event Agency or its Contractors fail to observe the terms or conditions of this Agreement and such failure continues more than ten (10) business days following delivery of notice of such failure by CSXT to Agency.

8.3 Consequences of Termination. If the Agreement is terminated by either party pursuant to this Section or any other provision of this Agreement, the parties understand that it may be impractical for them to immediately stop the Work. Accordingly, they agree that, in such instance a party may continue to perform Work until it has reached a point where it may reasonably and safely suspend the Work. Agency shall reimburse CSXT pursuant to this Agreement for the Work performed, plus all costs reasonably incurred by CSXT to discontinue the Work and protect the Work upon full suspension of the same, the cost of returning CSXT's property to its former condition, and all other costs of CSXT incurred as a result of the Project up to the time of full suspension of the Work. Termination of this Agreement or Work on the Project, for any reason, shall not diminish or reduce Agency's obligation to pay CSXT for Reimbursable Expenses incurred in accordance with this Agreement. In the event of the termination of this Agreement or the Work for any reason, CSXT's only remaining obligation to Agency shall be to refund to Agency payments made to CSXT in excess of Reimbursable Expenses in accordance with Section 4.

9. Insurance. In addition to the insurance that Agency requires of its Contractor, Agency shall require its Contractor to purchase and maintain insurance in compliance with CSXT's insurance requirements attached to this Agreement as Exhibit F. Neither Agency nor Contractor shall commence work on the Project until such policy or policies have been submitted to and approved by CSXT's Risk Management Department.

10. Ownership and Maintenance

10.1 By Agency. Agency shall own, maintain and repair, at its sole cost and expense, all parts

comprising the permanent aspects of the Project, as shown by the Plans. In the event Agency fails to do so after reasonable notice from CSXT (no more than thirty (30) days, unless an emergency condition exists or is imminent in the opinion of CSXT, that requires immediate action), CSXT may perform such maintenance and repair, at Agency's sole cost and expense. Upon the cessation of use of the Project by Agency, Agency shall remove the structure and restore CSXT's property to its original condition, at Agency's sole cost and expense.

10.2 Alterations. Agency shall not undertake any alteration, modification or expansion of the Project, without the prior approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require.

#### 11. Indemnification

11.1 Generally. To the maximum extent permitted by applicable law, Agency and its Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless from and against all claims, demands, payments, suits, actions, judgments, settlements, and damages of every nature, degree, and kind (including direct, indirect, consequential, incidental, and punitive damages), for any injury to or death to any person(s) (including, but not limited to the employees of CSXT, its affiliates, Agency or its Contractors), for the loss of or damage to any property whatsoever (including but not limited to property owned by or in the care, custody, or control of CSXT, its affiliates, Agency or its Contractors, and environmental damages and any related remediation brought or recovered against CSXT and its affiliates), arising directly or indirectly from the negligence, recklessness or intentional wrongful misconduct of the Contractors, Agency, and their respective agents, employees, invitees, contractors, or its contractors' agents, employees or invitees in the performance of work in connection with the Project or activities incidental thereto, or from their presence on or about CSXT's property. The foregoing indemnification obligation shall not be limited to the insurance coverage required by this Agreement, except to the extent required by law or otherwise expressly provided by this Agreement. Notwithstanding anything in this Agreement to the contrary the provisions of the Tennessee Governmental Tort Liability Action found at T.C.A. § 29-20-101 et seq., including the limits of liability, shall apply and no provision of the Agreement shall act or be deemed a waiver by Agency of any immunity, its rights or privileges as a sovereign entity, as waiver can only be made by the Tennessee General Assembly.

11.2 Compliance with Law s. Agency shall comply, and shall require its Contractors to comply, with any federal, state, or local laws, statutes, codes, ordinances, rules, and regulations applicable to its construction and maintenance of the Project. Agency's Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless with respect to any fines, penalties, liabilities, or other consequences arising from breaches of this Section.

11.3 CSXT Affiliates. For the purpose of this Section 11, CSXT's affiliates include CSX Corporation and all entities, directly or indirectly, owned or controlled by or under common control of CSXT or CSX Corporation and their respective officers, directors, employees and agents.

11.4 Notice of Incidents. Agency and its Contractor shall notify CSXT promptly of any loss, damage, injury or death arising out of or in connection with the Project work.

11.5 Survival. The provisions of this Section 11 shall survive the termination or expiration of this Agreement.

12. Independent Contractor. The parties agree that neither Agency nor its Contractors shall be deemed either agents or independent contractors of CSXT. Except as otherwise provided by this Agreement, CSXT shall exercise no control whatsoever over the employment, discharge, compensation of, or services rendered by Agency or Agency's Contractors, or the construction practices, procedures, and professional judgment employed by Agency or its Contractor to complete the Project. Notwithstanding the foregoing, this Section 12 shall in no way affect the absolute authority of CSXT

to prohibit Agency or its Contractors or anyone from entering CSXT's property, or to require the removal of any person from its property, if it determines, in its sole discretion, that such person is not acting in a safe manner or that actual or potential hazards in, on or about the Project exist.

13. "Entire Agreement". This Agreement embodies the entire understanding of the parties, may not be waived or modified except in a writing signed by authorized representatives of both parties, and supersedes all prior or contemporaneous written or oral understandings, agreements or negotiations regarding its subject matter. In the event of any inconsistency between this Agreement and the Exhibits, the more specific terms of the Exhibits shall be deemed controlling.

14. Waiver. If either party fails to enforce its respective rights under this Agreement, or fails to insist upon the performance of the other party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.

15. Assignment. CSXT may assign this Agreement and all rights and obligations herein to a successor in interest, parent company, affiliate, or future affiliate. Upon assignment of this Agreement by CSXT and the assumption of CSXT's assignee of CSXT's obligations under this

Agreement, CSXT shall have no further obligation under this Agreement. Agency shall not assign its rights or obligations under this Agreement without CSXT's prior consent, which consent may be withheld for any reason.

16. Notices. All notices, consents and approvals required or permitted by this Agreement shall be in writing and shall be deemed delivered upon personal delivery, upon the expiration of three (3) days following mailing by first class U.S. mail, or upon the next business day following mailing by a nationally recognized overnight carrier, to the parties at the addresses set forth below, or such other addresses as either party may designate by delivery of prior notice to the other party:

If to CSXT:

CSX Transportation, Inc.  
500 Water Street, J-301  
Jacksonville, Florida 32202  
Attn: Director Project Management- Public Projects

If to Agency:

The City of Kingsport  
225 West Center Street  
Kingsport, Tennessee 37660  
Attn.: Mr. Ryan McReynolds, PE

17. Severability The parties agree that if any part, term or provision of this Agreement is held to be illegal, unenforceable or in conflict with any applicable federal, state, or local law or regulation, such part, term or provision shall be severable, with the remainder of the Agreement remaining valid and enforceable.

18. Applicable Law. This Agreement shall be governed by the laws of the State of Tennessee, exclusive of its choice of law rules. The parties further agree that the venue of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Sullivan County, Tennessee, and the parties agree to submit to the personal jurisdiction of any State or Federal court situated in Kingsport, Sullivan County, Tennessee.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate, each by its duly authorized officers, as of the date of this Agreement.

[Acknowledgements Deleted for Inclusion in this Resolution]

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

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

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

ADOPTED this the 5th day of March, 2019.

\_\_\_\_\_  
JOHN CLARK, MAYOR

ATTEST:

\_\_\_\_\_  
JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

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

Project: CSXT Bridge Enhancement (Painting, cleaning, landscaping), Kingsport, Sullivan County, TN;  
MP Z94.75, CSXT OP# TN0609

### CONSTRUCTION AGREEMENT

This Construction Agreement (“**Agreement**”) is made as of \_\_\_\_\_, 20\_\_, by and between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business in Jacksonville, Florida (“**CSXT**”), and the City of Kingsport, a body corporate and political subdivision of the State of Tennessee (“**Agency**”).

### EXPLANATORY STATEMENT

1. Agency has proposed to construct, or to cause to be constructed, the painting, cleaning and landscaping of the CSXT bridge, located on S. Wilcox Drive (SR-126), Milepost Z-94.75 DOT 243980H, Florence Zone, Kingsport Subdivision, in the city of Kingsport, Sullivan County Tennessee, (the “**Project**”).
2. Agency has obtained, or will obtain, all authorizations, permits and approvals from all local, state and federal agencies (including Agency), and their respective governing bodies and regulatory agencies, necessary to proceed with the Project and to appropriate all funds necessary to construct the Project.
3. Agency acknowledges that: (i) by entering into this Agreement, CSXT will provide services and accommodations to promote public interest in this Project, without profit or other economic inducement typical of other Agency contractors; (ii) neither CSXT nor its affiliates (including their respective directors, officers, employees or agents) will incur any costs, expenses, losses or liabilities in excess of payments made to CSXT, by or on behalf of Agency or its contractors, pursuant to this Agreement; and (iii) CSXT retains the paramount right to regulate all activities affecting its property and operations.

NOW, THEREFORE, in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

#### 1. Project Plans and Specifications

- 1.1 Preparation and Approval. Pursuant to Exhibit A of this Agreement, all plans, specifications, drawings and other documents necessary or appropriate to the design and construction of the Project shall be prepared, at Agency’s sole cost and expense, by Agency or CSXT or their respective contractors. Project plans, specifications and drawings prepared by or on behalf of Agency shall be subject, at CSXT’s election, to the review and approval of CSXT. Such plans, specifications and drawings, as prepared or approved by CSXT, are referred to as the “**Plans**”, and shall be incorporated and deemed a part of this Agreement. Plans prepared or submitted to and approved by CSXT as of the date of this Agreement are set forth in Exhibit B to this Agreement.
- 1.2 Effect of CSXT Approval or Preparation of Plans. By its review, approval or preparation of Plans pursuant to this Agreement, CSXT signifies only that such Plans and improvements constructed in accordance with such Plans satisfy CSXT’s requirements. CSXT expressly disclaims all other representations and warranties in connection with the Plans, including, but not limited to, the integrity, suitability or fitness for the purposes of Agency or any other persons of the Plans or improvements constructed in accordance with the Plans.



Project: CSXT Bridge Enhancement (Painting, cleaning, landscaping), Kingsport, Sullivan County, TN;  
MP Z94.75, CSXT OP# TN0609

1.3 Compliance with Plans. The Project shall be constructed in accordance with the Plans.

2. Allocation and Conduct of Work

Work in connection with the Project shall be allocated and conducted as follows:

2.1 CSXT Work. Subject to timely payment of Reimbursable Expenses as provided by Section 4, CSXT shall provide, or cause to be provided, the services as set forth by Exhibit A to this Agreement. Agency agrees that CSXT shall provide all services that CSXT deems necessary or appropriate (whether or not specified by Exhibit A) to preserve and maintain its property and operations, without impairment or exposure to liability of any kind and in compliance with all applicable federal, state and local regulations and CSXT's contractual obligations, including, but not limited to, CSXT's existing or proposed third party agreements and collective bargaining agreements.

2.2 Agency Work. Agency shall perform, or cause to be performed, all work as set forth by Exhibit A, at Agency's sole cost and expense.

2.3 Conduct of Work. CSXT shall commence its work under this Agreement following: (i) delivery to CSXT of a notice to proceed from Agency; (ii) payment of Reimbursable Expenses (as provided by Section 4.1) as required by CSXT prior to the commencement of work by CSXT; (iii) issuance of all permits, approvals and authorizations necessary or appropriate for such work; and (iv) delivery of proof of insurance acceptable to CSXT, as required by Section 9. The initiation of any services by CSXT pursuant to this Agreement, including, but not limited to, the issuance of purchase orders or bids for materials or services, shall constitute commencement of work for the purposes of this Section. The parties intend that all work by CSXT or on CSXT property shall conclude no later than October 30, 2023, unless the parties mutually agree to extend such date.

3. Special Provisions. Agency shall observe and abide by, and shall require its contractors ("**Contractors**") to observe and abide by the terms, conditions and provisions set forth in Exhibit C to this Agreement (the "Special Provisions"). To the extent that Agency performs Project work itself, Agency shall be deemed a Contractor for purposes of this Agreement.

4. Cost of Project and Reimbursement Procedures

4.1 Reimbursable Expenses. Agency shall reimburse CSXT for all costs and expenses incurred by CSXT in connection with the Project, including, without limitation: (1) all out of pocket expenses, (2) travel and lodging expenses, (3) telephone, facsimile, and mailing expenses, (4) costs for equipment, tools, materials and supplies, (5) sums paid to CSXT's consultants and subcontractors, and (6) CSXT labor in connection with the Project, together with CSXT labor overhead percentages established by CSXT pursuant to applicable law (collectively, "**Reimbursable Expenses**"). Reimbursable Expenses shall also include expenses incurred by CSXT prior to the date of this Agreement to the extent identified by the Estimate provided pursuant to Section 4.2.

4.2 Estimate. CSXT has estimated the total Reimbursable Expenses for the Project as shown on Exhibit D (the "**Estimate**", as amended or revised). In the event CSXT anticipates that actual Reimbursable Expenses for the Project may exceed such Estimate, it shall provide Agency with

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the revised Estimate of the total Reimbursable Expenses, together with a revised Payment Schedule (as defined by Section 4.3.1), for Agency's approval and confirmation that sufficient funds have been appropriated to cover the total Reimbursable Expenses of such revised Estimate. CSXT may elect, by delivery of notice to Agency, to immediately cease all further work on the Project, unless and until Agency provides such approval and confirmation.

4.3 Payment Terms.

4.3.1 Agency shall pay CSXT for Reimbursable Expenses as set forth in the Payment Schedule as shown on Exhibit E (the "Payment Schedule", as revised pursuant to Section 4.2).

4.3.2 Following completion of the Project, CSXT shall submit to Agency a final invoice that reconciles the total Reimbursable Expenses incurred by CSXT against the total payments received from Agency. Agency shall pay to CSXT the amount by which Reimbursable Expenses exceed total payments as shown by the final invoice, within thirty (30) days following delivery of such invoice to Agency. In the event that the payments received by CSXT from Agency exceed the Reimbursable Expenses, CSXT shall remit such excess to Agency.

4.3.3 In the event that Agency fails to pay CSXT any sums due CSXT under this Agreement: (i) Agency shall pay CSXT interest at the lesser of 1.0% per month or the maximum rate of interest permitted by applicable law on the delinquent amount until paid in full; and (ii) CSXT may elect, by delivery of notice to Agency: (A) to immediately cease all further work on the Project, unless and until Agency pays the entire delinquent sum, together with accrued interest; and/or (B) to terminate this Agreement.

4.3.4 All invoices from CSXT shall be delivered to Agency in accordance with Section 16 of this Agreement. All payments by Agency to CSXT shall be made by certified check and mailed to the following address or such other address as designated by CSXT's notice to Agency:

CSX Transportation, Inc.  
P. O. Box 530192  
Atlanta, GA 30353-0192

4.4 Effect of Termination. Agency's obligation to pay to CSXT Reimbursable Expenses in accordance with Section 4 shall survive termination of this Agreement for any reason.

5. Appropriations. Agency represents to CSXT that: (i) Agency has appropriated funds sufficient to reimburse CSXT for the Reimbursable Expenses encompassed by the Estimate attached as Exhibit D; (ii) Agency shall use its best efforts to obtain appropriations necessary to cover Reimbursable Expenses encompassed by subsequent Estimates approved by Agency; and (iii) Agency shall promptly notify CSXT in the event that Agency is unable to obtain such appropriations.

6. Easements and Licenses

6.1 Agency Obligation. Agency shall acquire all necessary licenses, permits and easements required for the Project.

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7. Permits. At its sole cost and expense, Agency or its Contractors shall procure all permits and approvals required by any federal, state, or local governments or governmental agencies for the construction, maintenance and use of the Project, copies of which shall be provided to CSXT.
8. Termination
  - 8.1 By Agency. For any reason, Agency may, as its sole remedy, terminate this Agreement by delivery of notice to CSXT. Agency shall not be entitled to otherwise pursue claims for consequential, direct, indirect or incidental damages or lost profits as a consequence of CSXT's default or termination of this Agreement or Work on the Project by either party.
  - 8.2 By CSXT. In addition to the other rights and remedies available to CSXT under this Agreement, CSXT may terminate this Agreement by delivery of notice to Agency in the event Agency or its Contractors fail to observe the terms or conditions of this Agreement and such failure continues more than ten (10) business days following delivery of notice of such failure by CSXT to Agency.
  - 8.3 Consequences of Termination. If the Agreement is terminated by either party pursuant to this Section or any other provision of this Agreement, the parties understand that it may be impractical for them to immediately stop the Work. Accordingly, they agree that, in such instance a party may continue to perform Work until it has reached a point where it may reasonably and safely suspend the Work. Agency shall reimburse CSXT pursuant to this Agreement for the Work performed, plus all costs reasonably incurred by CSXT to discontinue the Work and protect the Work upon full suspension of the same, the cost of returning CSXT's property to its former condition, and all other costs of CSXT incurred as a result of the Project up to the time of full suspension of the Work. Termination of this Agreement or Work on the Project, for any reason, shall not diminish or reduce Agency's obligation to pay CSXT for Reimbursable Expenses incurred in accordance with this Agreement. In the event of the termination of this Agreement or the Work for any reason, CSXT's only remaining obligation to Agency shall be to refund to Agency payments made to CSXT in excess of Reimbursable Expenses in accordance with Section 4.
9. Insurance. In addition to the insurance that Agency requires of its Contractor, Agency shall require its Contractor to purchase and maintain insurance in compliance with CSXT's insurance requirements attached to this Agreement as Exhibit F. Neither Agency nor Contractor shall commence work on the Project until such policy or policies have been submitted to and approved by CSXT's Risk Management Department.
10. Ownership and Maintenance
  - 10.1 By Agency. Agency shall own, maintain and repair, at its sole cost and expense, all parts comprising the permanent aspects of the Project, as shown by the Plans. In the event Agency fails to do so after reasonable notice from CSXT (no more than thirty (30) days, unless an emergency condition exists or is imminent in the opinion of CSXT, that requires immediate action), CSXT may perform such maintenance and repair, at Agency's sole cost and expense. Upon the cessation of use of the Project by Agency, Agency shall remove the structure and restore CSXT's property to its original condition, at Agency's sole cost and expense.

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10.2 Alterations. Agency shall not undertake any alteration, modification or expansion of the Project, without the prior approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require.

## 11. Indemnification

11.1 Generally. To the maximum extent permitted by applicable law, Agency and its Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless from and against all claims, demands, payments, suits, actions, judgments, settlements, and damages of every nature, degree, and kind (including direct, indirect, consequential, incidental, and punitive damages), for any injury to or death to any person(s) (including, but not limited to the employees of CSXT, its affiliates, Agency or its Contractors), for the loss of or damage to any property whatsoever (including but not limited to property owned by or in the care, custody, or control of CSXT, its affiliates, Agency or its Contractors, and environmental damages and any related remediation brought or recovered against CSXT and its affiliates), arising directly or indirectly from the negligence, recklessness or intentional wrongful misconduct of the Contractors, Agency, and their respective agents, employees, invitees, contractors, or its contractors' agents, employees or invitees in the performance of work in connection with the Project or activities incidental thereto, or from their presence on or about CSXT's property. The foregoing indemnification obligation shall not be limited to the insurance coverage required by this Agreement, except to the extent required by law or otherwise expressly provided by this Agreement. Notwithstanding anything in this Agreement to the contrary the provisions of the Tennessee Governmental Tort Liability Action found at T.C.A. § 29-20-101 et seq., including the limits of liability, shall apply and no provision of the Agreement shall act or be deemed a waiver by Agency of any immunity, its rights or privileges as a sovereign entity, as waiver can only be made by the Tennessee General Assembly.

11.2 Compliance with Laws. Agency shall comply, and shall require its Contractors to comply, with any federal, state, or local laws, statutes, codes, ordinances, rules, and regulations applicable to its construction and maintenance of the Project. Agency's Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless with respect to any fines, penalties, liabilities, or other consequences arising from breaches of this Section.

11.3 "CSXT Affiliates". For the purpose of this Section 11, CSXT's affiliates include CSX Corporation and all entities, directly or indirectly, owned or controlled by or under common control of CSXT or CSX Corporation and their respective officers, directors, employees and agents.

11.4 Notice of Incidents. Agency and its Contractor shall notify CSXT promptly of any loss, damage, injury or death arising out of or in connection with the Project work.

11.5 Survival. The provisions of this Section 11 shall survive the termination or expiration of this Agreement.

12. Independent Contractor. The parties agree that neither Agency nor its Contractors shall be deemed either agents or independent contractors of CSXT. Except as otherwise provided by this Agreement, CSXT shall exercise no control whatsoever over the employment, discharge, compensation of, or services rendered by Agency or Agency's Contractors, or the construction practices, procedures, and professional judgment employed by Agency or its Contractor to complete the Project. Notwithstanding the foregoing, this Section 12 shall in no way affect the absolute authority of CSXT

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to prohibit Agency or its Contractors or anyone from entering CSXT's property, or to require the removal of any person from its property, if it determines, in its sole discretion, that such person is not acting in a safe manner or that actual or potential hazards in, on or about the Project exist.

13. "Entire Agreement". This Agreement embodies the entire understanding of the parties, may not be waived or modified except in a writing signed by authorized representatives of both parties, and supersedes all prior or contemporaneous written or oral understandings, agreements or negotiations regarding its subject matter. In the event of any inconsistency between this Agreement and the Exhibits, the more specific terms of the Exhibits shall be deemed controlling.
14. Waiver. If either party fails to enforce its respective rights under this Agreement, or fails to insist upon the performance of the other party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.
15. Assignment. CSXT may assign this Agreement and all rights and obligations herein to a successor in interest, parent company, affiliate, or future affiliate. Upon assignment of this Agreement by CSXT and the assumption of CSXT's assignee of CSXT's obligations under this Agreement, CSXT shall have no further obligation under this Agreement. Agency shall not assign its rights or obligations under this Agreement without CSXT's prior consent, which consent may be withheld for any reason.
16. Notices. All notices, consents and approvals required or permitted by this Agreement shall be in writing and shall be deemed delivered upon personal delivery, upon the expiration of three (3) days following mailing by first class U.S. mail, or upon the next business day following mailing by a nationally recognized overnight carrier, to the parties at the addresses set forth below, or such other addresses as either party may designate by delivery of prior notice to the other party:

If to CSXT:	CSX Transportation, Inc. 500 Water Street, J-301 Jacksonville, Florida 32202 Attn: Director Project Management – Public Projects
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If to Agency:	The City of Kingsport 225 West Center Street Kingsport, Tennessee 37660 Attn.: Mr. Ryan McReynolds, PE
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17. Severability The parties agree that if any part, term or provision of this Agreement is held to be illegal, unenforceable or in conflict with any applicable federal, state, or local law or regulation, such part, term or provision shall be severable, with the remainder of the Agreement remaining valid and enforceable.
18. Applicable Law. This Agreement shall be governed by the laws of the State of Tennessee, exclusive of its choice of law rules. The parties further agree that the venue of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Sullivan County, Tennessee, and the parties agree to submit to the personal jurisdiction of any State or Federal court situated in Kingsport, Sullivan County, Tennessee.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate, each by its duly authorized officers, as of the date of this Agreement.

The City of Kingsport

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CSX TRANSPORTATION, INC.

By: \_\_\_\_\_  
Print Name: Tony Bellamy  
Title: Director Project Management – Public Projects

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## **EXHIBIT A**

### **ALLOCATION OF WORK**

Subject to Section 2.1, work to be performed in connection with the Project is allocated as follows:

- A. Agency shall let by contract to its Contractors:
  - 1. All bridge and landscaping enhancements per approved plans
- B. CSXT shall perform or cause to be performed:
  - 1. Construction oversight via GEC
  - 2. Flagging services and other protective services and devices as may be necessary

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**EXHIBIT B**

**PLANS AND SPECIFICATIONS**

Plans, Specifications and Drawings:

As of the date of this Agreement, the following plans, specifications and drawings have been submitted by Agency to CSXT for its review and approval:

<b>SHEET</b>	<b>DESCRIPTION</b>	<b>PREPARER</b>	<b>DATE</b>
1 of 8	Cover Page	Tysinger, Hampton & Partners, Inc.	9-11-18
2 of 8	Bridge Enhancement	Tysinger, Hampton & Partners, Inc.	9-11-18
3 of 8	Demolition Plan	Tysinger, Hampton & Partners, Inc.	9-11-18
4 of 8	Landscape Plan	Tysinger, Hampton & Partners, Inc.	9-11-18
5 of 8	Landscape Notes and Details	Tysinger, Hampton & Partners, Inc.	9-11-18
6 of 8	Traffic Control Notes	Tysinger, Hampton & Partners, Inc.	9-11-18
7 of 8	Traffic Control Phases 1 & 2	Tysinger, Hampton & Partners, Inc.	9-11-18
8 of 8	Traffic Control Phases 3 & 4	Tysinger, Hampton & Partners, Inc.	9-11-18

**NOTE:** In the event subsequent plan submissions are made by Agency to CSXT for review and approval, once approved, said plans shall be considered to be incorporated into this Exhibit B as of the date of CSXT's written approval.



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## **EXHIBIT C**

### **CSXT SPECIAL PROVISIONS**

#### **DEFINITIONS:**

As used in these Special Provisions, all capitalized terms shall have the meanings ascribed to them by the Agreement, and the following terms shall have the meanings ascribed to them below:

“CSXT” shall mean CSX Transportation, Inc., its successors and assigns.

“CSXT Representative” shall mean the authorized representative of CSX Transportation, Inc.

"Agreement" shall mean the Agreement to which this Exhibit C is made a part thereof and as may be amended from time to time.

“Agency” shall mean the City of Kingsport.

“Agency Representative” shall mean the authorized representative of the City of Kingsport.

“Contractor” shall have the meaning ascribed to such term by the Agreement.

“Work” shall mean the Project as described in the Agreement.

#### **I. AUTHORITY OF CSXT ENGINEER**

The CSXT Representative shall have final authority in all matters affecting the safe maintenance of CSXT operations and CSXT property, and his or her approval shall be obtained by the Agency or its Contractor for methods of construction to avoid interference with CSXT operations and CSXT property and all other matters contemplated by the Agreement and these Special Provisions.

#### **II. INTERFERENCE WITH CSXT OPERATIONS**

- A. Agency or its Contractor shall arrange and conduct its work so that there will be no interference with CSXT operations, including train, signal, telephone and telegraphic services, or damage to CSXT’s property, or to poles, wires, and other facilities of tenants on CSXT’s Property or right-of-way. Agency or its Contractor shall store materials so as to prevent trespassers from causing damage to trains, or CSXT Property. Whenever Work is likely to affect the operations or safety of trains, the method of doing such Work shall first be submitted to the CSXT Representative for approval, but such approval shall not relieve Agency or its Contractor from liability in connection with such Work.
- B. If conditions arising from or in connection with the Project require that immediate and unusual provisions be made to protect train operation or CSXT’s property, Agency or its Contractor shall make such provision. If the CSXT Representative determines that such provision is insufficient, CSXT may, at the expense of Agency or its Contractor, require or provide such provision as may be deemed necessary, or cause the Work to cease immediately.

#### **III. NOTICE OF STARTING WORK.** Agency or its Contractor shall not commence any work on

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CSXT Property or right-of-way until it has complied with the following conditions:

- A. Notify CSXT in writing of the date that it intends to commence Work on the Project. Such notice must be received by CSXT at least ten (10) business days in advance of the date Agency or its Contractor proposes to begin Work on CSXT property. The notice must refer to this Agreement by date. If flagging service is required, such notice shall be submitted at least thirty (30) business days in advance of the date scheduled to commence the Work.
- B. Obtain authorization from the CSXT Representative to begin Work on CSXT property, such authorization to include an outline of specific conditions with which it must comply.
- C. Obtain from CSXT the names, addresses and telephone numbers of CSXT's personnel who must receive notice under provisions in the Agreement. Where more than one individual is designated, the area of responsibility of each shall be specified.

#### IV. WORK FOR THE BENEFIT OF THE CONTRACTOR

- A. No temporary or permanent changes to wire lines or other facilities (other than third party fiber optic cable transmission systems) on CSXT property that are considered necessary to the Work are anticipated or shown on the Plans. If any such changes are, or become, necessary in the opinion of CSXT or Agency, such changes will be covered by appropriate revisions to the Plans and by preparation of a force account estimate. Such force account estimate may be initiated by either CSXT or Agency, but must be approved by both CSXT and Agency. Agency or Contractor shall be responsible for arranging for the relocation of the third party fiber optic cable transmission systems, at no cost or expense to CSXT.
- B. Should Agency or Contractor desire any changes in addition to the above, then it shall make separate arrangements with CSXT for such changes to be accomplished at the Agency or Contractor's expense.

#### V. HAUL ACROSS RAILROAD

- A. If Agency or Contractor desires access across CSXT property or tracks at other than an existing and open public road crossing in or incident to construction of the Project, the Agency or Contractor must first obtain the permission of CSXT and shall execute a license agreement or right of entry satisfactory to CSXT, wherein Agency or Contractor agrees to bear all costs and liabilities related to such access.
- B. Agency and Contractor shall not cross CSXT's property and tracks with vehicles or equipment of any kind or character, except at such crossing or crossings as may be permitted pursuant to this section.

#### VI. COOPERATION AND DELAYS

- A. Agency or Contractor shall arrange a schedule with CSXT for accomplishing stage construction involving work by CSXT. In arranging its schedule, Agency or Contractor shall ascertain, from CSXT, the lead time required for assembling crews and materials and shall make due allowance therefor

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- B. Agency or Contractor may not charge any costs or submit any claims against CSXT for hindrance or delay caused by railroad traffic; work done by CSXT or other delay incident to or necessary for safe maintenance of railroad traffic; or for any delays due to compliance with these Special Provisions.
- C. Agency and Contractor shall cooperate with others participating in the construction of the Project to the end that all work may be carried on to the best advantage.
- D. Agency and Contractor understand and agree that CSXT does not assume any responsibility for work performed by others in connection with the Project. Agency and Contractor further understand and agree that they shall have no claim whatsoever against CSXT for any inconvenience, delay or additional cost incurred by Agency or Contractor on account of operations by others.

#### VII. STORAGE OF MATERIALS AND EQUIPMENT

Agency and Contractor shall not store their materials or equipment on CSXT's property or where they may potentially interfere with CSXT's operations, unless Agency or Contractor has received CSXT Representative's prior written permission. Agency and Contractor understand and agree that CSXT will not be liable for any damage to such materials and equipment from any cause and that CSXT may move, or require Agency or Contractor to move, such material and equipment at Agency's or Contractor's sole expense. To minimize the possibility of damage to the railroad tracks resulting from the unauthorized use of equipment, all grading or other construction equipment that is left parked near the tracks unattended by watchmen shall be immobilized to the extent feasible so that it cannot be moved by unauthorized persons.

#### VIII. CONSTRUCTION PROCEDURES

##### A. General

- 1. Construction work on CSXT property shall be subject to CSXT's inspection and approval.
- 2. Construction work on CSXT property shall be in accord with CSXT's written outline of specific conditions and with these Special Provisions.
- 3. Contractor shall observe the terms and rules of the CSXT Safe Way manual, which Agency and Contractor shall be required to obtain from CSXT, and in accord with any other instructions furnished by CSXT or CSXT's Representative.

##### B. Blasting

- I. Agency or Contractor shall obtain CSXT Representative's and Agency Representative's prior written approval for use of explosives on or adjacent to CSXT property. If permission for use of explosives is granted, Agency or Contractor must comply with the following:
  - a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of Agency or Contractor.

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- b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way train radios.
  - c. No blasting shall be done without the presence of an authorized representative of CSXT. At least thirty (30) days advance notice to CSXT Representative is required to arrange for the presence of an authorized CSXT representative and any flagging that CSXT may require.
  - d. Agency or Contractor must have at the Project site adequate equipment, labor and materials, and allow sufficient time, to (i) clean up (at Agency's expense) debris resulting from the blasting without any delay to trains; and (ii) correct (at Agency's expense) any track misalignment or other damage to CSXT's property resulting from the blasting, as directed by CSXT Representative, without delay to trains. If Agency's or Contractor's actions result in delay of any trains, including Amtrak passenger trains, Agency shall bear the entire cost thereof.
  - e. Agency and Contractor shall not store explosives on CSXT property.
2. CSXT Representative will:
- a. Determine the approximate location of trains and advise Agency or Contractor of the approximate amount of time available for the blasting operation and clean-up.
  - b. Have the authority to order discontinuance of blasting if, in his or her opinion, blasting is too hazardous or is not in accord with these Special Provisions.

#### IX. MAINTENANCE OF DITCHES ADJACENT TO CSXT TRACKS

Agency or Contractor shall maintain all ditches and drainage structures free of silt or other obstructions that may result from their operations. Agency or Contractor shall provide erosion control measures during construction and use methods that accord with applicable state standard specifications for road and bridge construction, including either (1) silt fence; (2) hay or straw barrier; (3) berm or temporary ditches; (4) sediment basin; (5) aggregate checks; and (6) channel lining. All such maintenance and repair of damages due to Agency's or Contractor's operations shall be performed at Agency's expense.

#### X. FLAGGING / INSPECTION SERVICE

- A. CSXT has sole authority to determine the need for flagging required to protect its operations and property. In general, flagging protection will be required whenever Agency or Contractor or their equipment are, or are likely to be, working within fifty (50) feet of live track or other track clearances specified by CSXT, or over tracks.
- B. Agency shall reimburse CSXT directly for all costs of flagging that is required on account of construction within CSXT property shown in the Plans, or that is covered by an approved plan revision, supplemental agreement or change order.

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- C. Agency or Contractor shall give a minimum of thirty (30) days advance notice to CSXT Representative for anticipated need for flagging service. No work shall be undertaken until the flag person(s) is/are at the job site. If it is necessary for CSXT to advertise a flagging job for bid, it may take up to ninety (90) days to obtain this service, and CSXT shall not be liable for the cost of delays attributable to obtaining such service.
- D. CSXT shall have the right to assign an individual to the site of the Project to perform inspection service whenever, in the opinion of CSXT Representative, such inspection may be necessary. Agency shall reimburse CSXT for the costs incurred by CSXT for such inspection service. Inspection service shall not relieve Agency or Contractor from liability for its Work.
- E. CSXT shall render invoices for, and Agency shall pay for, the actual pay rate of the flag persons and inspectors used, plus standard additives, whether that amount is above or below the rate provided in the Estimate. If the rate of pay that is to be used for inspector or flagging service is changed before the work is started or during the progress of the work, whether by law or agreement between CSXT and its employees, or if the tax rates on labor are changed, bills will be rendered by CSXT and paid by Agency using the new rates. Agency and Contractor shall perform their operations that require flagging protection or inspection service in such a manner and sequence that the cost of such will be as economical as possible.

XI. UTILITY FACILITIES ON CSXT PROPERTY

Agency shall arrange, upon approval from CSXT, to have any utility facilities on or over CSXT Property changed as may be necessary to provide clearances for the proposed trackage.

XII. CLEAN-UP

Agency or Contractor, upon completion of the Project, shall remove from CSXT's Property any temporary grade crossings, any temporary erosion control measures used to control drainage, all machinery, equipment, surplus materials, falsework, rubbish, or temporary buildings belonging to Agency or Contractor. Agency or Contractor, upon completion of the Project, shall leave CSXT Property in neat condition, satisfactory to CSXT Representative.

XIII. FAILURE TO COMPLY

If Agency or Contractor violate or fail to comply with any of the requirements of these Special Provisions, (a) CSXT may require Agency and/or Contractor to vacate CSXT Property; and (b) CSXT may withhold monies due Agency and/or Contractor; (c) CSXT may require Agency to withhold monies due Contractor; and (d) CSXT may cure such failure and the Agency shall reimburse CSXT for the cost of curing such failure.

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**EXHIBIT D**

**INITIAL ESTIMATE  
 ATTACHED**

<b>CSX TRANSPORTATION, INC.</b>		Page 1
<b>FORCE ACCOUNT ESTIMATE</b>		
ACCT. CODE : 709 -		
<hr/>		
<b>ESTIMATE SUBJECT TO REVISION AFTER:</b>	4/1/2019	<b>DOT NO.:</b> 243980H
<b>CITY:</b> Kingsport	<b>COUNTY:</b> Sullivan	<b>STATE:</b> TN
<b>DESCRIPTION:</b> CE&I and Project management of contractor work for bridge painting. Estimate includes pre-con scheduling, flagging coordination, and final inspection; Travel, Project Management, Admin, and Reporting.		
<b>ZONE:</b> Florence	<b>SUB-DIV:</b> Kingsport	<b>MILE POST:</b> Z-94 75
<b>AGENCY PROJECT NUMBER:</b>		
<hr/>		
<b>PRELIMINARY ENGINEERING:</b>		
212 Contracted & Administrative Engineering Services STV		
212 Contracted & Administrative Engineering Services CSXT		
Subtotal		
<b>CONSTRUCTION ENGINEERING/INSPECTION:</b>		
212 Contracted & Administrative Engineering Services STV		\$ 29,500
212 Contracted & Administrative Engineering Services CSXT		\$ 1,000
Subtotal		\$ 30,500
<b>FLAGGING SERVICE: (Contract Labor)</b>		
070 Labor (Conductor-Flagman)		\$ -
050 Labor (Foreman/Inspector)		\$ -
070 Additive 209.30% (Transportation Department)		\$ -
050 Additive 189.70% (Engineering Department)		\$ -
230 Per Diem (Engineering Department)		\$ -
230 Expenses		\$ -
Subtotal		\$ -
<b>SIGNAL &amp; COMMUNICATIONS WORK:</b>		
		\$ -
<b>TRACK WORK:</b>		
		\$ -
<b>PROJECT SUBTOTAL</b>		
		\$ 30,500
900 <b>CONTINGENCIES:</b>	10.00%	\$ 3,050
<b>GRAND TOTAL</b>		\$ 33,550
<b>DIVISION OF COST:</b>		
Agency	100.00%	\$ 33,550
Railroad		\$ -
<b>TOTAL</b>		\$ 33,550
<b>NOTE: Estimate is based on FULL CROSSING CLOSURE during work by Railroad Forces.</b>		
<small>This estimate has been prepared based on the conditions anticipated work, a 6 month period, material prices, labor rates, manpower and resource availability, and other factors known as of the date prepared. The actual cost for CSXT work may differ based upon the agency's requirements, time contractor's work proceeds and/or other conditions that become apparent once construction commences or during the progress of the work.</small>		
<small>Office of Assistant Chief Engineer Public Projects- Jacksonville Florida</small>		
<small>Estimated prepared by:</small>	<small>STV, Inc</small>	<small>Approved by: T. Allton CSXT Public Project Group</small>
<small>DATE: 10/16/18</small>	<small>REVISED:</small>	<small>DATE: 10/16/18</small>
Project Summary Sheet		

Project: CSXT Bridge Enhancement (Painting, cleaning, landscaping), Kingsport, Sullivan County, TN;  
MP Z94.75, CSXT OP# TN0609

## **EXHIBIT E**

### **PAYMENT SCHEDULE**

#### **Advance Payment in Full**

Upon execution and delivery of the fully executed Construction Agreement, Agency will deposit with CSXT a sum equal to the Reimbursable Expenses, as shown by the Estimate. If CSXT anticipates that it may incur Reimbursable Expenses in excess of the deposited amount, CSXT will request an additional deposit equal to the then remaining Reimbursable Expenses which CSXT estimates that it will incur. CSXT shall request such additional deposit by delivery of invoices to Agency. Agency shall make such additional deposit within thirty (30) days following delivery of such invoice to Agency.

## EXHIBIT F

### INSURANCE REQUIREMENTS

#### I. Insurance Policies:

Contractor, when performing work on or about CSXT's property, shall procure and maintain the following insurance policies:

1. Commercial General Liability coverage at their sole cost and expense with limits of not less than \$5,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name CSXT as an additional named insured. The policy shall include endorsement ISO CG 24 17 evidencing that coverage is provided for work within 50 feet of a railroad. If such endorsement is not included, railroad protective liability insurance must be provided as described in item 4 below.
2. Statutory Worker's Compensation and Employers Liability Insurance with limits of not less than \$1,000,000, which insurance must contain a waiver of subrogation against CSXT and its affiliates (if permitted by state law).
3. Commercial automobile liability insurance with limits of not less than \$1,000,000 combined single limit for bodily injury and/or property damage per occurrence, and such policies shall name CSXT as an additional named insured. The policy shall include endorsement ISO CA 20 70 evidencing that coverage is provided for work within 50 feet of a railroad. If such endorsement is not included, railroad protective liability insurance must be provided as described in item 4 below.
4. Railroad protective liability insurance with limits of not less than \$5,000,000 combined single limit for bodily injury and/or property damage per occurrence and an aggregate annual limit of \$10,000,000, which insurance shall satisfy the following additional requirements:
  - a. The Railroad Protective Insurance Policy must be on the ISO/RIMA Form of Railroad Protective Insurance - Insurance Services Office (ISO) Form CG 00 35.
  - b. CSX Transportation must be the named insured on the Railroad Protective Insurance Policy.
  - c. Name and Address of Contractor and Agency must appear on the Declarations page.
  - d. Description of operations must appear on the Declarations page and must match the Project description.



Project: CSXT Bridge Enhancement (Painting, cleaning, landscaping), Kingsport, Sullivan County, TN;  
MP Z94.75, CSXT OP# TN0609

- e. Authorized endorsements must include the Pollution Exclusion Amendment - CG 28 31, unless using form CG 00 35 version 96 and later.
  - f. Authorized endorsements may include:
    - (i). Broad Form Nuclear Exclusion - IL 00 21
    - (ii) 30-day Advance Notice of Non-renewal or cancellation
    - (iii) Required State Cancellation Endorsement
    - (iv) Quick Reference or Index - CL/IL 240
  - g. Authorized endorsements may not include:
    - (i) A Pollution Exclusion Endorsement except CG 28 31
    - (ii) A Punitive or Exemplary Damages Exclusion
    - (iii) A "Common Policy Conditions" Endorsement
    - (iv) Any endorsement that is not named in Section 4 (e) or (f) above.
    - (v) Policies that contain any type of deductible
5. All insurance companies must be A. M. Best rated A- and Class VII or better.
6. The CSX OP number or CSX contract number, as applicable, must appear on each Declarations page and/or certificates of insurance.
7. Such additional or different insurance as CSXT may require.

## II. Additional Terms

1. Contractor must submit the original Railroad Protective Liability policy, Certificates of Insurance and all notices and correspondence regarding the insurance policies to:

Victoria.matts@stvinc.com

2. Neither Agency nor Contractor may begin work on the Project until it has received CSXT's written approval of the required insurance.

Project: CSXT Bridge Enhancement (Painting, cleaning, landscaping), Kingsport, Sullivan County, TN;  
MP Z94.75, CSXT OP# TN0609

**SCHEDULE I**

**CONTRACTOR'S ACCEPTANCE**

To and for the benefit of CSX Transportation, Inc. ("CSXT") and to induce CSXT to permit Contractor on or about CSXT's property for the purposes of performing work in accordance with the Agreement dated \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ and CSXT, Contractor hereby agrees to abide by and perform all applicable terms of the Agreement, including, but not limited to Exhibits C and F to the Agreement, and Sections 3, 9 and 11 of the Agreement.

Contractor: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Project: Kingsport, Sullivan County, TN  
Proposed Bridge Enhancement over Wilcox St  
On CSXT DOT 243980H  
MP Z 94.75  
Florence Zone, Kingsport Subdivision

CSXT OP#TN0609

**CSXT Schedule PA**  
(Advance Payment – Construction Agreement)

**PAYMENT SUBMISSION FORM**

\*\*\*\*\*  
Payment is hereby provided in accordance with the terms of Section 4.3 Payment Terms of the Agreement dated \_\_\_\_\_, between Agency and CSXT.

\*\*\*\*\*  
A copy of this Payment Submission Form shall accompany all payments delivered by Agency to CSXT which shall be forwarded to the following address:

**CSX Transportation, Inc.  
P. O. BOX 530192  
Atlanta, GA 30353-0192**

\*\*\*\*\*  
(All information below to be completed by Agency providing Payment)

<u>Payment Date</u>	<u>Payment Amount</u>	<u>Check No.</u>
_____	\$33,550	_____

\*\*\*\*\*

Date: \_\_\_\_\_

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

**Please send copy of check to:**  
**CSX Transportation, Inc.**  
**Todd Allton**  
**Project Manager – Public Projects**  
**500 Water Street J-301**  
**Jacksonville, FL 32202**  
**[Todd.Allton@csx.com](mailto:Todd.Allton@csx.com)**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**AFTER**



**BEFORE**





**AGENDA ACTION FORM**

**Approve LGOC and Pee Wee Football User Agreements and Concession Usage**

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

Action Form No.: AF-22-2019  
Work Session: March 4, 2019  
First Reading: N/A

Final Adoption: March 5, 2019  
Staff Work By: Frazier, Lawson  
Presentation By: McCartt

**Recommendation:**

Approve the Resolutions.

**Executive Summary:**

The Board of Mayor and Alderman have passed an agreement the past 7 years with the Lynn Garden Optimist Club and the Lynn View Pee Wee Football League outlining the use of the Athletic Fields and Concessions at Lynn View for youth football and baseball. City Parks and Recreation Staff worked with both groups to come to understanding pertaining to facility use and cooperation. The Optimist Club will continue to conduct the baseball and softball programs, while the Pee Wee Football group will conduct the youth football and cheerleading programs. The Agreements allow the groups to utilize the Lynn View athletic fields during the seasons and continue to provide quality services to the citizens of Kingsport.

**Attachments:**

1. Resolution for the Lease and Concessions Agreement for Lynn Garden Optimist Club
2. Resolution for the Lease and Concession Agreement for the Lynn View Pee Wee Football

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

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

A RESOLUTION AUTHORIZING THE MAYOR EXECUTE AGREEMENTS WITH THE LYNN GARDEN OPTIMIST CLUB RELATED TO THE USE OF THE ATHLETIC FIELDS AND CONCESSION STAND OPERATIONS AT THE LYNN VIEW COMMUNITY CENTER

WHEREAS, the City of Kingsport purchased the Lynn View Community Center and athletic fields from Sullivan County in 2009; and

WHEREAS, since July 2010, the had board approved an agreement with the Optimist Club for the use of the athletic fields by the Club for its youth football and softball programs and a concession lease agreement for the youth of the community; and

WHEREAS, the Optimist Club will provide baseball and softball programs for the youth of the community; and

WHEREAS, the football program and concession for that program will be operated by Lynn View Pee Wee Football by a separate agreement with the city.

Now therefore,

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

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an agreement, substantially in the form as hereinafter set out, with such changes therein as shall be approved by the mayor in consultation with the city attorney along with all other documents necessary and proper to effectuate the purpose of the agreement, for the use of the Lynn Garden Community Center and athletic fields located at 257 Walker Street by the Lynn Garden Optimist Club for the purpose of youth baseball programs, the agreement being as follows:

AGREEMENT  
BETWEEN  
CITY OF KINGSPORT, TENNESSEE  
AND  
LYNN GARDEN OPTIMIST CLUB

THIS AGREEMENT made by and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019 by and between the CITY OF KINGSPORT, hereinafter called "CITY", and the LYNN GARDEN OPTIMIST CLUB, (LGOC), hereinafter called "LGOC".

WITNESSETH

WHEREAS, CITY does not provide a recreational youth SPORTS program at the Lynn View Athletic Fields for the citizens of KINGSPORT; and  
WHEREAS, LGOC is a non-profit organization organized to promote youth sports activities through the operation in the Lynn Garden community; and  
WHEREAS, LGOC has provided for several years a youth sports program including baseball and softball; and  
WHEREAS, CITY and LGOC wish to formalize an agreement for the utilization of CITY facilities for the purpose of providing a recreational youth sports program; and  
WHEREAS, CITY is the owner of the public park amenities located at 257 Walker Street, and hereafter referred to as the "Facilities"; and

WHEREAS, LGOC and CITY desire to enter this Agreement for the purpose of evidencing the Agreement of the parties with regard to the use of the Facilities by LGOC and respective obligations contained herein;

NOW, THEREFORE, the premises considered, the parties agree as follows:

**I. Term**

This Agreement shall be for a term of four (4) months beginning on the date of the execution hereof. Note that there are multiple users of the facilities, and refer to Section III on Use of Facilities for priorities set during term. This agreement may be terminated with or without cause by either party by giving sixty (60) days written notice to the other party.

**II. Option to Renew**

This Agreement may be renewed at the option but not the obligation of the parties for an additional term, conditioned upon the following:

1. If not in violation of any obligation hereunder, LGOC shall be given the option to renew the Agreement for a like term upon conditions set forth by CITY. If LGOC should desire to renew this agreement, it shall do so by giving written notice to City prior to December 1 for the following year.

2. That LGOC shall provide the following information at least 30 days prior to the start of the Spring season:

- Current by-laws for organization
- Proposed budget for upcoming year
- List of current officers and board members with addresses, phone numbers and e-mail (if applicable). CITY is to be notified of changes within two weeks of appointment
- List of officers, recreation program personnel, field coordinators, competitive coaches and Board of Directors members
- List of designated personnel who have facility keys & access.
- Annual calendar including all events

3. LGOC shall provide financial reports of all expenditures and revenues within 90 days after the completion of each playing season.

4. LGOC must comply with TCA §68-55-501, *et seq.* regarding concussions. The law has three key components:

- To inform and educate coaches, youth athletes and their parents and require them to sign a concussion information form before competing.
- To require removal of a youth athlete who appears to have suffered a concussion from play or practice at the time of the suspected concussion.
- To require a youth athlete to be cleared by a licensed health care professional before returning to play or practice.

5. LGOC must comply with new state law on Cardiac arrest training. Adopt guidelines and other pertinent information and forms as approved by the department of health to inform and educate coaches, school Administrators, young athletes, and their parents or guardians of the active, risk, and symptoms of sudden cardiac arrest including the risks associated with continuing to play or practice when experiencing any of the following symptoms. TCA §68-55-501, *et seq* has 6 symptoms to watch for:

- (i). Fainting or Seizures
- (ii). Unexplained shortness of breath
- (iii). Chest Pains
- (iv). Dizziness
- (v). Racing Heart
- (vi) Extreme Fatigue

The City of Kingsport has developed policies and procedures to insure compliance.

In the event the above information is not timely furnished, this Agreement and/or any extension thereof shall be automatically cancelled without further notice.

**III. Use of Facilities**

1. LGOC will be the primary youth baseball and softball provider in the Lynn Garden community for the City of Kingsport during the period of March 1, 2019 to June 30, 2019. LGOC shall have the primary right to use CITY'S Sports Facilities in the Lynn Garden community, as assigned by CITY, during LGOC'S regular Spring recreational seasons, league playoffs and make-up games, and one tournament, without assignment of any associated facility rental fees. At any time the facilities are not being used by LGOC, CITY may use the facilities for its Parks and Recreation program.

Special Note: There is a 2 week overlap between the end of the baseball/softball season and the beginning of the Pee Wee Football season. Both groups are to work cooperatively to make the

transition as smooth as possible. The football cheerleaders are to practice at the Community center during this 2 week overlap or at the upper baseball field.

In addition, the LGOC agrees to work cooperatively with CITY on scheduling Special Events such as the Funfest Block Party, Alumni Reunions, and others deemed appropriate for the benefit of the community.

2. LGOC may use a meeting room located at CITY's Lynn View Community Center for official LGOC monthly board meetings during the term of this Agreement. Scheduling these meetings are to be done through CITY'S Parks and Recreation Program Coordinator. CITY will provide space at Lynn View for one end of the year banquet. The reservation of these dates must be made two months in advance and are subject to availability.

3. LGOC may not make any additions and/or alterations to the facility buildings, equipment, grounds, and/or furnishing without written consent from the city of Kingsport.

4. LGOC understands and agrees that at times weather, electrical storms, scheduled maintenance and/or field conditions may result in City denying the use of certain fields on dates for which approval has been granted. LGOC shall use appropriate judgment in insuring the safety of the participants.

5. CITY shall at all times have the right to inspect its Facilities being used by LGOC and all LGOC sponsored activities related to the use of such facilities.

6. If LGOC should desire to use CITY facilities for additional tournaments or special events or programs, LGOC shall make a request to CITY in accordance with the guidelines established for assigning and scheduling of activities at City sports facilities. Any and all additions, tournaments or special programs shall not be included in this Agreement, but shall require a separate written agreement between the parties.

7. Lynn Garden Optimist Baseball/Softball group will have 5 volunteers designated for the Lynn View Block Party to be held in July 2019 from 4-8pm.

#### **IV. Obligation of the CITY**

CITY agrees to:

1. Provide the following maintenance and oversight for the Sports Fields at Lynn View.

- Perform general maintenance and repairs to the facilities.
- Work with LGOC on maintenance items that could improve operations. At the end of every year the Parks and Recreation Program Coordinator will sit down with each group to discuss future possibilities and maintenance issues for the next year.
- Provide LGOC with contact information for after-hour and everyday needs.
- Determine all rental fees and rules for usage of facility.
- Establish all rules to include facility safety, signage as appropriate, emergency notification process, traffic control, and environmental regulations.
- Establish policy for field lighting usage.
- Provide a plan for and approve all capital improvements with input from LGOC.
- Provide for insurance on buildings..
- Mow and trim the lower and upper baseball fields during the lease agreement.
- Line fields as needed for events and activities assigned to user groups other than LGOC..
- Continue to pay the utilities for the 2019 season. This will be reviewed again after the year and a determination from year to year will be made on what best suits CITY and the LGOC.

2. Reserve the right to utilize the Facilities when LGOC league activities are not scheduled. If Facilities are abandoned, the Agreement is terminated. "Abandonment" shall be defined as no competitive play taking place on allocated field(s) during the entire term of the Agreement.

3. Assist LGOC with distribution of information and refer interested parties to LGOC when necessary.

It is understood and agreed CITY's obligations under this Agreement will be performed as soon as, and to the extent that, budgeted funds are available for performance of its obligations. If CITY is unable to fulfill its obligations due to budget restraints, it will not be obligated to LGOC for any monetary damages.

CITY and LGOC agree to work together to identify possible revenue sources that will help pay for utilities and maintenance costs.

#### **V. Obligations of LGOC**

Through their oversight of the Lynn Garden Baseball and Softball Boards, LGOC agrees to:

1. Provide to the citizens of Greater Kingsport a quality recreational youth sports program that operates with reasonable participant fees and associated services.

2. Background checks must be done on all coaches who are in a leadership role and are left alone with children. CITY will provide the Background service that it uses for Athletic programs, however the funds to pay for this service must be provided by LGOC.

3. At no expense to CITY, provide the following maintenance and repair:



- Maintain all baseball and softball equipment.
  - LGOC shall be responsible for daily game day policing of all litter on their field(s) to include playing areas, bleachers, concession stands, offices, maintenance buildings, and adjacent grounds.
  - Line all fields for LGOC league and tournament play. LGOC is also responsible for the provision of the necessary materials to maintain the field and the field markings on a daily basis.
  - Monitor and clean restroom facility; stock supplies.
  - Adhere to CITY rules that pertain to field usage and provide input on overuse.
4. Furnish to the Kingsport Parks and Recreation Department calendar of events annually by April 1 for baseball/softball. The schedule may be updated and adjusted as the season progresses and will serve as a guide for maintenance of the Facilities. Any adjustments must be relayed to the Kingsport Parks and Recreation Department.
  5. Schedule and meet with the Kingsport Parks and Recreation Department prior to the season to discuss schedules, field playability and department guidelines and maintain regular communication with CITY staff.
  6. Provide CITY with specified accident and Incident reports. CITY will provide the appropriate forms to use.
  7. Sign a usage agreement annually with CITY.
  8. Report any facility maintenance problems to CITY designated personnel. This must be done in writing by the baseball group and LGOC. In order to correct those issues it must be made before November for the following year in order to make arrangements with the upcoming budget.
  9. Sign a lease agreement for concession rights and request approval by CITY for any and all additional concession trailers and follow City, County, and State Health Codes.
  10. Signage or promotional items are to be done in conjunction with the Kingsport Parks and Recreation Manager. Any funds derived therefrom would go towards maintenance of the park area as determined by the Parks and Recreation Manager.
  11. Provide CITY an agreed upon in-kind match per season for each registered player in the leagues that is a Non-Resident of the City of Kingsport. The in-kind match will be a value mutually agreed upon by CITY and LGOC. CITY and LGOC will agree on facility upgrade and/or facility improvements for the in-kind match.
  12. Maintain at least a 50% or greater number of CITY residents as registered participants. Verification of residency percentages shall be made annually to CITY of Kingsport. CITY and LGOC will utilize annual data to determine future percentage goals.
  13. Provide a responsible adult to be on-site at each and every activity scheduled on City facilities.
  14. Agree not to make any permanent changes to facilities or fields without the expressed prior written permission of the Kingsport Parks and Recreation Department.
  15. Adhere to facility rules and regulations which includes proper use and care of lights, grounds, keys, facilities, and amenities.
  16. Follow all Park rules that have been established in CITY per code and ordinance as related to the facilities, general operating guidelines, etc.
  17. Assist CITY in moving and relocating equipment within the park as necessary.
  18. Allow Ex-Officio representation by Kingsport Parks and Recreation on LGOC Board of Directors.
  19. Conduct only LGOC sanctioned and organized events and activities under the terms of this usage agreement. Personal use of the facility by LGOC members is outside the scope of this agreement.
  20. Not hold CITY responsible for damage or loss to LGOC equipment located at the facility unless specifically caused by negligence on the part of CITY.
  21. Provide Kingsport Parks and Recreation statistical data pertaining to participation and attendance at CITY facility on a monthly basis.

#### **VI. Assignment and Exclusivity**

This Agreement is a privilege for the benefit of LGOC only and may not be assigned in whole or part by LGOC to any other person or entity. Both parties understand that LGOC'S use of the facility is nonexclusive.

#### **VII. Insurance and Indemnification**

LGOC shall at all times during the term of this Agreement maintain in effect general public liability insurance covering the LGOC program at the Facilities against claims for personal injury, death or damage to property to the limit of not less than one-million dollars (\$1,000,000.00). CITY shall be named as an additional insured on such policy and shall be entitled to thirty (30) days notice of cancellation or changes of any kind regarding such insurance, and certificates of insurance shall be provided by LGOC to CITY.

LGOC shall indemnify, defend and hold harmless the CITY, its officers, employees and agents from any and against any and all suits, actions, or claims of every kind or nature whatsoever, foreseen or unforeseen, known or unknown that arises out of, or is any way related to the acts or the failure to act of LGOC or its agents, volunteers, or employees in the use of the Facilities arising out of obligations of LGOC as set forth in this Agreement.

**VIII. Miscellaneous Provisions:**

1. No modification of this Agreement shall be effective unless it is made in writing and is signed by the authorized representatives of the parties hereto.
2. This Agreement shall be construed under and in accordance with the laws of the State of Tennessee, and all obligations of LGOC and CITY created hereunder are performable in Sullivan County, Tennessee.
3. Nothing in this Agreement shall be construed to make CITY or its respective agents or representatives liable in situations it is otherwise immune from liability.
4. In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
5. Each party represents to the other that the individual signing this Agreement below has been duly authorized to do so by its respective governing body, and that this Agreement is binding and enforceable as to each party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth below:

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION II. That the mayor is further authorized and directed 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 III. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a concession lease agreement, substantially in the form as hereinafter set out, with such changes therein as shall be approved by the mayor in consultation with the city attorney along with all other documents necessary and proper to effectuate the purpose of the agreement, to provide concessions at the Lynn Garden Community Center and athletic fields located at 257 Walker Street by the Lynn Garden Optimist Club. The proposed agreement is as follows:

**CONCESSION LEASE AGREEMENT**

This Agreement made and entered into this \_\_\_ day of \_\_\_\_\_, 2019 by and between the City of Kingsport, a municipal corporation of the State of Tennessee, party of the first part, hereinafter called the LESSOR, AND Lynn Garden Optimist Club, hereinafter called the CONCESSIONAIRE.

**W-I-T-N-E-S-S-E-T-H**

That for and in consideration of its maintenance assistance and league operations, the LESSOR does hereby lease unto the CONCESSIONAIRE for the period of March 1, 2019, through June 30, 2019 the concession rights for the sale of food, refreshments, confectionery and beverages at the fields at 257 Walker Street.

The CONCESSIONAIRE agrees to and shall abide by the following conditions:

The CONCESSIONAIRE will be responsible for furnishing all the equipment, food supplies or other items offered for sale, and any other incidentals necessary for the operation of the concession. He shall be responsible for the maintenance of his equipment to insure that it is in a safe and usable condition at all times. It shall provide at its own cost a sufficient number of employees to serve the public promptly and in a manner satisfactory to the Parks and Recreation Manager. The CONCESSIONAIRE agrees not to sublet or sublease in any form the concession rights as approved by the LESSOR. LGOC has the rights to baseball concessions.

The Parks and Recreation Manager shall approve all items offered under this concession and shall approve all prices charged to the public. Any agreement of pouring rights must receive the approval of the Parks and Recreation Manager.

The CONCESSIONAIRE shall pay 0% of sales to the LESSOR.

The CONCESSIONAIRE shall agree to comply with and abide by all rules regulating the operation of the park and the hours of operation of the concession shall coincide with the hours of the park in agreement with the Parks and Recreation Manager.

The CONCESSIONAIRE shall furnish all labor and other materials necessary to maintain the concession in a clean, orderly and inviting condition that shall be satisfactory to the Parks and Recreation Manager; and this shall include the area immediately surrounding the concession area. In addition, at the end of each day, the CONCESSIONAIRE shall be responsible for keeping the designated eating and shelter area free of all trash and litter by placing it in a trash container.

LESSOR will furnish lights, power, and water in such locations where these utilities now exist. All additional installations which require the use of these utilities shall be made and maintained at the expense of the CONCESSIONAIRE and upon the approval of the Parks and Recreation Manager.

Any alterations, repairs, or additions to the building area occupied by the CONCESSIONAIRE must be approved in advance by the Parks and Recreation Manager. The City shall make all ordinary and reasonable repairs to preserve the building occupied by the CONCESSIONAIRE.

It shall be the obligation of the CONCESSIONAIRE to secure or obtain all permits and licenses required by law for the operation of the concession and the sale of approved merchandise. The CONCESSIONAIRE shall comply with all ordinances of the City of Kingsport, Sullivan County, and the State of Tennessee, and shall comply with all applicable State and Federal rules and regulations concerning the serving of food, hours of work, pay and equal employment of personnel without discrimination as to race, color, age or sex.

LESSOR shall have the right of inspection and audit at all times during regular business hours. A violation of any provisions of this contract shall work a forfeiture of this contract, and the City may take possession on a twenty-four (24) hour notice. The CONCESSIONAIRE may voluntarily terminate the contract upon five (5) days written notice LESSOR.

The CONCESSIONAIRE shall furnish all owners liability insurance, specifically naming LESSOR as co-insured, to defend, indemnify and save harmless the LESSOR from any and all claims and suits for injury to persons or property arising out of the performance of this contract caused in any way by the acts or omissions of the CONCESSIONAIRE or the CONCESSIONAIRE'S agents, employees, or representatives during or in connection with this contract excepting bodily injury or death or property damage caused by the sole negligence of the City of Kingsport with the requisite certificate(s) of insurance in compliance herewith.

[Acknowledgements Deleted for Inclusion in this Resolution]

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

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

ADOPTED this 5th day of March, 2019.

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JOHN CLARK, MAYOR

ATTEST:

---

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

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J. MICHAEL BILLINGSLEY, CITY ATTORNEY

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

A RESOLUTION AUTHORIZING THE MAYOR EXECUTE AGREEMENTS WITH LYNN VIEW PEE WEE FOOTBALL RELATED TO THE USE OF THE ATHLETIC FIELDS AND CONCESSION STAND OPERATIONS AT THE LYNN VIEW COMMUNITY CENTER

WHEREAS, the City of Kingsport purchased the Lynn View Community Center and athletic fields from Sullivan County in 2009; and

WHEREAS, since July 2010, the board has approved an agreement with the Optimist Club for the use of the Club by the youth football program to allow the Lynn View Pee Wee Football to conduct football programs and a concession lease agreement for the youth of the community;

WHEREAS, the agreement with the Lynn Garden Optimist Club previously included the Lynn View Pee Wee Football; and

WHEREAS, by agreement of both the Lynn Garden Optimist Club and Lynn View Pee Wee Football, Lynn View Pee Wee Football has a separate lease agreement and concession agreement with the city for the use of the Lynn view Athletic fields.

Now therefore,

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

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an agreement, substantially in the form as hereinafter set out, with such changes therein as shall be approved by the mayor in consultation with the city attorney along with all other documents necessary and proper to effectuate the purpose of the agreement, for the use of the Lynn Garden Community Center and athletic fields located at 257 Walker Street by the Lynn View Pee Wee Football for the purpose of youth football programs. The proposed agreement is as follows:

AGREEMENT  
BETWEEN  
CITY OF KINGSPORT, TENNESSEE  
AND  
LYNN VIEW PEE WEE FOOTBALL LEAGUE

THIS AGREEMENT made by and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019 by and between the CITY OF KINGSPORT, hereinafter called "CITY", and the LYNN VIEW PEE WEE FOOTBALL LEAGUE, (LVPWFL), hereinafter called "LVPWFL".

WITNESSETH

WHEREAS, CITY does not provide a recreational youth SPORTS program at the Lynn View Athletic Fields for the citizens of KINGSPORT; and  
WHEREAS, LVPWFL is a non-profit organization organized to promote youth sports activities through the operation in the Lynn Garden community; and  
WHEREAS, LVPWFL has provided for several years a youth sports program including baseball and softball; and  
WHEREAS, CITY and LVPWFL wish to formalize an agreement for the utilization of CITY facilities for the purpose of providing a recreational youth sports program; and

WHEREAS, CITY is the owner of the public park amenities located at 257 Walker Street, and hereafter referred to as the "Facilities"; and

WHEREAS, LVPWFL and CITY desire to enter this Agreement for the purpose of evidencing the Agreement of the parties with regard to the use of the Facilities by LVPWFL and respective obligations contained herein;

NOW, THEREFORE, the premises considered, the parties agree as follows:

**I. Term**

This Agreement shall be for a term of twelve (12) months beginning on the date of the execution hereof. Note that there are multiple users of the facilities, and refer to Section III on Use of Facilities for priorities set during term. This agreement may be terminated with or without cause by either party by giving sixty (60) days written notice to the other party.

**II. Option to Renew**

This Agreement may be renewed at the option but not the obligation of the parties for an additional term, conditioned upon the following:

1. If not in violation of any obligation hereunder, LVPWFL shall be given the option to renew the Agreement for a like term upon conditions set forth by CITY. If LVPWFL should desire to renew this agreement, it shall do so by giving written notice to City prior to December 1 for the following year.

2. LVPWFL shall provide the following information at least 30 days prior to the start of the Spring season:

- Current by-laws for organization
- Proposed budget for upcoming year
- List of current officers and board members with addresses, phone numbers and e-mail (if applicable). CITY is to be notified of changes within two weeks of appointment
- List of officers, recreation program personnel, field coordinators, competitive coaches and Board of Directors members
- List of designated personnel who have facility keys & access.
- Annual calendar including all events

3. LVPWFL shall provide financial reports of all expenditures and revenues within 90 days after the completion of each playing season.

4. LVPWFL must comply with the TCA §68-55-501 *et seq.* regarding concussions. The law has three key components:

1. To inform and educate coaches, youth athletes and their parents and require them to sign a concussion information form before competing.
2. To require removal of a youth athlete who appears to have suffered a concussion from play or practice at the time of the suspected concussion.
3. To require a youth athlete to be cleared by a licensed health care professional before returning to play or practice.

5. LVPWFL must comply with new state law on Cardiac arrest training. Adopt guidelines and other pertinent information and forms as approved by the department of health to inform and educate coaches, school administrators, young athletes, and their parents or guardians of the active, risk, and symptoms of sudden cardiac arrest including the risks associated with continuing to play or practice when experiencing any of the following symptoms. TCA §68-55-501 *et seq.* has 6 symptoms to watch for:

- (i). Fainting or Seizures
- (ii). Unexplained shortness of breath
- (iii). Chest Pains
- (iv). Dizziness
- (v). Racing Heart
- (vi). Extreme Fatigue

CITY of Kingsport has developed policies and procedures to insure compliance.

In the event the above information is not timely furnished, this Agreement and/or any extension thereof shall be automatically cancelled without further notice.

**III. Use of Facilities**

1. LVPWFL will be the primary youth football provider in the Lynn Garden community for CITY during the period of June 3, 2019 to Dec.1, 2019. LVPWFL shall have the primary right to use CITY's Sports Facilities in the Lynn Garden community, as assigned by CITY, during LVPWFL regular Spring recreational seasons, league playoffs and make-up games, and one tournament, without assignment of any associated facility rental fees. At any time the facilities are not being used by LVPWFL, CITY may use the facilities for its Parks and Recreation program. Special Note: There is a 2 week overlap between the end of the baseball/softball season and the beginning of the Pee Wee Football season. Both groups are to work cooperatively to make the

transition as smooth as possible. The football cheerleaders are to practice at the Community center during this 2 week overlap or at the upper baseball field.

In addition, the LVPWFL agrees to work cooperatively with CITY on scheduling Special Events such as the Funfest Block Party, Alumni Reunions, and others deemed appropriate for the benefit of the community.

2. LVPWFL may use a meeting room located at CITY's Lynn View Community Center for official LVPWFL monthly board meetings during the term of this Agreement. Scheduling these meetings are to be done through CITY's Parks and Recreation Program Coordinator. CITY will provide space at Lynn View Community Center for one end of the year banquet. The reservation of these dates must be made two months in advance and are subject to availability.

3. LVPWFL may not make any additions and/or alterations to the facility buildings, equipment, grounds, and/or furnishing without written consent from CITY of Kingsport.

4. LVPWFL understands and agrees that at times weather, electrical storms, scheduled maintenance and/or field conditions may result in City denying the use of certain fields on dates for which approval has been granted. LVPWFL shall use appropriate judgment in insuring the safety of the participants.

5. CITY shall at all times have the right to inspect its Facilities being used by LVPWFL and all LVPWFL sponsored activities related to the use of such facilities.

6. If LVPWFL should desire to use CITY facilities for additional tournaments or special events or programs, LVPWFL shall make a request to CITY in accordance with the guidelines established for assigning and scheduling of activities at CITY sports facilities. Any and all additions, tournaments or special programs shall not be included in this Agreement, but shall require a separate written agreement between the parties.

7. LVPWFL will have 5 volunteers designated for the Lynn View Block Party to be held in July 2019 from 4-8pm.

#### **IV. Obligation of CITY**

CITY agrees to:

1. Provide the following maintenance and oversight for the Sports Fields at Lynn View.
  - Perform general maintenance and repairs to the facilities.
  - Work with LVPWFL on maintenance items that could improve operations. At the end of every year the Parks and Recreation Program Coordinator will sit down with each group to discuss future possibilities and maintenance issues for the next year.
  - Provide LVPWFL with contact information for after-hour and everyday needs.
  - Determine all rental fees and rules for usage of facility.
  - Establish all rules to include facility safety, signage as appropriate, emergency notification process, traffic control, and environmental regulations.
  - Provide 1 username/password for the Musco lights at the football stadium for use during extended hours of need.
  - Establish policy for field lighting usage.
  - Provide a plan for and approve all capital improvements with input from LVPWFL.
  - Provide for insurance on buildings.
  - Line fields as needed for events and activities assigned to user groups other than LVPWFL.
  - Provide maintenance building for general items during the season. Building will be checked periodically for cleanliness. This building will be shared with City of Kingsport Parks & Recreation department.
  - Continue to pay the utilities for the 2019 season. This will be reviewed again at the end of the year and a determination from year to year will be made on what best suits CITY and LVPWFL.

2. Reserve the right to utilize the Facilities when LVPWFL league activities are not scheduled. If Facilities are abandoned, the Agreement is terminated. "Abandonment" shall be defined as no competitive play taking place on allocated field(s) during the entire term of the Agreement.

3. Assist LVPWFL with distribution of information and refer interested parties to LVPWFL when necessary.

It is understood and agreed CITY's obligations under this Agreement will be performed as soon as, and to the extent that, budgeted funds are available for performance of its obligations. If CITY is unable to fulfill its obligations due to budget restraints, it will not be obligated to LVPWFL for any monetary damages.

CITY and LVPWFL agree to work together to identify possible revenue sources that will help pay for utilities and maintenance costs.

## V. Obligations of LVPWFL

Through their oversight of the Lynn View Pee Wee Football Board, LVPWFL agrees to:

1. Provide to the citizens of Greater Kingsport a quality recreational youth sports program that operates with reasonable participant fees and associated services.
2. Background checks must be done on all coaches who are in a leadership role and are left alone with children. CITY will provide LVPWFL with the background service that it uses for Athletic programs, however the funds to pay for this service must be provided by the LVPWFL.
3. At no expense to CITY, provide the following maintenance and repair:
  - Maintain all Football equipment.
  - LVPWFL shall be responsible for daily game day policing of all litter on their field(s) to include playing areas, bleachers, concession stands, offices, maintenance buildings, and adjacent grounds.
  - Line all fields for LVPWFL league and tournament play. LVPWFL is also responsible for the provision of the necessary materials to maintain the field and the field markings on a daily basis.
  - Mow and trim field space within the perimeter fence of the football field and baseball lower field between June 15 and Dec.1 of current contract year. Monitor and clean restroom facility; stock supplies.
  - Adhere to City rules that pertain to field usage and provide input on overuse.
4. Furnish to the Kingsport Parks and Recreation Department calendar of events annually by May 1 for baseball/softball. The schedule may be updated and adjusted as the season progresses and will serve as a guide for maintenance of the Facilities. Any adjustments must be relayed to the Kingsport Parks and Recreation Department.
5. Schedule and meet with the Kingsport Parks and Recreation Department prior to the season to discuss schedules, field playability and department guidelines and maintain regular communication with CITY staff.
6. Provide CITY with specified accident and Incident reports. CITY will provide the appropriate forms to use.
7. Sign a usage agreement annually with CITY.
8. Report any facility maintenance problems to CITY designated personnel. This must be done in writing by the baseball group and the LVPWFL. In order to correct those issues it must be made before November for the following year in order to make arrangements with the upcoming budget.
9. Sign a lease agreement for concession rights and request approval by CITY for any and all additional concession trailers and follow City, County, and State Health Codes.
10. Signage or promotional items are to be done in conjunction with the Kingsport Parks and Recreation Manager. Any funds derived therefrom will go towards maintenance of the park area as determined by the Parks and Recreation Manager.
11. Provide CITY an agreed upon in-kind match per season for each registered player in the leagues that is a Non-Resident of CITY. The in-kind match will be a value mutually agreed upon by CITY and LVPWFL. The mowing of the facility has been used for the in kind match.
12. Maintain at least a 50% or greater number of CITY residents as registered participants. Verification of residency percentages shall be made annually to CITY. CITY and LVPWFL will utilize annual data to determine future percentage goals.
13. Provide a responsible adult to be on-site at each and every activity scheduled on City facilities.
14. Agree not to make any permanent changes to facilities or fields without the expressed prior written permission of the Kingsport Parks and Recreation Department.
15. Adhere to facility rules and regulations which includes proper use and care of lights, grounds, keys, facilities, and amenities.
16. Follow all Park rules that have been established by CITY per code and ordinance as related to the facilities, general operating guidelines, etc.
17. Assist CITY in moving and relocating equipment within the park as necessary.
18. Allow Ex-Officio representation by Kingsport Parks and Recreation on LVPWFL Board of Directors.
19. Conduct only LVPWFL sanctioned and organized events and activities under the terms of this usage agreement. Personal use of the facility by LVPWFL members is outside the scope of this Agreement.
20. Not hold CITY responsible for damage or loss to LVPWFL equipment located at the facility unless specifically caused by negligence on the part of CITY.
21. Provide Kingsport Parks and Recreation statistical data pertaining to participation and attendance at CITY facility on a monthly basis.



**VI. Assignment and Exclusivity**

This Agreement is a privilege for the benefit of LVPWFL only and may not be assigned in whole or part by LVPWFL to any other person or entity. Both parties understand that LVPWFL use of the facility is nonexclusive.

**VII. Insurance and Indemnification**

LVPWFL shall at all times during the term of this Agreement maintain in effect general public liability insurance covering LVPWFL program at the Facilities against claims for personal injury, death or damage to property to the limit of not less than one-million dollars (\$1,000,000.00). CITY shall be named as an additional insured on such policy and shall be entitled to thirty (30) days notice of cancellation or changes of any kind regarding such insurance, and certificates of insurance shall be provided by LVPWFL to CITY.

LVPWFL shall indemnify, defend and hold harmless CITY, its officers, employees and agents from any and against any and all suits, actions, or claims of every kind or nature whatsoever, foreseen or unforeseen, known or unknown that arises out of, or is any way related to the acts or the failure to act of LVPWFL or its agents, volunteers, or employees in the use of the Facilities arising out of obligations of LVPWFL as set forth in this Agreement.

**VIII. Miscellaneous Provisions:**

1. No modification of this Agreement shall be effective unless it is made in writing and is signed by the authorized representatives of the parties hereto.

2. This Agreement shall be construed under and in accordance with the laws of the State of Tennessee, and all obligations of LVPWFL and CITY created hereunder are performable in Sullivan County, Tennessee.

3. Nothing in this Agreement shall be construed to make CITY or its respective agents or representatives liable in situations it is otherwise immune from liability.

4. In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

5. Each party represents to the other that the individual signing this Agreement below has been duly authorized to do so by its respective governing body, and that this Agreement is binding and enforceable as to each party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth below:

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION II. That the mayor is further authorized and directed 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 III. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a concession lease agreement, substantially in the form as hereinafter set out, with such changes therein as shall be approved by the mayor in consultation with the city attorney along with all other documents necessary and proper to effectuate the purpose of the agreement, to provide concessions at the Lynn Garden Community Center and athletic fields located at 257 Walker Street by the Lynn View Pee Wee Football. The proposed agreement is as follows:

**CONCESSION LEASE AGREEMENT**

This Agreement made and entered into this \_\_\_\_\_ day \_\_\_\_\_, 2019 by and between the City of Kingsport, a municipal corporation of the State of Tennessee, hereinafter called the LESSOR, AND Lynn View Pee Wee Football League, hereinafter called the CONCESSIONAIRE.

**W-I-T-N-E-S-S-E-T-H**

That for and in consideration of its maintenance assistance and league operations, the LESSOR does hereby lease unto the CONCESSIONAIRE for the period of June 3, 2019, through December 1, 2019 the concession rights for the sale of food, refreshments, confectionery and beverages at the fields at 257 Walker Street.

The CONCESSIONAIRE agrees to and shall abide by the following conditions:

The CONCESSIONAIRE will be responsible for furnishing all the equipment, food supplies or other items offered for sale, and any other incidentals necessary for the operation of the concession. He shall be responsible for the maintenance of his equipment to insure that it is in a safe and usable condition at all times. It shall provide at its own cost a sufficient number of employees to serve the public promptly and in a manner satisfactory to the Parks and Recreation Manager. The CONCESSIONAIRE agrees not to sublet or sublease in any form the concession rights as approved by the City. The LVPWFL has the rights to football concessions.

The Parks and Recreation Manager shall approve all items offered under this concession and shall approve all prices charged to the public. Any agreement of pouring rights must receive the approval of the Parks and Recreation Manager.

The CONCESSIONAIRE shall pay 0% of sales to the LESSOR.

The CONCESSIONAIRE shall agree to comply with and abide by all rules regulating the operation of the park and the hours of operation of the concession shall coincide with the hours of the park in agreement with the Parks and Recreation Manager.

The CONCESSIONAIRE shall furnish all labor and other materials necessary to maintain the concession in a clean, orderly and inviting condition that shall be satisfactory to the Parks and Recreation Manager; and this shall include the area immediately surrounding the concession area. In addition, at the end of each day, the CONCESSIONAIRE shall be responsible for keeping the designated eating and shelter area free of all trash and litter by placing it in a trash container.

LESSOR will furnish lights, power, and water in such locations where these utilities now exist. All additional installations which require the use of these utilities shall be made and maintained at the expense of the CONCESSIONAIRE and upon the approval of the Parks and Recreation Manager.

Any alterations, repairs, or additions to the building area occupied by the CONCESSIONAIRE must be approved in advance by the Parks and Recreation Manager. LESSOR shall make all ordinary and reasonable repairs to preserve the building occupied by the CONCESSIONAIRE.

It shall be the obligation of the CONCESSIONAIRE to secure or obtain all permits and licenses required by law for the operation of the concession and the sale of approved merchandise. The CONCESSIONAIRE shall comply with all ordinances of the City of Kingsport, Sullivan County, and the State of Tennessee, and shall comply with all applicable State and Federal rules and regulations concerning the serving of food, hours of work, pay and equal employment of personnel without discrimination as to race, color, age or sex.

LESSOR shall have the right of inspection and audit at all times during regular business hours. A violation of any provisions of this contract shall work a forfeiture of this contract, and the City may take possession on a twenty-four (24) hour notice. The CONCESSIONAIRE may voluntarily terminate the contract upon five (5) days written notice to LESSOR.

The CONCESSIONAIRE shall furnish all owners liability insurance, specifically naming LESSOR as co-insured, to defend, indemnify and save harmless the LESSOR from any and all claims and suits for injury to persons or property arising out of the performance of this contract caused in any way by the acts or omissions of the CONCESSIONAIRE or the CONCESSIONAIRE'S agents, employees, or representatives during or in connection with this contract excepting bodily injury or death or property damage caused by the sole negligence of the City of Kingsport with the requisite certificate(s) of insurance in compliance herewith.

[Acknowledgements Deleted for Inclusion in this Resolution]

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

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

ADOPTED this the 5<sup>th</sup> day of March, 2019.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



**AGENDA ACTION FORM**

**Extending the Bid Award for Rental Uniforms Mats and Mops**

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

Action Form No.: AF-45-2019  
 Work Session: March 4, 2019  
 First Reading: N/A

Final Adoption: March 5, 2019  
 Staff Work By: Committee  
 Presentation By: R. McReynolds

**Recommendation:**

Approve the Resolution.

**Executive Summary:**

Bids were opened on February 24, 2016 for the purchase of Rental Uniforms, Mats & Mops Services for use by various departments throughout the City.

The bid invitation was publicly advertised on February 7, 2016 in the Kingsport Times News and downloadable bid documents were posted on the Purchasing Department's website for a time period of 18 calendar days. Bids were received from five potential vendors. The estimated annual cost for these services is \$55,000.

Recognizing the substantial investment the awarded vendor must make, the initial bid award was for two years with a renewal option for an additional 3 years in one year increments. Our current supplier, Cintas Corporation, has agreed to extend our current pricing for uniforms, mats & mops for an additional year with no increase. After soliciting feedback from various user departments the consensus is to renew the award with our current supplier.

Funding is identified in various department accounts.

**Attachments:**

1. Resolution
2. Bid Opening Minutes
3. Cintas Email

Funding source appropriate and funds are available: *JF*

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

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

A RESOLUTION EXTENDING THE BID AWARD FOR THE PURCHASE OF RENTAL UNIFORMS, MATS & MOPS SERVICE TO CINTAS CORPORATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

WHEREAS, the board awarded the bid for the purchase of rental uniforms, mats and mops service for use by various departments throughout the city to G&K Services on March 15, 2016; and

WHEREAS, since that time, G&K Services has been bought by Cintas Corporation, which continued the bid terms with the city; and

WHEREAS, the initial term of the bid was for two years, with the option to renew for an additional three years in one year increments;

WHEREAS, staff would like to renew the bid at an annual cost of \$55,000.00; and

WHEREAS, funding is identified in various department accounts.

Now therefore,

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

SECTION I. That the bid for the purchase of rental uniforms, mats and mop services, at an estimated annual cost of \$55,000.00, with Cintas Corporation is renewed, and the city manager is authorized to execute a purchase order for same.

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

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

ADOPTED this the 5th day of March, 2019.

\_\_\_\_\_  
JOHN CLARK, MAYOR

ATTEST:

\_\_\_\_\_  
JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

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

MINUTES  
 BID OPENING  
 February 24, 2016  
 4:00 P.M.

Present: Sandy Crawford, Procurement Manager; Brent Morelock, Assistant Procurement Manager; and  
 Tim Elsea, Traffic Engineer

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

The Procurement Manager opened with the following bids:

RENTAL UNIFORMS, MATS & MOPS					
Item #	G & K Services	Aramark Uniform Services	Unifirst Corp.	Tri-City Janitorial Supply	Cintas
	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price/Weekly
1	.26	.29	.358	No Bid	4.30
2	.12	.13	.139	No Bid	2.00
3	.14	.16	.219	No Bid	2.30
4	.20	.24	.423	No Bid	.84
5	.70	.77	.751	No Bid	8.55
	.45	.90	1.02	No Bid	2.00
	No Bid	.54	.46	2.09	*1.23
8	.48	.54	.61	2.29	1.23
9	.53	.72	.92	2.79	*1.46
10	.78	.78	1.22	2.99	*1.46
11	.95	.91	1.53	3.29	*1.92
12	1.20	1.07	No Bid	No Bid	*1.92
13	1.40	1.98	No Bid	3.89	*3.06
14	1.40	1.98	2.30	3.89	3.06
15	2.40	3.88	3.67	4.57	3.78
16	7.25	5.20	4.59	28.98	*4.50
17	.03	.08	.082	.32	*.07
18	.05	.19	.102	3.89/lb.	*.12
19	.05	.19	.112	69.89/25 lb.	*.12

\*Cintas – See Bid.

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

## McBryar, Renee

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**From:** Goodall, Jeffrey <GoodallJ@cintas.com>  
**Sent:** Tuesday, February 26, 2019 7:13 AM  
**To:** Morelock, Brent  
**Subject:** RENEWAL PRICING

Good morning Brent

Tracy let me know yesterday evening you are requesting confirmation that the pricing for the mats, mops, and regular uniforms you are currently renting will not change. All parts of the current agreement, including these items, will remain the same on the renewal. We will be adding our emblem advantage/prep advantage to the proposal. These programs help offset some of the cost of preparing replacement garments and new wearer garments to be delivered to you, as well as offsetting some of the cost of your emblems. Currently, you are not being charged for these services. In order for us to continue to provide you the below market rental rates, as well as lock these rates for the life of the agreement, we are asking you to please help us offset some of the ancillary costs. Your cost for emblem advantage is being set at .02/garment, and prep advantage at .03/garment. These advantage programs will show up at the bottom of uniform invoices, as separate line items, and be billed weekly. The only other change will be the addition of the dungaree, which we have previously discussed, at .40. The proposal is being put on a Cintas agreement form this morning. I will forward it to you as soon as it is completed.

Please let me know if you have any questions.

**Scott Goodall | Service Manager**

Cintas

Office: 423-247-4101 | Fax: 423-247-9244

2117 Berry Street | Kingsport, TN 37664

[GoodallJ@cintas.com](mailto:GoodallJ@cintas.com)

This e-mail transmission contains information that is intended to be confidential and privileged. If you receive this e-mail and you are not a named addressee you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this communication without the consent of the sender and that doing so is prohibited and may be unlawful. Please reply to the message immediately by informing the sender that the message was misdirected. After replying, please delete and otherwise erase it and any attachments from your computer system. Your assistance in correcting this error is appreciated.