



AGENDA

BOARD OF MAYOR AND ALDERMEN WORK SESSION

Monday, April 4, 2016
Council Room, 2nd Floor, City Hall, 4:30 p.m.

Board of Mayor and Aldermen

Mayor John Clark, Presiding
Vice Mayor Mike McIntire
Alderman Darrell Duncan
Alderman Colette George

Alderman Michele Mitchell
Alderman Tommy Olterman
Alderman Tom C. Parham

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

Craig Dye, Fire Chief
Morris Baker, Community Services Director
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. Sales Tax, Wellness Clinic, Safety, Project Status – Jeff Fleming
4. Review of Items on April 5, 2016 Business Meeting Agenda
5. I.T. and Using Technology for Efficiencies – Mark Woomer
6. City Manager Performance Evaluation – Vice Mayor McIntire
7. Adjourn

Next Work Session, April 18, 2016: Project Status, ONEKingsport Summit Priority Recommendations,
Website: ONEKingsport.com/KingsportTN.gov

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, April 4, 2016



Financial Comments, Judy Smith

Sales slowed in the month of January in comparison to last year but came in above budget. Total sales tax year to date is still strong.

Sales for the month of January are realized in March.

The March monthly report indicates:

January 2015	\$1,309,305
January 2016	\$1,274,292
• \$44,846 above budget	+3.65%
• \$35,013 below last year's actual	-2.67%
Year to Date 2015	\$9,951,039
Year to Date 2016	\$10,403,195
• \$425,826 above budget	+4.66%
\$487,169 above last year	+4.53%

Kingsport Employee Wellness, Terri Evans

	01/01/2016 – 02/29/2016	03/01/2016 – 03/26/2016
Total Utilization	98.6%	97.9%
City – Active Employees	32.4%	33.3%
City – Dependents	19.9%	20.2%
City – Retirees	2.5%	4.1%
Schools – Active Employees	22.5%	22.2%
Schools – Dependents	12.7%	11.1%
Schools – Retirees	1.8%	2.4%
Extended-Patient Services/Other	1.9%	.3%
Work Comp	.5%	.7%
No Show	4.4%	3.6%

Worker's Compensation, Terri Evans

For the month of February 2016 the city had 4 recordable claims. In the 4 claims they were all restricted duty.

1. **School System**, date of injury 2/25/2016, 15 days of restricted duty.
What happened- Tripped over a chair and fell to the floor hurting right hip.
Action taken-Employee instructed to be more aware of surroundings and what they are doing.
2. **School System**, date of injury 2/26/2016, 14 days restricted duty since 2/29/2016.
What happened- Sitting in classroom, heard commotion, went into next room, broke up fight and hurt wrist.
Action taken-Employee instructed to be more careful when students are fighting.

BMA Monthly Project Updates

April 4, 2016

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3. **School System**, date of injury 2/29/2016, had 2 days of restricted duty.
What happened- Bumped Rt. Elbow on desktop while assisting very unsteady student with active seizure.
Action taken- None that is noted.

4. **Public Works-Organic Refuse**, date of injury 2/22/2016, has been on restricted duty since date of injury.
What happened- Got out of truck and turned ankle on a storm grate.
Action taken- Employee was instructed to watch where they are stepping and not step on storm grates.

Status Updates on Active Projects sorted by Cost

Estimated Cost	Project Owner	Project Manager	Project Name	Project #	Completion Date	CurrentStatus
\$13,537,873.00	Niki Ensor	Niki Ensor	Raw Water Intake Replacement (1.5 M EDA Grant)	WA1504	5/7/2017	Drillers are 237' into the main tunnel. J. Cumby has completed the new pump station retaining wall.
\$7,500,000.00	Ryan McReynolds	Thompson, Michael	SR 347 (Rock Springs Road) [State & MTPO funded]	No City Funds	12/31/2020	Contract between City and TDOT received and is being reviewed by staff.
\$5,600,000.00	Chad Austin	Norman Eichmann	Reedy Creek Sewer Trunk Line	SW1400	6/30/2017	Engineer is finalizing bid documents to be advertised in the next few weeks.
\$3,250,000.00	Chad Austin	Mike Hickman	Colonial Heights Ph II Sewer & Water	SW1501	3/9/2017	Contractors installing sewer line on Moreland Drive.
\$2,609,000.00	Chad Austin	Pamela Gilmer	System Wide Water Upgrades FY15 Phase 1	WA1601	5/4/2016	Long services on Oakland Street and Stagecoach Rd. Patching on Stagecoach. Line going in near end of Stagecoach.
\$2,500,000.00	Chad Austin	Mike Hickman	Colonial Heights Ph IV Sewer & Water	SW1511	9/3/2017	Project is in design phase.
\$2,400,000.00	Justin Steinmann	Mason, David	Centennial Park	GP1533	6/15/2017	Design work is proceeding in consultation with Centennial Commission
\$1,886,220.00	Chad Austin	Pamela Gilmer	System Wide Water Upgrades FY15 Phase 2	TBD	12/31/2016	Bid opening on March 31st.
\$1,700,000.00	Michael Thompson	Thompson, Michael	Main Street Rebuild [City & MTPO Funded]	GP1516	12/31/2018	Contract approved by BMA on 3/15/2016. Routing for signatures.
\$1,600,000.00	Chad Austin	Mike Hickman	Colonial Heights Ph III Sewer & Water	SW1502/ WA1502	4/28/2017	Aquiring easements.
\$1,123,727.93	Chad Austin	Pamela Gilmer	Ft. Henry and Moreland Dr. Sewer Rehabilitation	SW1401	10/31/2016	Portland Utilities only bidder. Awaiting board approval for award.
\$1,076,018.00	Ronnie Hammonds	Robbins, Steve	Demolition Landfill Clay Liner	DL 1500	6/1/2016	The contract was put on hold as of January 7, 2016 due to weather conditions. The project was 70% complete as of that date.
\$940,000.00	Kitty Frazier	Clabaugh, Hank	Kingsport Greenbelt - Eastern Extension - Phase 1 [Fed. Grant & City funded]	GP1529	11/1/2017	Survey and design continue.
\$900,000.00	Chad Austin	Sam Chase	ARC Kingsport Sewer System Upgrade	SW1504	12/31/2016	Held final meeting 3/22/16.
\$697,475.00	Michael Thompson	Thompson, Michael	Stone Drive (SR 1, US 11W) Sidewalk Improvements from Stonebrook Place Pvt. Dr. to American Way [95% State Funded 5% City]	TBD	12/8/2018	TDOT continues to work on the Environmental document. RFQ for Design services being prepared.
\$683,252.64	Kitty Frazier	Clabaugh, Hank	Greenbelt (Rotherwood/Pedestrian Bridge) [Fed. Grant and City Funded]	GP1013	7/30/2016	Initial contact made with property owner and now appraisal will begin. Designer and contractor will meet to discuss additional scope.

Estimated Cost	Project Owner	Project Manager	Project Name	Project #	Completion Date	CurrentStatus
\$631,700.00	Ronnie Hammonds	Elsea, Tim	Wilcox Sidewalk Phase 5 [State & MTPO funded]	MPO15D	12/31/2016	Legislation proposed this session in Nashville to remedy conflicting licensing requirement/information.
\$550,000.00	Michael Thompson	Grieb, Jacob	Enterprise Place Roadway Improvements	GP1611	12/31/2016	Received Geotechnical report, wetland meeting with TDEC and Corp rescheduled to April 7th.
\$500,000.00	Michael Thompson	Clabaugh, Hank	2016 Citywide Sidewalk Extension	GP1403	12/31/2016	The Clinchfield/Stone Drive/Bloomingdale portion of the project will be advertised in early April.
\$500,000.00	Niki Ensor	Niki Ensor	WWTP Blower (175,000 CTEG Grant)	SW1507	5/1/2016	Blower has been set. Electrical subcontractor, TEC, is installing conduit and wire.
\$450,000.00	Chad Austin	Chad Austin	Border Regions Areas 1, 2 & 3 - Water	TBD	2/17/2017	Currently in FY18 CIP.
\$438,000.00	Hank Clabaugh	Mason, David	130 Shelby St. - Engineering Bldg. Renovation	GP1514	8/31/2016	Initial floor grinding complete. Exterior wall rough-in complete, ready for spray insulation.
\$400,000.00	Michael Thompson	Thompson, Michael	Signalization of the SR 126 (Memorial Blvd. at Island Road Intersection [State & MTPO Funded])	MPO15A	12/31/2016	Property owners have been delivered the notice of proposed acquisition and appraisals will start soon.
\$221,800.00	Tim Elsea	Elsea, Tim	Lynn Garden Signal System [MTPO & City funded]	MPO15C	1/31/2018	Received fully executed agreement on 3/30/2016. Issued NTP with Environmental on 3/31/2016.
\$131,000.00	Chad Austin	Chad Austin	JB Dennis Annexation - Water	GP1405	7/1/2016	Proposed agreement has been prepared and will be presented to the BMA on April 5, 2016.
\$91,060.00	Niki Ensor	Mason, David	Storage Building at Waste Water Treatment Plant	SW1607	8/31/2016	Purchasing preparing contract for base bid and alternate. Total of \$91,060.
\$90,000.00	Chad Austin	Hank Clabaugh	Kingsport South Annexation - Water	TBD	4/3/2017	Lebanon Road hydrant will be installed with CH I I Sewer Project.
\$90,000.00	Kitty Frazier	Clabaugh, Hank	Reedy Creek Terrace Bridge	ST1503	12/31/2016	Spoden and Wilson have submitted revised bridge location plans to the COE. We are awaiting the COE's response and approval.
\$81,116.00	David Quillen	Gilmer, Pamela	Police Seize Car Lot - Landfill	GP1609	5/31/2016	Project on hold pending funding.
\$75,000.00	Chad Austin	Hank Clabaugh	Cliffside Dr Force Main Replacement	TBD	6/30/2016	The design plans are complete. The project will be advertised for bids once the Riverbend Road "B" project is closed and reallocated.
\$60,000.00	Kitty Frazier	Mason, David	V.O. Dobbins Field Lighting	GP1214	7/1/2016	Low bid of \$82,287 is greater than budgeted. Evaluating options.
\$40,000.00	Chad Austin	Jim Gilreath	Clinchfield Street Waterline Replacement	Operating	6/30/2016	New waterline to be installed on west side of Clinchfield this spring.
\$20,000.00	Chad Austin	Chris Alley	Robindale Subdivison Water Service	Operating	6/30/2016	Working on details of acquiring 21 new customers of private system.

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\$18,000.00	Chad Austin	Chris Alley	Sullivan County Agriculture Center Waterline Extension	Operating	6/15/2016	Plans have been approved. Working on ARAP permit and ordering materials.
\$15,000.00	Chad Austin	Harvey Page	Centennial Park sewer line replacement - Main St.	Operations	9/1/2016	Met with Engineering to discuss details. This has been placed on the Surveyor's to-do list.
		Norman Eichman	Large Meter Testing		6/30/2016	Requisition has been applied for. List of meters being developed.
	Chad Austin	Mike Hickman	Colonial Heights Ph V Sewer & Water	SW1512/ WA1404	12/29/2017	Project is in design phase.

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CITY MANAGER PERFORMANCE EVALUATION

This proposed annual performance evaluation for the City Manager of Kingsport, Tennessee, is detailed below. Much of the performance evaluation is based on measurements although some are based on individual evaluations of the Board of Mayor and Alderman. Total scores for the City Manager's performance will be mathematically calculated. You will note that a score of 50% will meet the expectations of the Board and will result in an average wage increase that is established for city employments. If the City Manager is able to drive performance improvements that results in a score of 60%, he will receive a bonus of \$5,000 for the fiscal year just completed. If the City Manager is able to achieve a score of 75%, he will receive a bonus of \$10,000 for the year. If the performance score falls below 50%, a performance improvement plan will be put in place with the expectation that the City Manager will improve his/her performance to the meet or exceed minimum expectation levels.

QUALITY OF CITY SERVICES (24%)

Composite scores from Strategic Implementation Plans in each Department will be used to score the City Managers effectiveness in leading each City Department. The scores will fall into one of the following categories:

- Excellent; substantially exceeds expectations (100%)
- Good; exceeds expectations (75%)
- Average; acceptable; meets expectations (50%)
- Fair; below average, trending negatively. Performance Improvement Plan needed. (25%)
- Poor, unacceptable, major improvement(s) needed (0%)

If composite measurements are essentially unchanged, the Department will be rated average or acceptable in most situations. Year over year improvements will result in a good or excellent score. Similarly, if there is a decline in year over year measurements, then scores of fair or poor will results. The weight of the scoring for each Department are shown below:

- Police (4%)
- Fire (4%)
- Operations (4%)
- Administration (4%)
- Development Services (2%)
- City Attorney (2%)
- Human Resources (2%)
- Public and Government Relations (2%)

SAFETY (10%)

The BMA intends to drive significant improvements in the safety performance of city employees; KCS employees are not included. It is thus necessary that we see a year to year improvement in these categories to achieve an acceptable performance rating. Our goals are a 5% reduction to meet expectations, a 10% reduction to achieve a good rating and a 20% reduction to achieve an excellent rating.

- Total Injuries (4%)
- Lost Time Injuries (4%)
- Workers' Compensation Costs (2%)

FINANCIAL MANAGEMENT (15%)

Sound management of the complex financial system of our City is an underlying requirement to the successful leadership of the City of Kingsport's government. It is the City Manager's responsibility to see that our financial foundation is consistently sound so that the city can fulfill its responsibilities to its citizens.

- Maintain/improve S&P and Moody's Ratings (3%)
Maintenance of our AA/Aa2 rating would be rated acceptable, improvement to AA+/Aa1 would be rated exceeded expectations, and Improvement to AAA/Aaa would be excellent. The addition of a warning would be below average and a reduction in rating would be unacceptable.
- Obtain an Unqualified Audit Opinion (3%)
An Audit with no more than two material weaknesses and two significant deficiencies would be rated acceptable. No more than one material weakness and one significant deficiency would be rated exceeds expectations and no material weaknesses and no more than one significant deficiency would be rated excellent. An unqualified opinion with more than two material weaknesses and significant deficiencies would be rated fair and not receiving an Unqualified Audit opinion would be unacceptable.
- Develop Annual Budget with balanced Revenues and Expenses (3%)
- Develop Capital Improvement Plan meeting Goals of BMA while maintaining acceptable debt load.
- Maintain and manage Operational expenditures throughout year to keep good financial well-being.

COMMUNICATIONS (10%)

This is the one measure that BMA members will evaluate and vote on their opinions of the City Manager's performance.

- With BMA (2.5%)

- With Citizens (2.5%)
- With City Employees (2.5%)
- With Others (2.5%)

STAFFING (10%)

Kingsport has a strong leadership and management teams and it is important that good succession planning assures that we continue to have good personnel in these important positions. It is also important that efforts are strengthened to improve productivity that city services can be provided while efficiency are realized in their delivery.

- Succession Planning for Leadership and Management Team Positions (5%)
Identified candidate(s) and prepared development plans for 75% of the positions will be an acceptable performance. Identified candidate(s) and prepared development plans for 100% of the positions will be at exceeds expectation level. The significantly exceed expectation level would require 50% of development plans completed.
- Productivity Improvements (Staff Numbers, FTE's, related to Number of Citizens and equal or better service with fewer employees) (5%)
Unlike businesses, government has not been driven by productivity gains to help assure their financial success. While City of Kingsport has done an acceptable job of controlling employment growth, we have the opportunity to work toward providing better services with fewer employees. Maintaining the ratio of employees to residents will be an acceptable performance, lower the ration by 0.015% would exceed expectations and lowering by 0.030% would receive and excellent rating.

PROJECT MANAGEMENT (10%)

- Active projects with an estimated cost of >\$500,000 are planned, maintained on schedule and completed within budget.
It is important that all capital projects be well planned, managed within budget, and completed on time. It is also important that the Board clearly understand the fully allocated cost even when the overall project is done in parts. The Active Project list with some modifications to include

SUMMIT GOALS IMPLEMENTATION (25%)

Performance measures will be developed for the City Manager following the Summit and the acceptance of committee recommendations by the Board of Mayor and Alderman. These measures will be established to reflect the annual increment that City government needs to accomplish to keep goals on track for completion in a timely manner and will only reflect those items that the City Manager contributes to and has control over. The areas below are likely to be where the measures will fall:

- Downtown Revitalization

- **Industrial and Retail Recruitment, Employment and Entrepreneurship**
- **Branding our Efforts**
- **Housing Options**
- **Transportation and Infrastructure**
- **Destination City Investments and Sports and Recreation Tourism**



AGENDA

BOARD OF MAYOR AND ALDERMEN

BUSINESS MEETING

Tuesday, April 5, 2016

Large Courtroom – 2nd Floor, City Hall

7:00 p.m.

Board of Mayor and Aldermen

Mayor John Clark, Presiding
Vice Mayor Mike McIntire
Alderman Darrell Duncan
Alderman Colette George

Alderman Michele Mitchell
Alderman Tommy Olterman
Alderman Tom C. Parham

City Administration

Jeff Fleming, City Manager
Chris McCartt, Assistant City Manager for Administration
Ryan McReynolds, Assistant City Manager for Operations
J. Michael Billingsley, City Attorney
James Demming, City Recorder/Chief Financial Officer
David Quillin, Police Chief
Craig Dye, Fire Chief
Morris Baker, Community Services Director
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 – Pastor Ray Amos, Jr., St. Matthew United Methodist Church

III. ROLL CALL

IV. RECOGNITIONS & PRESENTATIONS

1. Community Clean Up – Robin Cleary
2. Cartegraph Award: Chad Austin and Kristen Steach - Alderman Mitchell
3. Proclamation: Former Alderman Richard H. Watterson - Vice Mayor McIntire

Revised

4. ONEKingsport Stewards: Lafe Cook, Jud Teague, Frank Lett, John & Beverley Perdue, Jeanette Blazier, Dennis Phillips, Keith Wilson, Charlie Glass & Julie Bennett – Mayor Clark (photos with respective Alderman)

V. APPROVAL OF MINUTES

1. Work Session – March 15, 2016
2. Business Meeting – March 15, 2016
3. Called Work Session – March 23, 2016

VI. COMMUNITY INTEREST ITEMS

A. PUBLIC HEARINGS

1. Amend Zoning of 1609 West Stone Drive, Located Adjacent to the Intersection of West Stone Drive and Interstate 26 (AF: 34-2016) (Ken Weems)
 - Public Hearing
 - Ordinance – First Reading

COMMENT

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

B. BUSINESS MATTERS REQUIRING FIRST READING

1. Award Contract and Budget Ordinance to Transfer Funds for the Ft. Henry/Moreland Dr./W Center St. Sewer Replacement Project (AF: 79-2016) (Ryan McReynolds)
 - Ordinance – First Reading
 - Resolution

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION

1. Amend Zoning of 225 Westfield Drive, Located in the Rock Springs Area (AF: 49-2016) (Ken Weems)
 - Ordinance – **Second Reading & Final Adoption**
2. Amend the FY 2016 General Project Fund Budget – Kingsport City Schools (AF: 57-2016) (David Frye)
 - Ordinance – **Second Reading & Final Adoption**
3. Amending Section 22-96(e) of the Kingsport City Code to Specifically Include Exemption of Townhouse from Sprinkler Requirements and Provide for a Two Hour Fire Resistant Wall (AF: 65-2016) (Mike Billingsley)
 - Ordinance – **Second Reading & Final Adoption**
4. Agreement with TDOT for the Main Street Redevelopment Project and Appropriate Funds (AF: 62-2016) (Ryan McReynolds)
 - Ordinance – **Second Reading & Final Adoption**

5. Budget Cleanup Ordinance for FY16 (AF: 60-2016) (Jeff Fleming)
 - Ordinance – **Second Reading & Final Adoption**
6. Appropriating Available Funds to GP1615 and Enter into an Agreement with Mattern & Craig, Inc. for the Indian Trail Drive Extension Project (AF:68-2016) (Ryan McReynolds)
 - Ordinance – **Second Reading & Final Adoption**

D. OTHER BUSINESS

1. Execute an Agreement for the Sale of Water to Scott County Public Service Authority (AF: 61-2016) (Ryan McReynolds)
 - Resolution
2. Skyland Drive Property Exchange between the City and Eastman Chemical Company (AF: 70-2016) (Ryan McReynolds, Niki Ensor)
 - Resolution
3. Agreement with Perkin + Will, Inc. for Architectural Services for Kingsport City Schools (AF: 77-2016) (Dr. Ailshie, David Frye)
 - Resolution
4. Execute an Agreement with Bloomingdale Utility District for the Installation of Waterlines for the John B. Dennis Annexation (AF: 71-2016) (Ryan McReynolds)
 - Resolution
5. Second Amendment to Funding Agreement with the Industrial Development Board of the City of Kingsport (KEDB), Sullivan County, Tennessee and the Bank of Tennessee (AF: 76-2016) (Jeff Fleming)
 - Resolution
6. Agreement with TDOT for Widening of SR-347 (Rock Springs Rd) from Cox Hollow Rd (LM 9.52) to I-26 (US-23) (LM 10.73) (AF: 75-2016) (Ryan McReynolds)
 - Resolution
7. 2016 Emergency Solutions Grant Application and Allocation Plan (AF: 83-2016) (Lynn Tully)
 - Resolution

E. APPOINTMENTS

1. Appointment to the Employee Dependent Scholarship Program (AF: 72-2016) (Mayor Clark)
 - Appointment

VII. CONSENT AGENDA

1. Awarding the Bid for Commodity Processing of Certain Food Items for the City of Kingsport School Food and Nutrition Program (AF: 78-2016) (Jennifer Walker)
 - Resolution

2. Agreement with National Cooperative Purchasing Alliance (AF: 80-2016) (Chris McCartt)
 - Resolution
3. Law Enforcement Agency Traffic Services Safety Grant from the Tennessee Department of Transportation, Governors Highway Safety Office (AF: 69-2016) (David Quillin)
 - Resolution
4. Issuance of Certificates of Compliance for Retail Food Stores to Sell Wine (AF: 73-2016) (Jim Demming)
 - Certificates of Compliance
5. Apply and Accept for a Section 5307 Capital Grant, Federal Transit Administration Grant from the U.S. Department of Transportation (AF: 82-2016) (Chris McCartt)
 - Resolution
6. Apply and Accept for a Section 5307 Operations Grant, Federal Transit Administration Grant from the U.S. Department of Transportation (AF: 81-2016) (Chris McCartt)
 - 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

Minutes of the Regular Work Session of the
Board of Mayor and Aldermen, City of Kingsport, Tennessee
Tuesday, March 15, 2016, 4:00 PM
Council Room – City Hall

PRESENT: Board of Mayor and Aldermen

Mayor John Clark	
Vice-Mayor Mike McIntire	Alderman Michele Mitchell
Alderman Darrell Duncan	Alderman Tommy Olterman
Alderman Colette George	Alderman Tom C. Parham

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. **PROJECT STATUS.** City Manager Fleming gave an update on city projects.
4. **REVIEW OF AGENDA ITEMS ON THE MARCH 15, 2016 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 are items the Board discussed at greater length or which received specific questions or concerns.
 - VI.B.5 **Appropriate Available Funds to GP1615 and Enter into an Agreement with Mattern & Craig, Inc. for the Indian Trail Drive Extension Project (AF: 68-2016).** City Manager Fleming gave an overall summary of this item, noting the model crosses the flood plain and the greenbelt.
 - VI.D.3 **Lease Agreement with Cayenne Rental Properties, GP and the Option to Purchase and Right of Refusal Agreement with The Press Group, LLC (AF: 64-2016).** School Superintendent Dr. Lyle Ailshie presented this item and the need for this acquisition. There was considerable discussion as some board members expressed their concerns with how the property is being leased.
5. **KATS Transit Center.** Assistant City Manager for Administration gave a presentation on this item, showing the location and conceptualization of this facility. Discussion ensued.
6. **ONEKingsport SUMMIT RECOMMENDATION PRIORITIES PROCESS.** City Planner Justin Steinmann outlined the next steps once the workgroup presentations are completed on Wednesday. Discussion followed.

Ms. Jeannie Bourne commented positively on the productivity of this board.

**Minutes of the Regular Work Session of the Board of Mayor and Aldermen of
Kingsport, Tennessee, Tuesday, March 15, 2016**

7. **ADJOURN.** Seeing no other matters presented for discussion at this work session, Mayor Clark adjourned the meeting at 6:13 p.m.

ANGELA MARSHALL
Deputy City Recorder

JOHN CLARK
Mayor

Minutes of the Regular Business Meeting of the
Board of Mayor and Aldermen of the City of Kingsport, Tennessee
Tuesday, March 15, 2016, 7:00 PM
Large Court Room – City Hall

PRESENT:

Board of Mayor and Aldermen

Mayor John Clark, Presiding
Vice Mayor Mike McIntire
Alderman Darrell Duncan
Alderman Colette George

Alderman Michele Mitchell
Alderman Tommy Olterman

City Administration

Jeff Fleming, City Manager
J. Michael Billingsley, City Attorney
Lisa Winkle, City Comptroller/Deputy City Recorder

- I. **CALL TO ORDER:** 7:00 p.m., by Mayor John Clark.
- II.A. **PLEDGE OF ALLEGIANCE TO THE FLAG:** Mr. Pierce Thomas.
- II.B. **INVOCATION:** Pastor Kimberly Goddard, Mafair United Methodist Church.
- III. **ROLL CALL:** By City Comptroller Winkle. Absent: Alderman Tom C. Parham.
- IV. **RECOGNITIONS AND PRESENTATIONS.**
 1. Public Art Committee – Roy Harmon/Alderman George.
 2. Move to Kingsport – Jeni Long.
- V. **APPROVAL OF MINUTES.**

Motion/Second: McIntire/Mitchell, to approve minutes for the following meetings:

- A. February 29, 2016 Regular Work Session
- B. March 1, 2016 Regular Business Meeting

Approved: All present voting “aye.”

VI. **COMMUNITY INTEREST ITEMS.**

A. **PUBLIC HEARINGS.**

1. **Amend Zoning of 225 Westfield Drive Located in the Rock Springs Area (AF: 49-2016) (Ken Weems).**

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

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, March 15, 2016**

Motion/Second: McIntire/George, to pass:

AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY ADJACENT TO WESTFIELD DRIVE FROM R-1B, RESIDENTIAL DISTRICT TO P-1, PROFESSIONAL OFFICES DISTRICT IN THE 13TH CIVIL DISTRICT OF SULLIVAN COUNTY; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

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.

B. BUSINESS MATTERS REQUIRING FIRST READING.

1. Amend the FY16 General Project Fund Budget (AF: 57-2016)

(David Frye).

Motion/Second: McIntire/Duncan, to pass:

AN ORDINANCE TO AMEND THE GENERAL PROJECTS FUND BUDGETS FOR THE FISCAL YEAR ENDING JUNE 30, 2016; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

2. Amend Section 22-96(e) of the Kingsport City Code to Specifically Include Exemption of Townhouse from Sprinkler Requirements and Provide for a Two-Hour Fire Resistant Wall (AF: 65-2016) (Mike Billingsley).

Motion/Second: Olterman/Mitchell, to pass:

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF KINGSPORT, SECTION 22-96(e) PERTAINING TO THE RESIDENTIAL BUILDING CODE AND FIXING THE EFFECTIVE DATE OF THIS ORDINANCE

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

3. Agreement with TDOT for the Main Street Redevelopment Project and Appropriate Funds (AF: 62-2016) (Ryan McReynolds).

Motion/Second: McIntire/George, to pass:

Resolution No. 2016-123, A RESOLUTION APPROVING AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE MAIN STREET REDEVELOPMENT PROJECT, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, March 15, 2016**

Motion/Second: McIntire/Duncan, to pass:

AN ORDINANCE TO AMEND THE GENERAL PROJECT FUND BUDGET BY APPROPRIATING FEDERAL FUNDS TO THE MAIN STREET IMPROVEMENTS PROJECT FOR THE YEAR ENDING JUNE 30, 2016; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

4. Budget Cleanup Ordinance for FY16 (AF: 60-2016)
(Jeff Fleming).

Motion/Second: McIntire/George, to pass:

AN ORDINANCE TO AMEND VARIOUS PROJECTS FOR THE YEAR ENDING JUNE 30, 2016; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

5. Appropriate Available Funds to GP1615 and Enter into an Agreement with Mattern & Craig, Inc. for the Indian Trail Drive Extension Project (AF: 68-2016) (Ryan McReynolds).

Motion/Second: McIntire/Olterman, to pass:

Resolution No. 2016-124, A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH MATTERN & CRAIG, INC. FOR THE INDIAN TRAIL DRIVE EXTENSION PROJECT, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

Motion/Second: McIntire/Duncan, to pass:

AN ORDINANCE TO AMEND THE GENERAL PROJECT FUND BUDGET BY TRANSFERRING FUNDS TO THE INDIAN TRAIL DRIVE EXTENSION PROJECT FOR THE YEAR ENDING JUNE 30, 2016; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION.

1. Enter into an Agreement with TDOT for the Fort Robinson Drive Bridge Replacement Project and Appropriate Available Funds to GP1618 (AF: 44-2016) (Ryan McReynolds).

Motion/Second: George/McIntire, to pass:

ORDINANCE NO. 6554, AN ORDINANCE TO AMEND THE GENERAL PROJECT FUND BUDGET BY TRANSFERRING FUNDS TO THE FORT ROBINSON BRIDGE REPLACEMENT PROJECT FOR THE YEAR ENDING JUNE 30, 2016; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, March 15, 2016**

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

2. Amend the FY16 CDBG Budget Ordinance for the Addition of One (1) Position within the Community Development Program (AF: 51-2016) (Lynn Tully).

Motion/Second: Mitchell/Olterman, to pass:

ORDINANCE NO. 6555, AN ORDINANCE TO AMEND THE COMMUNITY DEVELOPMENT BUDGET BY ADDING A COMMUNITY DEVELOPMENT SPECIALIST POSITION FOR THE YEAR ENDING JUNE 30, 2016; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

3. Amend the Franchise Fee with Kingsport Power Company (dba AEP Appalachian Power) (AF: 50-2016) (Ryan McReynolds).

Motion/Second: Duncan/Mitchell, to pass:

ORDINANCE NO. 6556, AN ORDINANCE AMENDING ORDINANCE NUMBER 6542 BY ENACTING A FRANCHISE FEE FOR THE USE BY KINGSPORT POWER COMPANY, D/B/A AEP APPALACHIAN POWER, OF THE PUBLIC STREETS, ALLEYS, OTHER PUBLIC PLACES FOR ITS FRANCHISE FOR A SYSTEM OF ELECTRICITY DISTRIBUTION AND TRANSMISSION LINES AND OTHER NECESSARY EQUIPMENT AND FACILITIES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING ELECTRICITY IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, COURTS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC GROUNDS OF THE CITY OF KINGSPORT, TENNESSEE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

D. OTHER BUSINESS.

1. Execute a Quitclaim Deed to Bank of Tennessee Conveying Any Interest the City May Have in Certain Alleys Previously Declared Surplus (AF: 59-2016) (Mike Billingsley).

Motion/Second: George/McIntire, to pass:

Resolution No. 2016-125, A RESOLUTION APPROVING THE CONVEYANCE TO BANK OF TENNESSEE OF ANY INTEREST THE CITY HAS IN CERTAIN REAL PROPERTY BY QUITCLAIM DEED AND AUTHORIZING THE MAYOR TO EXECUTE THE QUITCLAIM DEED

Passed: All present voting "aye."

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
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2. Tennessee Heritage Conservation Trust Fund Grant for the Land Purchase at Bays Mountain Park and for Receipt of Those Funds if Awarded (AF: 66-2016) (Morris Baker)

Motion/Second: George/McIntire, to pass:

Resolution No. 2016-126, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE A TENNESSEE HERITAGE CONSERVATION TRUST FUND GRANT FOR LAND PURCHASE AT BAYS MOUNTAIN PARK

Passed: All present voting "aye."

3. Lease Agreement with Cayenne Rental Properties, GP and the Option to Purchase and Right of Refusal Agreement with The Press Group, LLC (AF: 64-2016) (David Frye, Shanna Hensley).

Motion/Second: Duncan/Olterman, to pass:

Resolution No. 2016-127, A RESOLUTION APPROVING A LEASE AGREEMENT WITH CAYENNE RENTAL PROPERTIES, GP AND AN OPTION TO PURCHASE AND RIGHT OF REFUSAL AGREEMENT WITH THE PRESS GROUP, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENTS AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENTS

Passed: All present voting "aye" except McIntire and George voting "nay."

E. APPOINTMENTS/REAPPOINTMENTS.

1. Appointment to the Kingsport Housing and Redevelopment Authority (AF: 67-2016) (Mayor Clark).

Motion/Second: George/McIntire, to approve:

APPOINTMENT OF MS. ESTHER RODOLPHE TO SERVE A FIVE-YEAR TERM ON THE **KINGSPORT HOUSING AND REDEVELOPMENT AUTHORITY** EFFECTIVE IMMEDIATELY AND EXPIRING ON MARCH 31, 2021.

Passed: All present voting "aye."

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

Motion/Second: McIntire/Mitchell, to adopt:

1. Bid Award for Purchase of Rental Uniforms, Mats and Mops Service (AF: 54-2016) (Chris McCartt, Ryan McReynolds).

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Pass:

Resolution No. 2016-128, A RESOLUTION AWARDDING THE BID FOR THE PURCHASE OF RENTAL UNIFORMS, MATS & MOPS SERVICE TO G & K SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

Passed: All present voting "aye."

2. Approval of Easements for Citywide Water Line System Improvements Phase II Project (AF: 56-2016) (Ryan McReynolds).

Approve:

APPROVAL OF EASEMENTS FOR CITYWIDE WATER LINE SYSTEM IMPROVEMENTS PHASE II PROJECT

Passed: All present voting "aye."

3. Property Acquisition for the Kingsport City School System (AF: 53-2016) (David Frye).

Pass:

Resolution No. 2016-129, A RESOLUTION APPROVING AN OFFER FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 2304 OVERLOOK ROAD; AUTHORIZING THE MAYOR TO MAKE CERTAIN CHANGES TO THE AGREEMENT, IF NECESSARY; AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

Passed: All present voting "aye."

4. Renew Bid Award for Purchase of Water & Wastewater Chemicals (AF: 55-2016) (Ryan McReynolds, Chris McCartt).

Pass:

Resolution No. 2016-130, A RESOLUTION RENEWING THE AWARD OF THE BID FOR PURCHASE OF CHLORINE TO BRENNTAG MID-SOUTH, INC.; FOR ZINC ORTHOPHOSPHATE TO CARUS CORPORATION; FOR COAGULANT TO GULBRANDSEN MANUFACTURING, INC.; AND FOR POLYMER TO COASTAL WATER TECHNOLOGY, LLC AND AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS FOR THE SAME

Passed: All present voting "aye."

5. Agreements with the Lynn Garden Optimist Club and the Lynn View Pee Wee Football Organization (AF: 58-2016) (Morris Baker).

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, March 15, 2016**

Pass:

Resolution No. 2016-131, A RESOLUTION AUTHORIZING THE MAYOR EXECUTE TWO 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

Passed: All present voting "aye."

Pass:

Resolution No. 2016-132, A RESOLUTION AUTHORIZING THE MAYOR EXECUTE TWO 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

Passed: All present voting "aye."

6. Agreement with Dick's Sporting Goods for 2016 Parks and Recreation Baseball/Softball Programs (AF: 52-2016) (Morris Baker).

Pass:

Resolution No. 2016-133, A RESOLUTION APPROVING AN AGREEMENT WITH DICK'S SPORTING GOODS, INC., AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

7. Issuance of Certificates of Compliance for Retail Food Stores to Sell Wine (AF: 63-2016) (Jim Demming).

Approve:

ISSUANCE OF CERTIFICATES OF COMPLIANCE FOR RETAIL FOOD STORES TO SELL WINE

Passed: All present voting "aye."

VIII. COMMUNICATIONS.

- A. CITY MANAGER.** Mr. Fleming thanked all the board members who went to Nashville for the Tennessee Municipal League, stating he was proud to be there as they represented the city very well.
- B. MAYOR AND BOARD MEMBERS.** Alderman Olterman stated he was glad to contribute to the Lynn Garden area sports and activities. He also commented on the TML visit to Nashville and the de-annexation issue. Alderman George promoted the 4th annual Brass Ring Gala for the Carousel this coming weekend. Vice-Mayor McIntire stated that he, along with Alderman Duncan, represented the city on Arbor Day to celebrate trees. He displayed a plaque depicting "Tree City, USA" from the Arbor Foundation for

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, March 15, 2016**

30 years of participation by Kingsport. Alderman Duncan stated his tie was signed by a very special group: "Children Exceeding Expectations," noting it was a school for children battling cancer or other life-threatening diseases. He noted Keep Kingsport Beautiful has weekly lunch sessions "Green and Growing" at the library on Thursdays from noon until 1:00 pm. Lastly, he commented on upcoming KCVB events. Alderman Mitchell encourage citizens to visit the Kingsport 100 website. She pointed out there will be celebrations throughout the coming year. Mayor Clark also commented on people coming into Kingsport for different events, such as the wrestling tournament this weekend, which provides an opportunity to showcase the city. The mayor also talked about the TML trip and thanked Mr. Fleming and staff for their efforts. Lastly, he talked about the upcoming workgroup presentations from the ONEKingsport Summit and encouraged everyone to attend.

C. VISITORS. None.

IX. ADJOURN. Seeing no other business for consideration at this meeting, Mayor Clark adjourned the meeting at 8:00 p.m.

ANGELA MARSHALL
Deputy City Recorder

JOHN CLARK
Mayor

Minutes of the Called Work Session of the
Board of Mayor and Aldermen, City of Kingsport, Tennessee
Wednesday, March 23, 2016, 9:00 AM
Kingsport Higher Education Center, Auditorium

PRESENT: Board of Mayor and Aldermen

- | | |
|-----------------------------|---------------------------|
| Mayor John Clark, Presiding | |
| Vice Mayor Mike McIntire | Alderman Michele Mitchell |
| Alderman Darrell Duncan | Alderman Tommy Olterman |
| Alderman Colette George | Alderman Tom C. Parham |

City Administration

- Jeff Fleming, City Manager
- J. Michael Billingsley, City Attorney
- James H. Demming, City Recorder

1. **CALL TO ORDER:** 9:00 a.m. by Mayor Clark.
2. **ROLL CALL:** By City Recorder Demming.
3. **ONEKINGSPORT POST-SUMMIT WORKGROUP PRESENTATIONS.**
 - Arts and Entertainment – Lafe Cook
 - Destination City Investments – Frank Lett
 - Downtown Revitalization – Beverly Perdue and Jennifer Salyer
 - Housing – Jeanette Blazier and Lynn Tully
 - Higher Education Innovation – Keith Wilson
 - Health and Wellness – Morris Baker and Roger Mowen
 - Job Creation and Entrepreneurship – Julie Bennett
4. **ADJOURN.** Seeing no other matters presented for discussion at this work session, Mayor Clark adjourned the meeting at 4:30 p.m.

ANGELA MARSHALL
Deputy City Recorder

JOHN CLARK
Mayor



AGENDA ACTION FORM

Amend Zoning of 1609 West Stone Drive, Located Adjacent to the Intersection of West Stone Drive and Interstate 26

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

Action Form No.: AF-34-2016
 Work Session: April 4, 2016
 First Reading: April 5, 2016

Final Adoption: April 19, 2016
 Staff Work By: Ken Weems
 Presentation By: Ken Weems

Recommendation:

- Hold public hearing.
- Approve ordinance amending the zoning ordinance to rezone parcel 1 from R-1C, Residential District to B-3, Highway Oriented Business District.

Executive Summary:

This is an owner-requested rezoning of approximately .1 acres located at 1609 West Stone Drive from R-1C to B-3. The purpose of the rezoning request is to permit redevelopment of the surrounding B-3 zoned property between Plantation Road and Riverside Avenue. Specifically, the applicant wishes to move the A-1 Hitch business, currently located at 1611 West Stone Drive to the rezoning site and surrounding commercial parcels. As of March 28, 2016, the Planning Department has received one neutral information request and one supportive comment about the rezoning proposal. During their March 2016 regular meeting, the Kingsport Regional Planning Commission voted unanimously to send a favorable recommendation for the rezoning to the Board of Mayor and Aldermen. The Notice of Public Hearing was published on March 22, 2016.

Attachments:

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

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN to all citizens of the City of Kingsport, Tennessee, to all persons interested, and the public at large that the City of Kingsport Board of Mayor and Aldermen will conduct a Public Hearing during its regular business meeting on April 5, 2016 to consider the rezoning for parcel 1 of tax map 45E located along West Stone Drive from R-1C District to B-3 District. The regular business meeting will begin at 7:00 p.m. in the large courtroom located on the second floor of City Hall, at 225 W. Center Street, Kingsport, Tennessee.

The property proposed for rezoning is generally described as follows:

BEGINNING at a point, said point being the western corner of parcel 1, Tax Map 45E; thence in a southwesterly direction, approximately 85 feet to a point, said point lying in the center of Plantation Road right-of-way; thence in a northeasterly direction, crossing into West Stone Drive right-of-way, approximately 120 feet to a point, said point lying inside West Stone Drive right-of-way; thence in a northeasterly direction, approximately 85 feet to a point, said point lying inside West Stone Drive right-of-way; thence in a southeasterly direction, approximately 120 feet to the point of BEGINNING, and being all of parcel 1, Tax Map 45E, as well as a portion of Plantation Road, approximately 80 feet in length, and a portion of West Stone Drive, approximately 85 feet in length as shown on the August 2015 Sullivan County Tax Maps.

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

CITY OF KINGSPORT
Angie Marshall, Deputy City Clerk
PIT: 3/22/2016

PRE-FILED
CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY ADJACENT TO WEST STONE DRIVE FROM R-1C, RESIDENTIAL DISTRICT TO B-3, HIGHWAY ORIENTED BUSINESS DISTRICT IN THE 11TH CIVIL DISTRICT OF SULLIVAN COUNTY; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the zoning code, text, and map, be and the same is hereby further amended to rezone property adjacent to West Stone Drive from R-1C, Residential District to B-3, Highway Oriented Business District in the 11th Civil District of Sullivan County; said area to be rezoned being further and more particularly described as follows:

BEGINNING at a point, said point being the western corner of parcel 1, Tax Map 45E; thence in a southwesterly direction, approximately 85 feet to a point, said point lying in the center of Plantation Road right-of-way; thence in a northeasterly direction, crossing into West Stone Drive right-of-way, approximately 120 feet to a point, said point lying inside West Stone Drive right-of-way; thence in a northeasterly direction, approximately 85 feet to a point, said point lying inside West Stone Drive right-of-way; thence in a southeasterly direction, approximately 120 feet to the point of BEGINNING, and being all of parcel 1, Tax Map 45E, as well as a portion of Plantation Road, approximately 80 feet in length, and a portion of West Stone Drive, approximately 85 feet in length as shown on the August 2015 Sullivan County Tax Maps.

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

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

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 _____

Rezoning Report

Kingsport Regional Planning Commission

File Number 16-101-00005

1609 West Stone Drive Rezoning

Property Information			
Address	1609 W. Stone Dr.		
Tax Map, Group, Parcel	Map 45E, Group A, Parcel 1		
Civil District	11		
Overlay District	n/a		
Land Use Designation	Single Family		
Acres	.1 acres +/-		
Existing Use	gravel lot containing carport models and trailers	Existing Zoning	R-1C
Proposed Use	drive isle and landscaping for proposed commercial development	Proposed Zoning	B-3
Owner /Applicant Information			
Name: Phil Pierce Address: 255 Alpine Trail City: Kingsport State: TN Zip Code: 37663 Phone: (423) 767-5144		Intent: <i>To rezone from R-1C (Residential District) to B-3 (Highway Oriented Business District) to accommodate redevelopment of the surrounding B-3 zoned parcel.</i>	
Planning Department Recommendation			
<p>The Kingsport Planning Division recommends approval for the following reasons:</p> <ul style="list-style-type: none"> • <i>It is unreasonable to expect R-1C permitted development surrounded by West Stone Drive on the front yard border and existing B-3 zone development and use on the side and rear yard borders.</i> • <i>The most appropriate use of this approximately .1 acre parcel is combination with the surrounding B-3 zoned parcels to permit commercial redevelopment.</i> <p>Staff Field Notes and General Comments:</p> <ul style="list-style-type: none"> • <i>The rezoning site encompasses the northwest corner of the zoning development plan contained in this report. The rezoning area will accommodate drive isle and landscaping for a redevelopment of the surrounding parcel. Specifically, the A-1 Hitch Center business is desiring to move from its current location due west of the rezoning site.</i> • <i>As of March 7, 2016, the Planning Department has not received any public comment about the rezoning.</i> 			
Planner:	Ken Weems	Date:	March 1, 2016
Planning Commission Action		Meeting Date:	March 17, 2016
Approval:			
Denial:		Reason for Denial:	
Deferred:		Reason for Deferral:	

PROPERTY INFORMATION

ADDRESS	1609 W. Stone Dr.
DISTRICT	11
OVERLAY DISTRICT	n/a
EXISTING ZONING	R-1C (Residential District)
PROPOSED ZONING	B-3 (Highway Oriented Business District)
ACRES	.1 +/-
EXISTING USE	gravel lot containing carport models
PROPOSED USE	drive isle and landscaping for a new commercial use

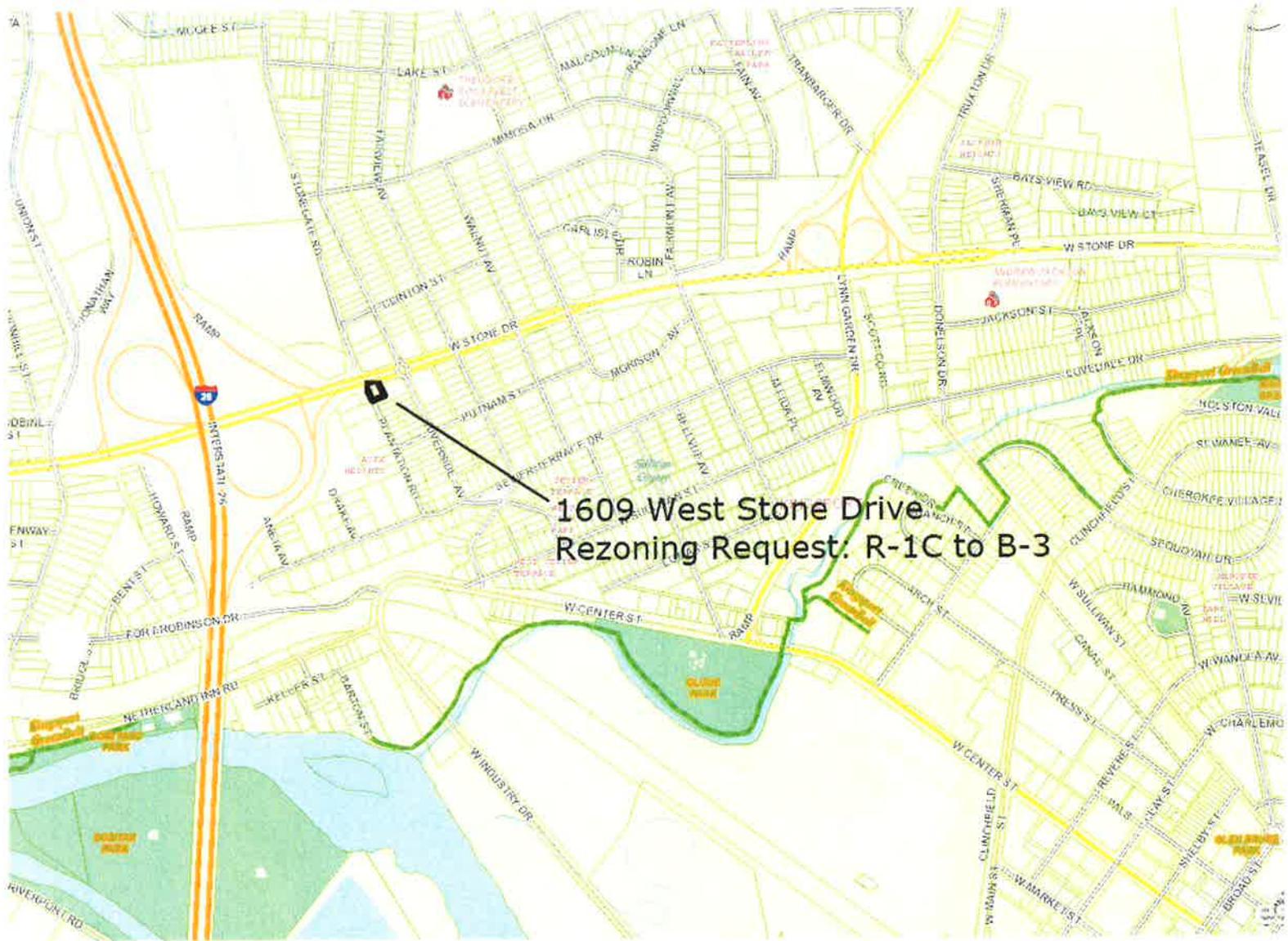
PETITIONER

ADDRESS **255 Alpine Trail, Kingsport, TN 37663**

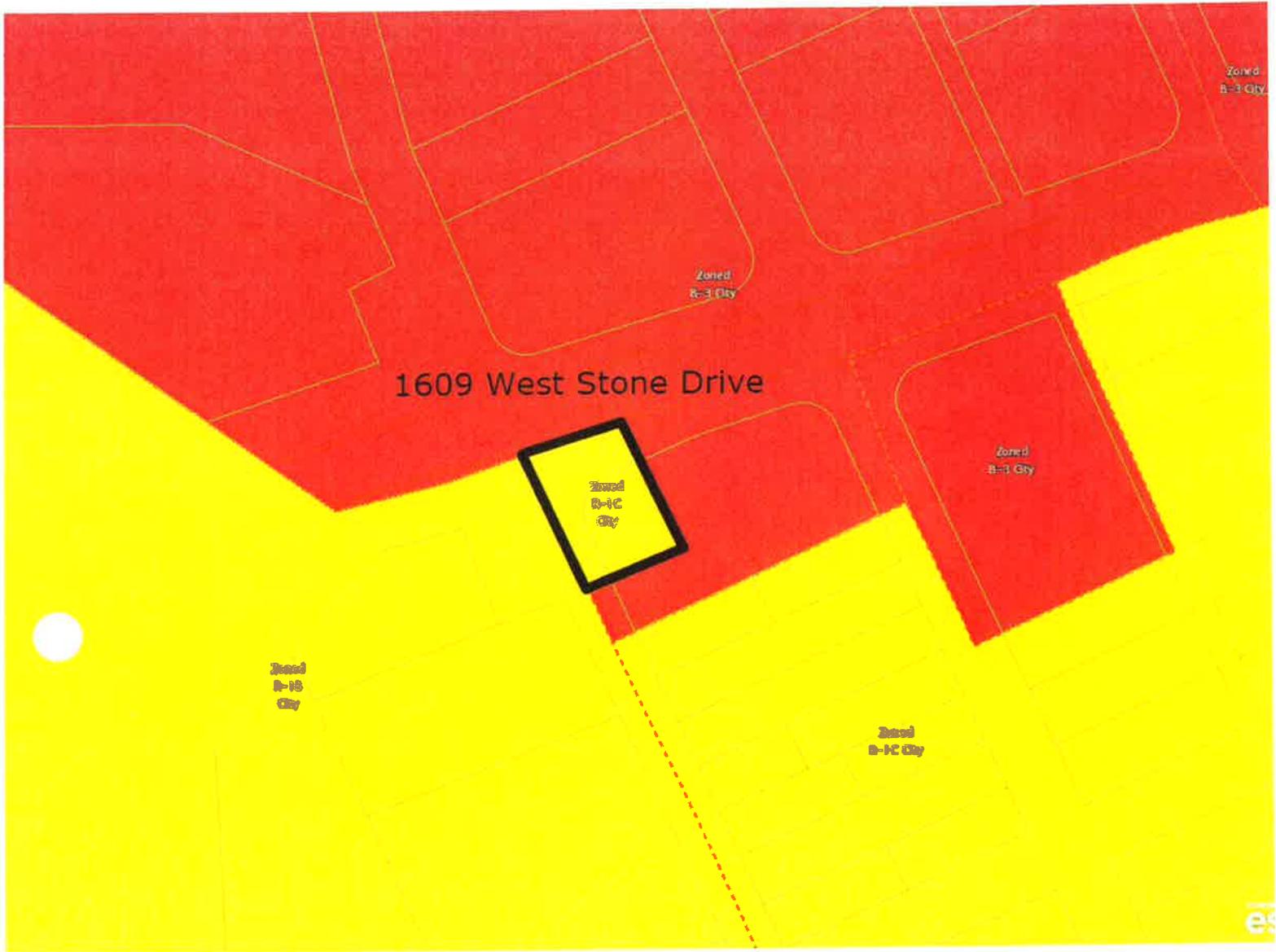
INTENT

To rezone from R-1C (Residential District) to B-3 (Highway Oriented Business District) to accommodate redevelopment of the surrounding B-3 zoned parcel.

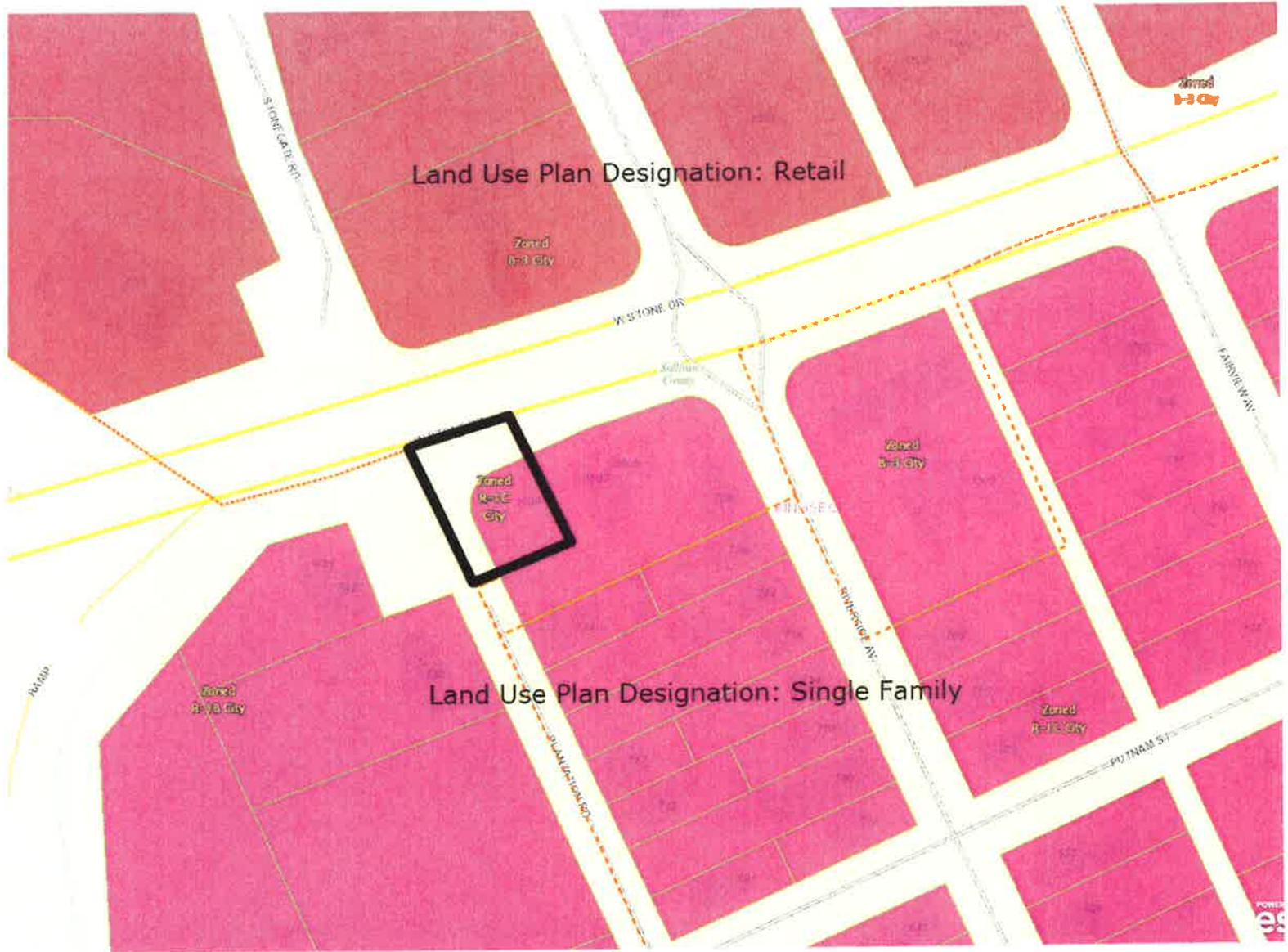
Vicinity Map



Surrounding Zoning Map



Future Land Use Plan 2030



Aerial



North View (Across W. Stone Dr.)



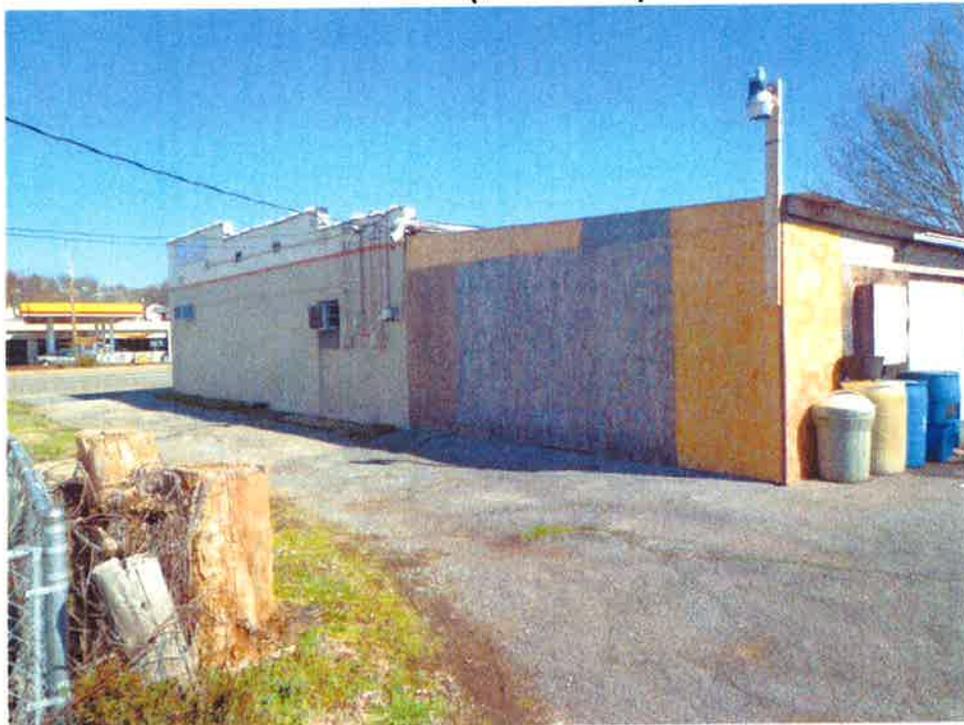
West View (The Existing A-1 Hitch Center)



South View



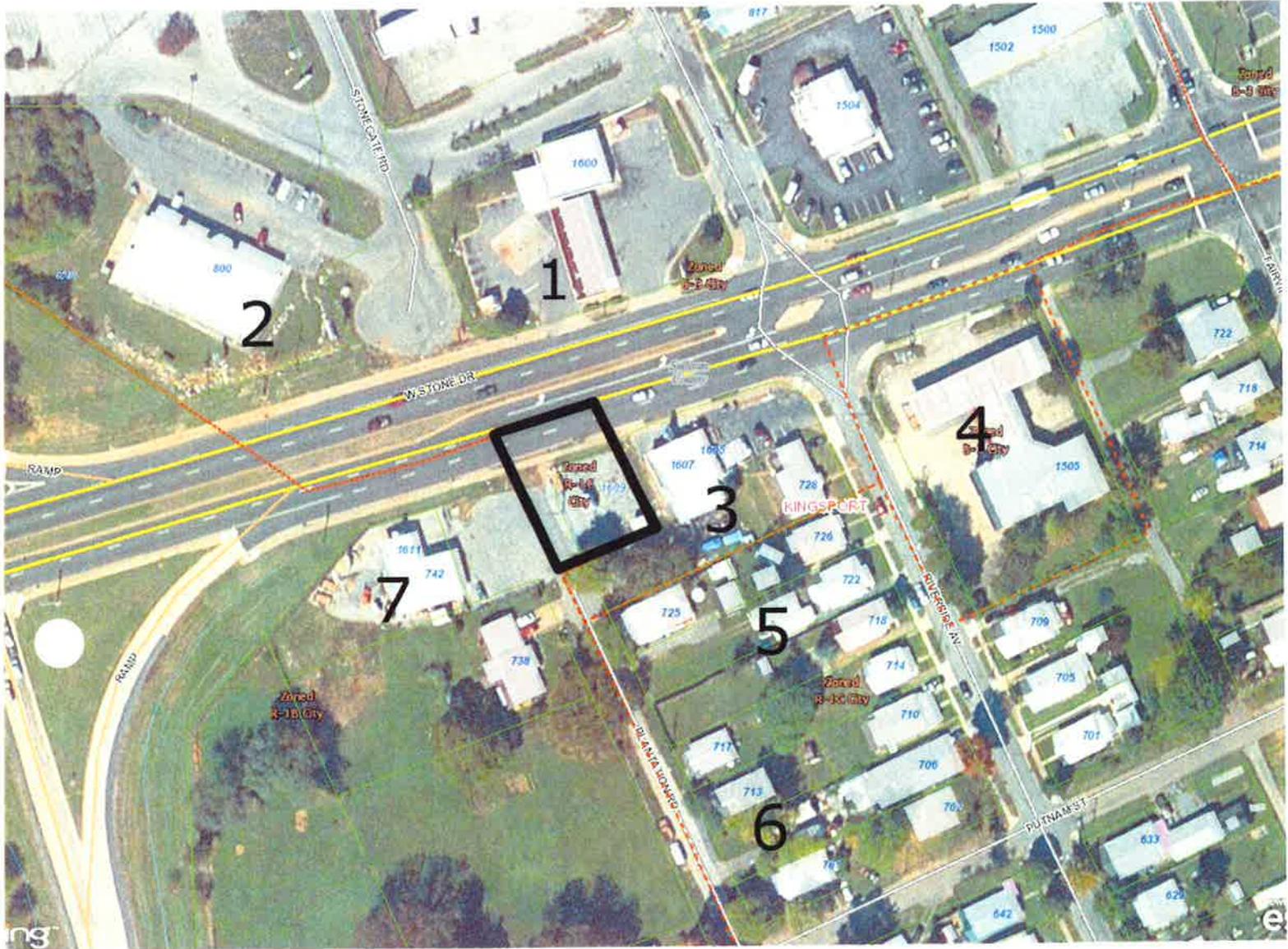
East View (T&T Mower)



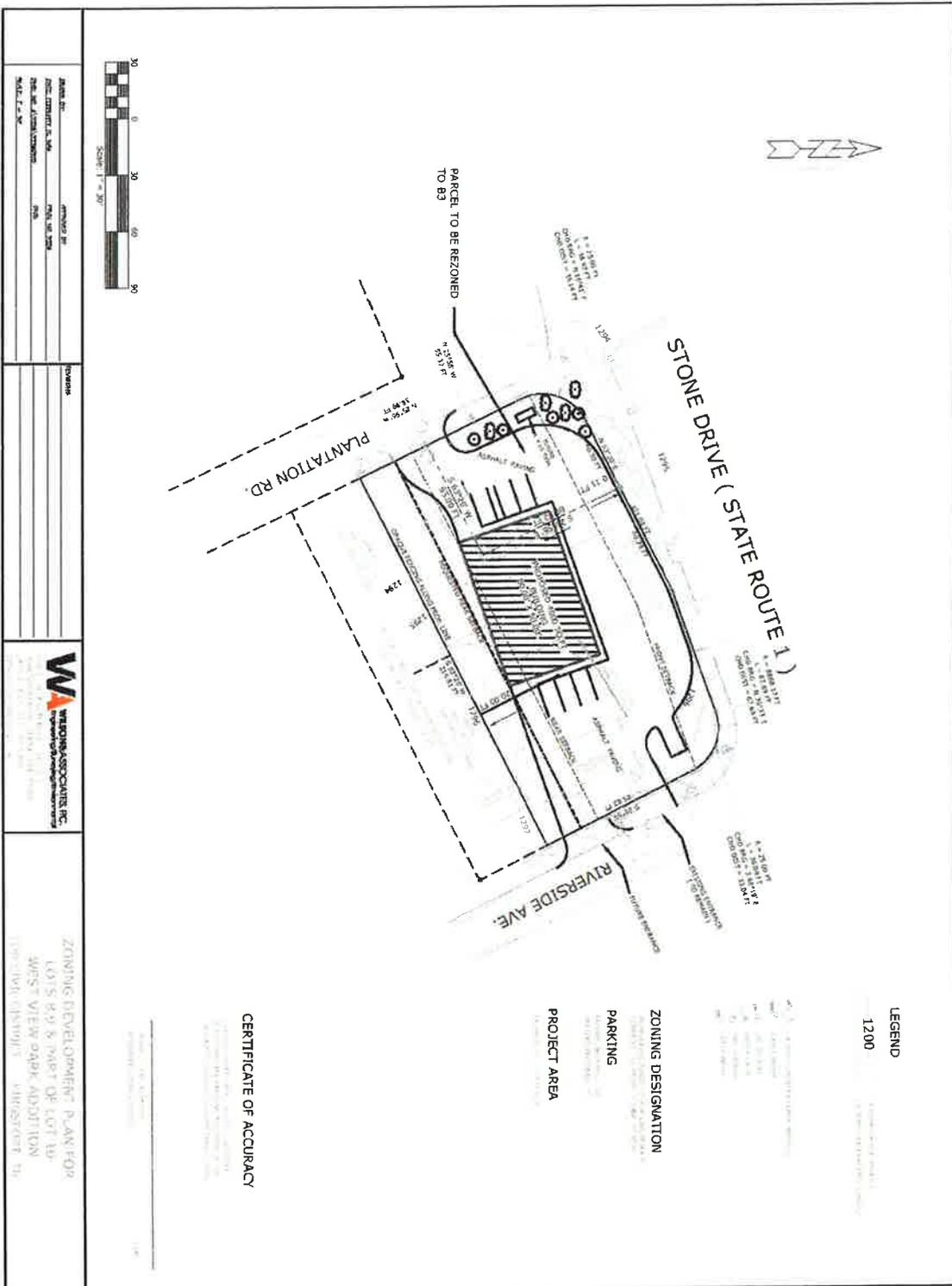
Existing Zoning/ Land Use Table

Location	Parcel / Zoning Petition	Zoning / Name	History Zoning Action Variance Action
North, East, Northwest	1	<u>Zone: City B-3</u> Use: Shell Gas Station	n/a
Further North and Northwest	2	<u>Zone: City B-3</u> Use: multi-tenant commercial building	n/a
East	3	<u>Zone: City B-3</u> Use: lawn mower repair and Catch 22 businesses	n/a
Further East	4	<u>Zone: City B-3</u> Use: Out of business gas station	n/a
Southeast and South	5	<u>Zone: City R-1C</u> Use: Single Family Residential	n/a
Further South	6	<u>Zone: City R-1C</u> Use: Single Family Residential	n/a
West	7	<u>Zone: City R-1B</u> Use: A-1 Hitch Center	2005 BZA approval: commercial parking in a residential zone

EXISTING USES LOCATION MAP



Site Plan



APPROVED BY: _____ DATE: _____ TITLE: _____		ZONING DEVELOPMENT PLAN FOR LOTS 8, 9 & PART OF LOT 10 WEST VIEW PARK ADDITION (See Map for Location)
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Based on the applicant's site plan submitted to the Planning Department on February 15, 2016, Staff offers the following considerations:

DEVELOPMENT STANDARDS : B-3

District minimum requirements:

- The rezoning site is proposed to be a small portion (approximately 1/10 of an acre) of a redevelopment proposal to move the existing A-1 Hitch Center from the current location of 1611 West Stone Drive.
- The rezoning site is shown as a portion of the overall proposed redevelopment (note that the rest of the redevelopment site is currently zoned B-3).

Property Features

The rezoning site is a small gravel lot that currently contains freestanding carport models. The proposed use will contain landscaping and drive isle features of the proposed redevelopment of the A-1 Hitch Center business (which is currently located approximately 100' away from the rezoning site) along West Stone Drive.

Standards of Review

Planning Staff shall, with respect to each zoning application, investigate and make a recommendation with respect to factors 1 through 10, below, as well as any other factors it may find relevant.

- 1. Whether or not the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby Property?** The proposal will permit a use that is suitable with adjacent and surrounding property as commercial use.
- 2. Whether or not the proposal will adversely affect the existing use or usability of adjacent or nearby property?** The adjacent and nearby property will not be adversely affected by the proposal.
- 3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned?** It is unreasonable to expect single family home use which the property is currently zoned for. Combination of the property with the existing /surrounding B-3 zoned property is the most reasonable use.

4. **Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?** The proposal will not cause a burdensome use of existing streets, transportation facilities, or schools. The traffic count on West Stone Drive in this vicinity was 27,691 during the last count in 2014.

5. **Whether the proposal is in conformity with the policies and intent of the land use plan?**

Proposed use: Drive isle and landscaping for a commercial redevelopment

The Future Land Use Plan Map recommends Single Family

6. **Whether there are other existing or changed conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the proposal?** The existing conditions support approval of the proposed rezoning.

7. **Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of the City of Kingsport?** There are no adverse uses proposed.

8. **Whether the change will create an isolated district unrelated to similar districts:** The proposed rezoning will be the same as the surrounding parcel zone.

9. **Whether the present district boundaries are illogically drawn in relation to existing conditions?** The present district boundaries are illogically drawn based upon existing commercial development.

10. **Whether the change will constitute a grant of special privilege to an individual as contrasted to the general welfare?** The change will not allow a special privilege to an individual as contrasted to the general welfare.

CONCLUSION

Staff recommends APPROVAL to rezone from R-1C to B-3. The proposal is in keeping with current and trending commercial land use in the vicinity.



AGENDA ACTION FORM

Award Contract and Budget Ordinance to Transfer Funds for the Ft. Henry/Moreland Dr./W Center St. Sewer Replacement Project

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

Action Form No.: AF-79-2016
 Work Session: April 4, 2016
 First Reading: April 5, 2016

Final Adoption: April 19, 2016
 Staff Work By: O. Nickens, J. Smith
 Presentation By: Ryan McReynolds

Recommendation:

Approve the Budget Ordinance and Resolution.

Executive Summary:

Bids were opened for the Sanitary Sewer Facilities Upgrades – Ft Henry/Moreland/W Center St project on March 24, 2016. This project consists of replacement of approximately 8,000 LF sanitary sewer infrastructure, including manholes. The allotted time for construction will be 180 calendar days.

Funding has been identified and allocated to various projects in the Sewer Fund. To more accurately track expenses for individual projects, new project accounts need to be opened for each specific project. This ordinance will reallocate existing funds to the project; no new funds are being requested.

City staff reviewed the bids and recommends awarding the contract to the apparent low bidder, Portland Utilities Company as follows:

Base Bid	\$1,273,356.20
Engineering Fees 14%	196,611.09
Contingency 6%	<u>76,401.37</u>
Total Project Cost.....	\$1,546,368.66

A budget ordinance appropriating funds to SW1401 from SW1400 is requested.

Engineering estimate for the base bid of the referenced project was \$1,123,727.93.

Attachments:

1. Budget Ordinance
2. Contract Award Resolution
3. Bid Opening Minutes
4. Location Map
5. Bid Tabulation

Funding source appropriate and funds are available: _____

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

PRE-FILED CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE SEWER PROJECT FUND BUDGET BY TRANSFERRING FUNDS TO THE MISCELLANEOUS SEWER LINE REHAB PROJECT FOR THE YEAR ENDING JUNE 30, 2016; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the Sewer Project Fund budget be amended by transferring funds from the Reedy Creek Trunkline project (SW1400) to the Miscellaneous Sewer Line Rehab project (SW1401) in the amount of \$124,327 for the Fort Henry Drive/Moreland Drive/W. Center Street sewer infrastructure replacement including manholes.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 452: Sewer Fund			
Miscellaneous Sewer Line Rehab (SW1401)			
Revenues:			
452-0000-391-0529 2013B GO Pub Imp. Bonds	\$ 277,279	\$ 0	\$ 277,279
452-0000-391-0531 2014 B GO Bond	600,000	0	600,000
452-0000-391-4200 From Sewer Fund	556,423	124,327	680,750
Totals:	1,433,702	124,327	1,558,029
Expenditures:			
452-0000-606-2023 Arch/Eng/Landscaping	210,000	0	210,000
452-0000-606-9001 Land	60,000	0	60,000
452-0000-606-9003 Improvements	1,163,702	124,327	1,288,029
Totals:	1,433,702	124,327	1,558,029
Fund 452: Sewer Project Fund			
Reedy Creek Trunklines (SW1400)			
Revenues:			
452-0000-391-0529 Series 2013 B GO Pub Imp	\$ 4,100,000	\$ 0	\$ 4,100,000
452-0000-391-4200 From Sewer Fund	1,350,086	(124,327)	1,225,759
Totals:	5,450,086	(124,327)	5,325,759
Expenditures:			
452-0000-606-2023 Arch/Eng/Landscaping	600,086	0	600,086
452-0000-606-9001 Land	100,000	0	100,000
452-0000-606-9003 Improvements	4,750,000	(124,327)	4,625,673
Totals:	5,450,086	(124,327)	5,325,759

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:

APPROVED AS TO FORM:

ANGELA L. MARSHALL
Deputy City Recorder

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____

RESOLUTION NO. _____

A RESOLUTION AWARDDING THE BID FOR THE SANITARY SEWER FACILITIES AND WATERLINE UPGRADES-FT. HENRY DRIVE/MORELAND DRIVE/WEST CENTER STREET SEWER REPLACEMENT PROJECT TO PORTLAND UTILITIES CONSTRUCTION COMPANY TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, bids were opened March 24, 2016, for the Sanitary Sewer Facilities and Waterline Upgrades – Ft. Henry Drive/Moreland Drive/West Center Street project; and

WHEREAS, upon review of the bids, the board finds Portland Utilities 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 replacement of approximately 8,000 linear feet sanitary sewer infrastructure, including manholes, from Portland Utilities Construction Company at an estimated construction cost of \$1,273,356.20; and

WHEREAS, funding is identified in project numbers SW1401 and SW1400.

Now therefore,

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

SECTION I. That the bid for the Sanitary Sewer Facilities and Waterline Upgrades - Ft. Henry Drive/Moreland Drive/West Center Street project, consisting of replacement of approximately 8,000 linear feet sanitary sewer infrastructure, including manholes, at an estimated cost of \$1,273,356.20, is awarded to Portland Utilities Construction Company, 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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

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

Present: Brent Morelock, Assistant Procurement Manager; Michelle Gillenwater, Administrative Assistant, Purchasing Dept.; Chad Austin, Water Distribution Manager; David Mason, Project Manager; Pamela Gilmer, Engineering Dept.; and Jim Wright, Architect

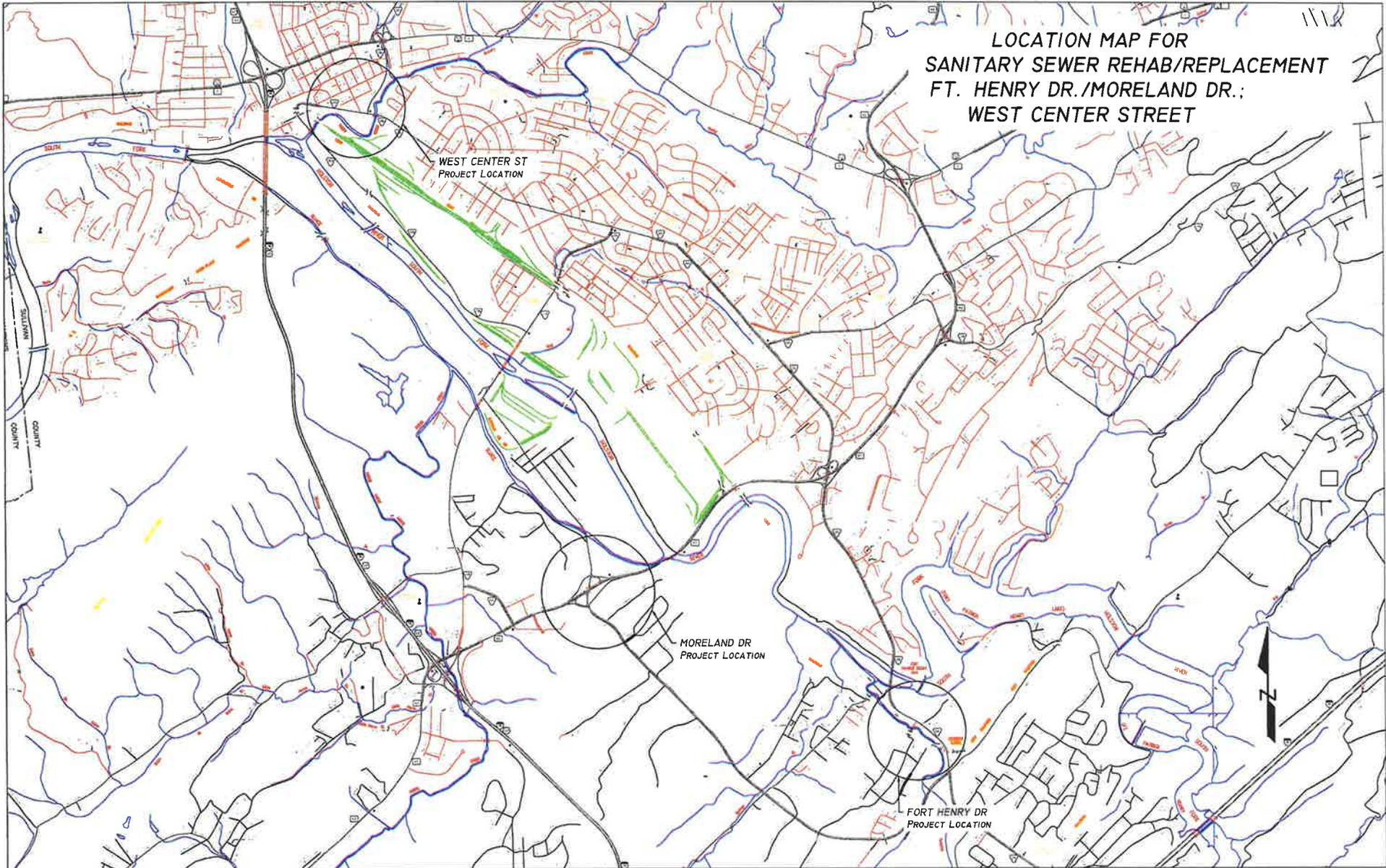
The Bid Opening was held in the Council Room, City Hall.

The Assistant Procurement Manager opened with the following bids:

SANITARY SEWER REHAB/REPLACEMENT FT. HENRY DR./MORELAND DR.; W. CENTER ST.		
Vendor:	Total Cost:	Completion Time:
Portland Utilities Construction Co.	\$1,273,356.20	180 Days

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

LOCATION MAP FOR
SANITARY SEWER REHAB/REPLACEMENT
FT. HENRY DR./MORELAND DR. ;
WEST CENTER STREET



BID TAB SANITARY SEWER REHAB/REPLACEMENT FOR FORT HENRY DRIVE/MORELAND DRIVE, WEST CENTER

ITEM NO.	QUAN	UNIT	DESCRIPTION	PORTLAND UTILITIES CONSTRUCTION COMPANY	
				UNIT COST	TOTAL COST
1	1	LS	MOBILIZATION	\$ 43,009.40	\$ 43,009.40
2	1	LS	TRAFFIC CONTROL	\$ 28,175.97	\$ 28,175.97
3	1	LS	PROJECT SIGN	\$ 1,285.03	\$ 1,285.03
Fort Henry Drive/ Moreland Drive					
4	1	LS	CLEARING AND GRUBBING	\$ 14,550.05	\$ 14,550.05
5	1	LS	DEMOLITION OF EXISTING FACILITIES	\$ 1,455.00	\$ 1,455.00
6	4,850	LF	BYPASS PUMPING	\$ 34.53	\$ 167,470.50
7	630	LF	18" SEWER LINE HEAVY CLEANING	\$ 21.12	\$ 13,305.60
8	1,270	LF	20" SEWER LINE HEAVY CLEANING	\$ 21.12	\$ 26,822.40
9	2,780	LF	21" SEWER LINE HEAVY CLEANING	\$ 5.28	\$ 14,678.40
10	170	LF	16" HDPE GRAVITY SEWER LINE	\$ 155.16	\$ 26,377.20
11	630	LF	18" GRAVITY SEWER LINE, CIPP	\$ 112.81	\$ 71,070.30
12	1,270	LF	20" GRAVITY SEWER LINE, CIPP	\$ 110.42	\$ 140,233.40
13	2,780	LF	21" GRAVITY SEWER LINE, CIPP	\$ 110.42	\$ 306,967.60
14	176	T	CRUSHED STONE FOR BACKFILL	\$ 37.41	\$ 6,584.16
15	227	CY	SOLID ROCK EXCAVATION IN TRENCH	\$ 81.33	\$ 18,481.91
16	30	LF	CREEK CROSSINGS	\$ 772.21	\$ 23,166.30
17	1	LS	SEEDING WITH MULCH	\$ 23,058.13	\$ 23,058.13
18	1	LS	SOIL & EROSION CONTROL	\$ 4,409.09	\$ 4,409.09
19	75	LF	SILT FENCING	\$ 9.70	\$ 727.50
20	1	LS	16" HDPE GRAVITY SEWER LINE INSIDE DROP	\$ 3,479.15	\$ 3,479.15
21	3	EA	STANDARD SEWER MANHOLES	\$ 3,858.78	\$ 11,576.34
22	1	EA	WATERTIGHT LIDS & CASTINGS	\$ 915.09	\$ 915.09
23	1	EA	MANHOLE VENTS (NOT INC MANHOLES)	\$ 838.49	\$ 838.49
24	21	VF	EXTRA DEPTH MANHOLE	\$ 188.56	\$ 3,959.76
25	234	VF	MANHOLE COATING SYSTEM	\$ 370.92	\$ 86,795.28
Total Fort Henry Dr/Moreland Dr					\$ 1,039,372.05
West Center Street					
1	1,309	LF	8" SEWER LINE, PIPE BURST, DIPS	\$ 48.82	\$ 63,905.38
2	1,814	LF	8" SEWER LINE, CIPP	\$ 46.33	\$ 84,042.62
3	2,728	LF	HEAVY LINE CLEANING	\$ 2.63	\$ 7,174.64
4	11	EA	SEWER SERVICE LATERAL, DIG AND REPLACE	\$ 1,727.96	\$ 19,007.89
5	7	EA	SEWER SERVICE LATERAL, OFF OF CIPP MAINLINE	\$ 1,437.48	\$ 10,062.36
6	1	LS	BANK STABILIZATION AROUND MH 03D247	\$ 5,827.51	\$ 5,827.51
7	2	EA	8" INTERNAL DROP ASSEMBLY (MH 03D246 AND 03D247)	\$ 1,088.55	\$ 2,177.10
8	1	EA	8" INTERNAL DROP ASSEMBLY (MH 03D246)	\$ 1,009.19	\$ 1,009.19
9	1	LS	POINT REPAIR (PROFILE SL-1)	\$ 3,646.97	\$ 3,646.97
10	1	EA	MANHOLE VENT (MH 03D246)	\$ 838.49	\$ 838.49
11	200	SY	EXCESS CONCRETE PAVEMENT REPLACEMENT	\$ 99.06	\$ 19,812.00
12	200	SY	EXCESS ASPHALT PAVEMENT REPLACEMENT	\$ 83.40	\$ 16,680.00
Total West Center Street					\$ 233,984.15
Project Total					\$ 1,273,356.20



AGENDA ACTION FORM

Amend Zoning of 225 Westfield Drive, Located in the Rock Springs Area

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

Action Form No.: AF-49-2016
 Work Session: March 15, 2016
 First Reading: March 15, 2016

Final Adoption: April 5, 2016
 Staff Work By: Ken Weems
 Presentation By: Ken Weems

Recommendation:

- Hold public hearing
- Approve ordinance amending the zoning ordinance to rezone parcel 93 from R-1B, Residential District to P-1, Professional Offices District.

Executive Summary:

This rezoning consists of approximately 2.5 acres located in the Rock Springs area from R-1B to P-1. The purpose of the rezoning is to accommodate a future professional office use on the property. As of February 22, 2016, the Planning Department has not received any public comment on the rezoning proposal. During their February 2016 regular meeting, the Kingsport Regional Planning Commission voted unanimously to send a favorable recommendation for the rezoning to the Board of Mayor and Aldermen. The Notice of Public Hearing was published on February 29, 2016.

Attachments:

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

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Amend Zoning of 225 Westfield Drive, Located in the Rock Springs Area

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

Action Form No.: AF-49-2016
Work Session: March 15, 2016
First Reading: March 15, 2016

Final Adoption: April 5, 2016
Staff Work By: Ken Weems
Presentation By: Ken Weems

Recommendation:

- Hold public hearing
- Approve ordinance amending the zoning ordinance to rezone parcel 93 from R-1B, Residential District to P-1, Professional Offices District.

Executive Summary:

This rezoning consists of approximately 2.5 acres located in the Rock Springs area from R-1B to P-1. The purpose of the rezoning is to accommodate a future professional office use on the property. As of February 22, 2016, the Planning Department has not received any public comment on the rezoning proposal. During their February 2016 regular meeting, the Kingsport Regional Planning Commission voted unanimously to send a favorable recommendation for the rezoning to the Board of Mayor and Aldermen. The Notice of Public Hearing was published on February 29, 2016.

Attachments:

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

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN to all citizens of the City of Kingsport, Tennessee, to all persons interested, and the public at large that the City of Kingsport Board of Mayor and Aldermen will conduct a Public Hearing during its regular business meeting on March 15, 2016 to consider the rezoning for parcel 93 of tax map 105 located along Westfield Drive from R-1B District to P-1 District. The regular business meeting will begin at 7:00 p.m. in the large courtroom located on the second floor of City Hall, at 225 W. Center Street, Kingsport, Tennessee.

The property proposed for rezoning is generally described as follows:

BEGINNING at a point, said point being the southern corner of parcel 93, Tax Map 105F; thence in a northeasterly direction, approximately 470 feet to a point, said point being the eastern corner of parcel 93 in common with the southwestern right-of-way of Westfield Drive; thence in a northwesterly direction, following the southwestern right-of-way of Westfield Drive, approximately 388 feet to a point, said point being the northern corner of parcel 93 in common with the southwestern right-of-way of Westfield Drive; thence in a southerly direction, approximately 628 feet to a point, said point being the western corner of parcel 93; thence in a southeasterly direction, approximately 70 feet to the point of BEGINNING, and being all of parcel 93, Tax Maps 105F and 105C as shown on the August 2015 Sullivan County Tax Maps.

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

CITY OF KINGSPORT
Angie Marshall, Deputy City Clerk
PIT: 2/29/2016

ORDINANCE NO. _____

AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY ADJACENT TO WESTFIELD DRIVE FROM R-1B, RESIDENTIAL DISTRICT TO P-1, PROFESSIONAL OFFICES DISTRICT IN THE 13TH CIVIL DISTRICT OF SULLIVAN COUNTY; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the zoning code, text, and map, be and the same is hereby further amended to rezone property adjacent to Westfield Drive from R-1B, Residential District to P-1, Professional Offices District in the 13th Civil District of Sullivan County; said area to be rezoned being further and more particularly described as follows:

BEGINNING at a point, said point being the southern corner of parcel 93, Tax Map 105F; thence in a northeasterly direction, approximately 470 feet to a point, said point being the eastern corner of parcel 93 in common with the southwestern right-of-way of Westfield Drive; thence in a northwesterly direction, following the southwestern right-of-way of Westfield Drive, approximately 388 feet to a point, said point being the northern corner of parcel 93 in common with the southwestern right-of-way of Westfield Drive; thence in a southerly direction, approximately 628 feet to a point, said point being the western corner of parcel 93; thence in a southeasterly direction, approximately 70 feet to the point of BEGINNING, and being all of parcel 93, Tax Maps 105F and 105C as shown on the August 2015 Sullivan County Tax Maps.

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

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

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 _____

PROPERTY INFORMATION

ADDRESS	252 Westfield Dr., Kingsport, TN 37664
DISTRICT	13
OVERLAY DISTRICT	Gateway
EXISTING ZONING	R-1B (Residential District)
PROPOSED ZONING	P-1 (Professional Offices District)
ACRES	2.5 +/-
EXISTING USE	former day care facility
PROPOSED USE	professional office

PETITIONER

ADDRESS 225 W. Center St., Kingsport, TN 37660

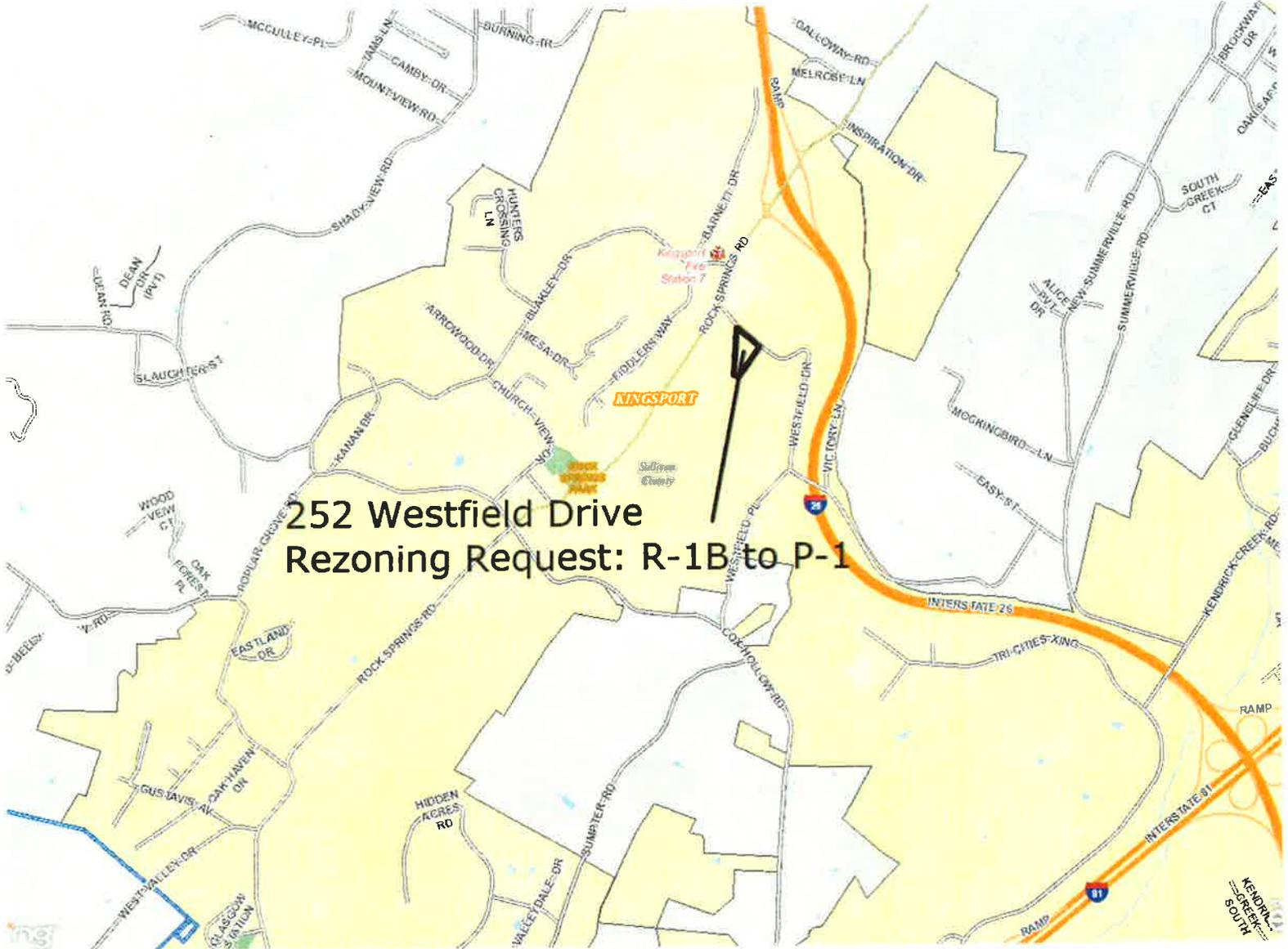
REPRESENTATIVE

PHONE (423) 229-9485

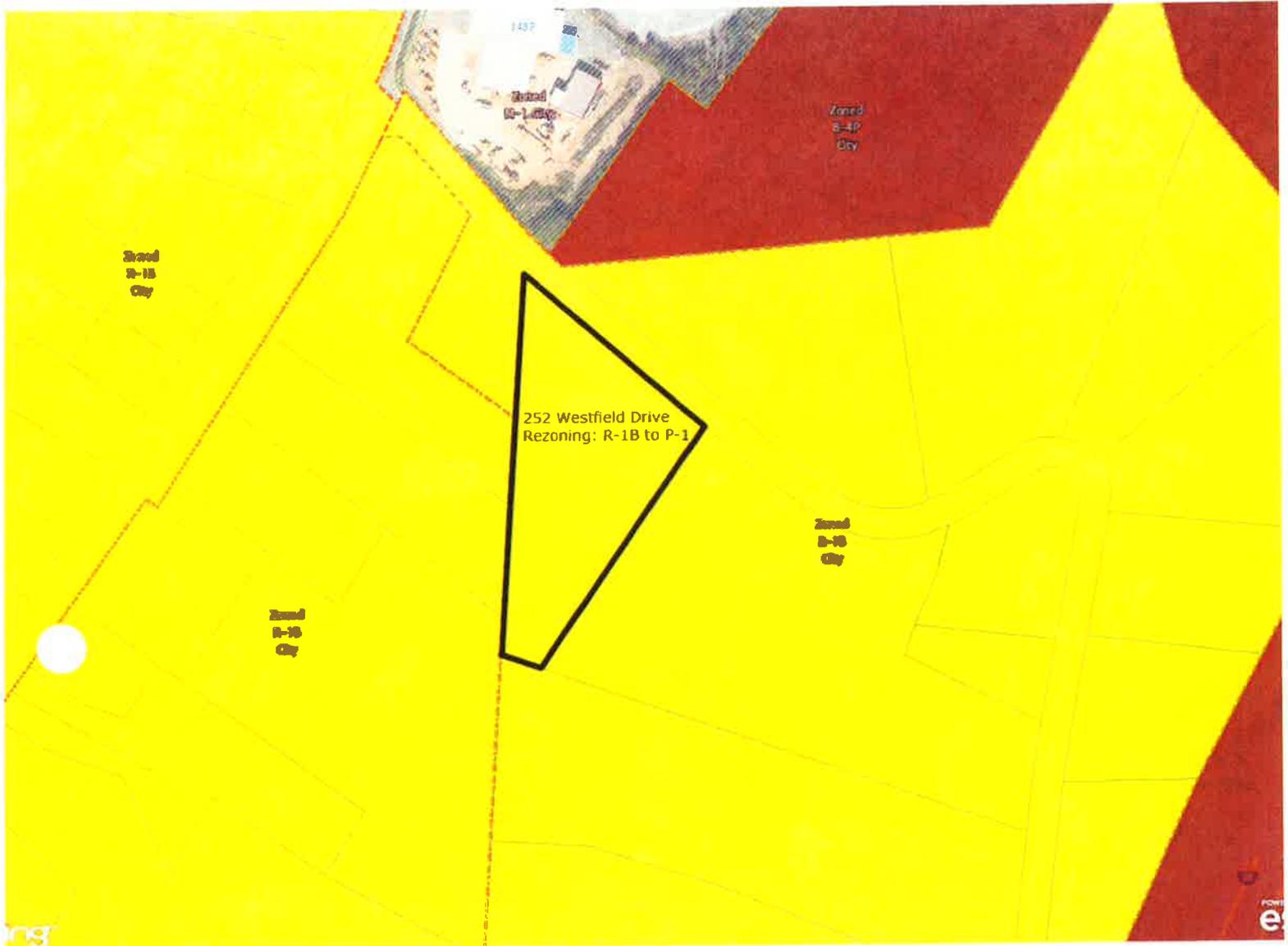
INTENT

To rezone from R-1B (Residential District) to P-1 (Professional Offices District) to accommodate a professional office use in the existing on-site building.

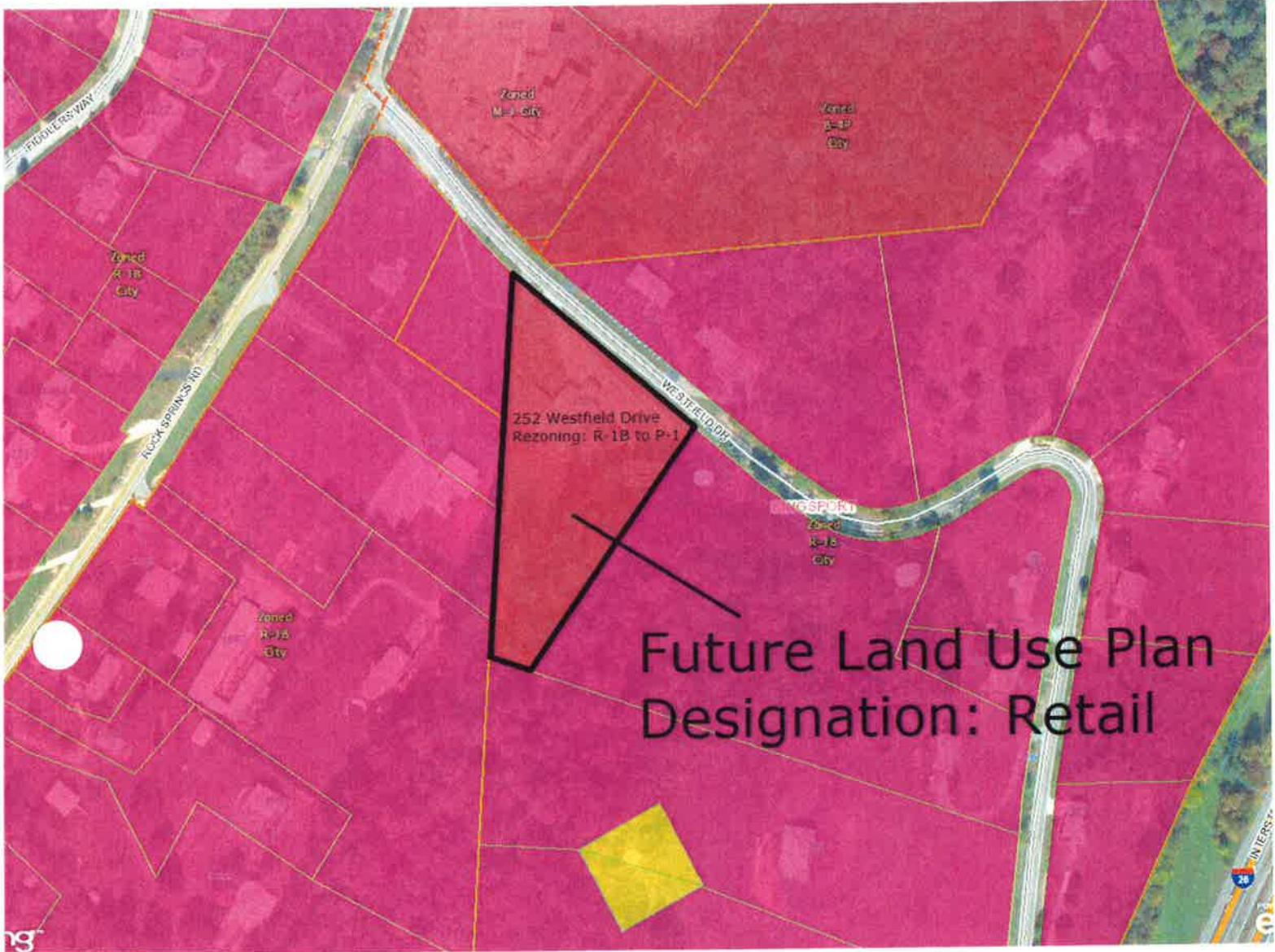
Vicinity Map



Surrounding Zoning Map



Future Land Use Plan 2030



Aerial



North View (Toward Westfield Drive)



South View



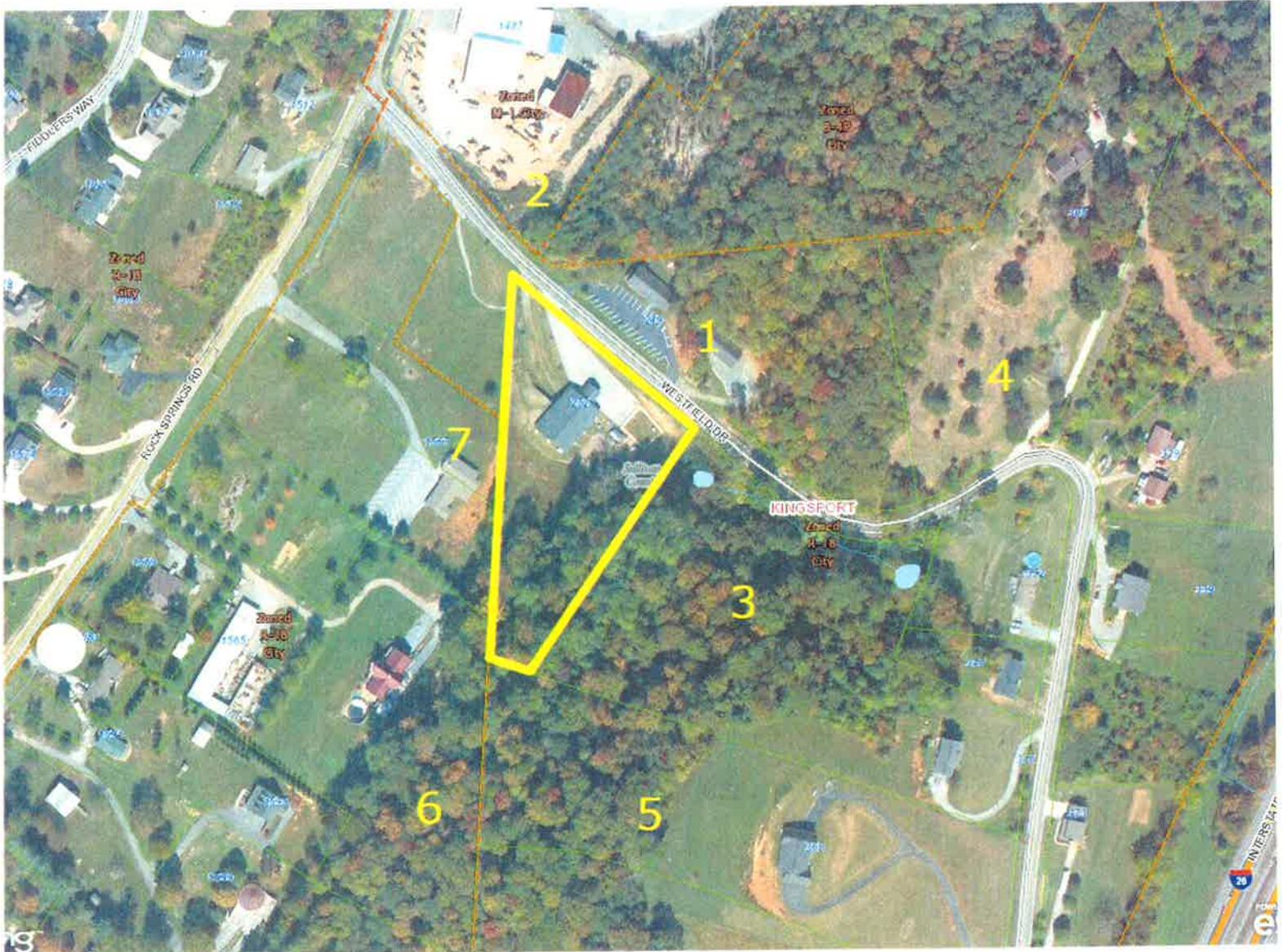
East View



West View (Toward Rock Springs Road)



Existing Uses Location Map



Existing Uses Information Chart

Location	Parcel / Zoning Petition	Zoning / Name	History Zoning Action Variance Action
North, East, Northwest	1	<u>Zone: City R-1B</u> Use: church	Annexed in 2009 as part of the Rock Springs Area 6 Annexation
Further North and Northwest	2	<u>Zone: City M-1</u> Use: heavy equipment rental	Annexed in 1992 as part of the Rock Springs Annexation
East	3	<u>Zone: City R-1B</u> Use: single family	Annexed in 2009 as part of the Rock Springs Area 6 Annexation
Further East	4	<u>Zone: City R-1B</u> Use: single family	Annexed in 2009 as part of the Rock Springs Area 6 Annexation
Southeast and South	5	<u>Zone: City R-1B</u> Use: single family	Annexed in 2009 as part of the Rock Springs Area 6 Annexation
Further South	6	<u>Zone: City R-1B</u> Use: single family	Annexed in 2009 as part of the Rock Springs Area 1 Annexation
West	7	<u>Zone: City R-1B</u> Use: church	Annexed in 2009 as part of the Rock Springs Area 1 Annexation

Standards of Review

Planning Staff shall, with respect to each zoning application, investigate and make a recommendation with respect to factors 1 through 10, below, as well as any other factors it may find relevant.

1. **Whether or not the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property?** The proposal will permit a use that is suitable with adjacent property. The site contains a building that is designed for commercial use and has been used for commercial use for some time.
2. **Whether or not the proposal will adversely affect the existing use or usability of adjacent or nearby property?** The adjacent and nearby property will not be adversely affected by the proposal. The site is buffered from adjacent residential use by steep topography and existing hardwood forest.
3. **Whether the property to be affected by the proposal has a reasonable economic use as currently zoned?** The property has a reasonable economic use as currently zoned. There is also a reasonable economic use for the proposed zone and future professional office use.
4. **Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?** The proposal will cause no additional impact.
5. **Whether the proposal is in conformity with the policies and intent of the land use plan?**

Proposed use: future professional office

The Future Land Use Plan Map recommends Retail use

6. **Whether there are other existing or changed conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the proposal?** The existing conditions support approval of the proposed rezoning.
7. **Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of the City of Kingsport?** There are no adverse uses proposed. Any future commercial proposals will be evaluated for the potential of adverse environmental issues.

8. **Whether the change will create an isolated district unrelated to similar districts:** The change will be an appropriate transition zone from adjacent industrial and high intensity commercial zone. The proposed P-1 zone will further the Future Land Use Plan as well.
9. **Whether the present district boundaries are illogically drawn in relation to existing conditions?** The present district boundaries are logically drawn.
10. **Whether the change will constitute a grant of special privilege to an individual as contrasted to the general welfare?** The change will not allow a special privilege to an individual as contrasted to the general welfare. The rezoning will permit furtherance of the Future Land Use Plan 2030.

CONCLUSION

Staff recommends APPROVAL to rezone from R-1B to P-1. The proposed P-1 zone is consistent with the future land use plan as a retail use.



AGENDA ACTION FORM

Amend the FY 2016 General Project Fund Budget – Kingsport City Schools

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

Action Form No.: AF-57-2016
Work Session: March 15 2016
First Reading: March 15, 2016

Final Adoption: April 5, 2016
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:

Approve the Ordinance.

Executive Summary:

The Board of Education approved fiscal year 2016 budget amendment number four at their meeting on March 3, 2016. This amendment transfers funds in the Overlook Road Improvement project to a new Dobyys-Bennett Regional Science and Technology Building project. The amount of the transfer is \$200,000. This will provide funding for the initial architect agreement. It is intended that the funds in the Overlook Road Improvement project be replaced from the proceeds of the Sullivan County bonds.

Attachments:

1. Ordinance
2. BOE Budget Amendment Number Four – FY 2016

Funding source appropriate and funds are available: 

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Amend the FY 2016 General Project Fund Budget – Kingsport City Schools

To: Board of Mayor and Aldermen
From: Jeff Fleming, City Manager *[Signature]*

Action Form No.: AF-57-2016
Work Session: March 15 2016
First Reading: March 15, 2016

Final Adoption: April 5, 2016
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:

Approve the Ordinance.

Executive Summary:

The Board of Education approved fiscal year 2016 budget amendment number four at their meeting on March 3, 2016. This amendment transfers funds in the Overlook Road Improvement project to a new Dobyys-Bennett Regional Science and Technology Building project. The amount of the transfer is \$200,000. This will provide funding for the initial architect agreement. It is intended that the funds in the Overlook Road Improvement project be replaced from the proceeds of the Sullivan County bonds.

Attachments:

1. Ordinance
2. BOE Budget Amendment Number Four – FY 2016

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

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Oltzman	—	—	—
Parham	—	—	—
Clark	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECTS FUND BUDGETS FOR THE FISCAL YEAR ENDING JUNE 30, 2016; 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 Fund Budget be amended by decreasing the estimated revenue for the Overlook Road Improvement Project (GP1023) – 2012C General Obligation Bonds by \$200,000 and by decreasing the appropriation for Improvements by \$200,000; by creating a new project for construction of the Dobyms-Bennett Regional Science and Technology Center (GP1620) and establishing estimated revenue for 2012C General Obligations Bonds of \$200,000 and an appropriation for Architectural Services of \$200,000.

Fund 311: General Project Fund
Overlook Road Improvements (GP1023)

<u>Revenues:</u>	\$	\$	\$
311-0000-368-1041 Series 2012 C GO PUB IMP	200,000	(200,000)	0
Total:	200,000	(200,000)	0

<u>Expenditures:</u>			
311-0000-601-9003 Improvements	200,000	(200,000)	0
Total:	200,000	(200,000)	0

DB Science and Technology Center (GP1620)

<u>Revenues:</u>	\$	\$	\$
311-0000-368-1041 Series 2012 C GO PUB IMP	0	200,000	200,000
Total:	0	200,000	200,000

<u>Expenditures:</u>			
311-0000-601-2023 Arch/Eng/Landscaping Serv	0	200,000	200,000
Total:	0	200,000	200,000

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

JOHN CLARK, Mayor

ATTEST:

APPROVED AS TO FORM:

JAMES H. DEMMING
City Recorder

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____

March 3, 2016

KINGSPORT CITY SCHOOLS
FISCAL YEAR 2015-2016
BUDGET AMENDMENT NUMBER FOUR

CAPITAL PROJECTS FUND

With the approval of the agreement with Perkins+Will for the programming and schematic design phase of the D-B Science and Technology center, it is needed to have funding in place for this phase of work. It is being recommended that the BOE approve an agreement with Will+Perkins in the amount of \$184,874. Ultimately funding for this work will come from the proposed \$140 million Sullivan County Bond Funds. In the interim funds will need to be identified from another source.

There is a project for Overlook Road improvements that has funding in the amount of \$200,000. At the present time there are no specific plans for those improvements. With the approval of the purchase of the last property, we can now start working with the City to develop these improvements. At this time it would be the summer of 2017 before any work could be done.

Since it will be a year from now before the Overlook Road funds are needed, it is recommended that these funds be transferred to a new project for the construction of the Dobyms-Bennett Regional Science and Technology Center. When funds are received from the proposed Sullivan County Bunds, the Overlook Road project will be reimbursed.



AGENDA ACTION FORM

Amending Section 22-96(e) of the Kingsport City Code to Specifically Include Exemption of Townhouse from Sprinkler Requirements and Provide for a Two Hour Fire Resistant Wall

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

Action Form No.: AF-65-2016
Work Session: March 15, 2016
First Reading: March 15, 2016

Final Adoption: April 5, 2016
Staff Work By: J. Dee Morgan
Presentation By: M. Billingsley

Recommendation:

Approve the Ordinance.

Executive Summary:

State law (T.C.A. § 68-120-101) pertaining to statewide building construction safety standards was amended effective January 1, 2016. The state has requested that the city amend section 22-96(e) of the Kingsport City Code to specifically state that townhouses are exempt from fire sprinkler requirements and require a 2 hour fire-resistance rated wall assembly as provided T.C.A. § 68-120-101(a)(8)(C)(i)(a) and (b), in sprinkler requirements do not apply to townhouses. The attached ordinance amends section 22- 96(e) to provide for such.

Attachments:

- 1. Ordinance
- 2. T.C.A. § 68-120-101(a)(8)(A), (B) and (C)

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Amending Section 22-96(e) of the Kingsport City Code to Specifically Include Exemption of Townhouse from Sprinkler Requirements and Provide for a Two Hour Fire Resistant Wall

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

Action Form No.: AF-65-2016
 Work Session: March 15, 2016
 First Reading: March 15, 2016

Final Adoption: April 5, 2016
 Staff Work By: J. Dee Morgan
 Presentation By: M. Billingsley

Recommendation:

Approve the Ordinance.

Executive Summary:

State law (T.C.A. § 68-120-101) pertaining to statewide building construction safety standards was amended effective January 1, 2016. The state has requested that the city amend section 22-96(e) of the Kingsport City Code to specifically state that townhouses are exempt from fire sprinkler requirements and require a 2 hour fire-resistance rated wall assembly as provided T.C.A. § 68-120-101(a)(8)(C)(i)(a) and (b), in sprinkler requirements do not apply to townhouses. The attached ordinance amends section 22- 96(e) to provide for such.

Attachments:

1. Ordinance
2. T.C.A. § 68-120-101(a)(8)(A), (B) and (C)

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Oiterman	—	—	—
Parham	—	—	—
Clark	—	—	—

PRE-FILED
CITY RECORDER

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES,
CITY OF KINGSPORT, SECTION 22-96(e) PERTAINING TO THE
RESIDENTIAL BUILDING CODE AND FIXING THE EFFECTIVE
DATE OF THIS ORDINANCE

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

SECTION I. That Section 22-96(e) of the Code of Ordinances, City of Kingsport, Tennessee is hereby amended to read as follows:

Sec. 22-96. Code adopted by reference.

- (e) Residential Code. The provisions of the International Residential Code, 2012 edition excluding Chapter 11 (Energy Conservation) and inserting instead Chapter 11 (Energy Conservation) of the 2009 International Residential Code, excluding section R313 & R2904 in accordance with TCA § 68-120-101(a)(8)(A), removing section 3902.12 and using section 3902.13 for all construction and including appendix F, for one and two-family dwellings, published by the International Code Council, is hereby adopted by reference as though copied verbatim in this subsection. Notwithstanding anything contained herein to the contrary, as set forth in TCA § 68-120-101(a)(C)(i)(a), a townhouse shall be considered a separate building with independent exterior walls and shall be separated by a two-hour fire-resistance-rated wall assembly. A townhouse shall be built according to local and statewide adopted building codes; provided, however, a fire sprinkler system shall not be required for a townhouse. Notwithstanding anything contained herein to the contrary and as provided for in T.C.A. § 68-120-101(a)(8)(A), a fire sprinkler system shall not be required for a single family residence. One copy of said code and revisions thereto was on file in the office of the city recorder for a period of 15 days prior to adoption, and that one copy of said code and revisions thereto shall remain on file in the office of the city recorder for public use, inspection and examination.

SECTION II. That this ordinance shall take effect from and after the date of its passage, as the law directs, the public welfare of the citizens 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 _____

T.C.A. § 68-120-101(a)(8)(A), (B) and (C)

Statewide building construction safety standards -- Promulgation -- Applicability.

(a) The state fire marshal shall, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, promulgate rules establishing minimum statewide building construction safety standards. Such standards shall be designed to afford a reasonable degree of safety to life and property from fire and hazards incident to the design, construction, alteration and repair of buildings or structures. The standards:

(1) Shall include, but not be limited to, provisions relative to structural strength and stability; energy efficiency; means of egress; fire resistant ratings and requirements; and fire protection equipment and materials;

(2) May be selected wholly or partially from publications or amended versions of publications of nationally recognized agencies or organizations, such as the International Code Council, Inc., the National Fire Protection Association, Inc., and Underwriters Laboratories, Inc.;

(3) Shall classify buildings according to types of occupancy and construction;

(4) Shall contain appropriate requirements and specifications for both new and existing buildings;

(5) Shall not discriminate against or in favor of particular construction materials or techniques;

(6) Shall, to the extent practicable, be stated in terms of performance objectives without prescribing the use of certain methods, designs, techniques or materials;

(7) Shall be reasonably compatible with building construction safety standards adopted by local governments in this state;

(8) (A) Shall not include mandatory sprinkler requirements for one-family and two-family dwellings; however, notwithstanding this subdivision (a)(8), local governments may adopt more stringent requirements for one-family and two-family dwellings;

(B) (i) If a local government seeks to adopt mandatory sprinkler requirements for one-family and two-family dwellings pursuant to this subdivision (a)(8), then the local government may only adopt such requirements, by either ordinance or resolution, as appropriate, upon an affirmative two-thirds (2/3) vote on final reading; provided, that if passage of such ordinance or resolution requires two (2) readings, then such requirements may only be adopted after reading such ordinance or resolution in open session of the legislative body at meetings specially called on two (2) different days that are no less than two (2) weeks apart; and if passage requires three (3) readings, then the last two (2) readings shall occur on two (2) different days that are no less than two (2) weeks apart. Mandatory sprinkler requirements shall be voted on in an ordinance or resolution separate from any other ordinance or resolution addressing building construction safety standards;

(ii) If a local government seeks to repeal the mandatory sprinkler requirements adopted pursuant to this subdivision (a)(8), then the local government shall repeal such requirements in the same manner as required to adopt such requirements under this subdivision (a)(8); provided, that if a local government adopted mandatory sprinkler requirements prior to April 27,

2012, then the local government may repeal such requirements in the same manner the local government adopted the requirements; and

(C) (i) (a) A townhouse shall be considered a separate building with independent exterior walls and shall be separated by a two-hour fire-resistance-rated wall assembly. A townhouse shall be built according to local and statewide adopted building codes; provided, however, a fire sprinkler system shall not be required for a townhouse;



AGENDA ACTION FORM

Agreement with TDOT for the Main Street Redevelopment Project and Appropriate Funds

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

Action Form No.: AF-62-2016
Work Session: March 15, 2016
First Reading: March 15, 2016

Final Adoption: April 5, 2016
Staff Work By: Michael Thompson
Presentation By: Ryan McReynolds

Recommendation:

Approve the ~~Resolution and~~ Ordinance.

Executive Summary:

Main Street redevelopment involves rebuilding Main Street from Sullivan Street to Market Street. This project consists of resurfacing, repairing curbs and sidewalks, additions of bulbouts, ADA enhancements, removal of rail sidings, diamond grinding, and specific areas of subgrade repair and rebuild.

The estimated total cost for all phases of this project is \$1,699,605.00, which will be funded 80% through KMTPO STP funding source (Federal funds); and the local government is responsible for the 20% matching share (estimated amount of \$339,921.00).

Therefore we request to enter into a Local Agency Project Agreement with TDOT for the Redevelopment of Main Street from Sullivan Street to Market Street; Agreement Number: 160028; Federal Project Number: STP-M-9108(48); State Project Number: 82LPLM-F3-071; Project Identification Number: 123325.00.

Funding is available and identified in GP1516.

Attachments:

- 1. Resolution / Agreement
- 2. Ordinance
- 2. Location Map

Funding source appropriate and funds are available: 

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Agreement with TDOT for the Main Street Redevelopment Project and Appropriate Funds

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

Action Form No.: AF-62-2016
Work Session: March 15, 2016
First Reading: March 15, 2016

Final Adoption: April 5, 2016
Staff Work By: Michael Thompson
Presentation By: Ryan McReynolds

Recommendation:

Approve the Resolution and Ordinance.

Executive Summary:

Main Street redevelopment involves rebuilding Main Street from Sullivan Street to Market Street. This project consists of resurfacing, repairing curbs and sidewalks, additions of bulbouts, ADA enhancements, removal of rail sidings, diamond grinding, and specific areas of subgrade repair and rebuild.

The estimated total cost for all phases of this project is \$1,699,605.00, which will be funded 80% through KMTPO STP funding source (Federal funds); and the local government is responsible for the 20% matching share (estimated amount of \$339,921.00).

Therefore we request to enter into a Local Agency Project Agreement with TDOT for the Redevelopment of Main Street from Sullivan Street to Market Street; Agreement Number: 160028; Federal Project Number: STP-M-9108(48); State Project Number: 82LPLM-F3-071; Project Identification Number: 123325.00.

Funding is available and identified in GP1516.

Attachments:

- 1. Resolution / Agreement
- 2. Ordinance
- 2. Location Map

Funding source appropriate and funds are available:

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE MAIN STREET REDEVELOPMENT PROJECT, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the Main Street redevelopment involves rebuilding Main Street from Sullivan Street to Market Street; and

WHEREAS, the city would like to enter into an agreement with the Tennessee Department of Transportation for the Main Street Redevelopment Project; and

WHEREAS, the project consists of resurfacing, repairing curbs, sidewalks, additions of bulbouts, ADA enhancements, removal of rail sidings, diamond grinding, specific areas of subgrade repair and rebuild; and

WHEREAS, the estimated total cost for all phases of this project is \$1,699,605.00, which will be funded 80% through the Kingsport Metropolitan Transportation Planning Organization STP funding source (Federal funds); and

WHEREAS, the city is responsible for the 20% matching share (estimated amount of \$339,921.00); and

WHEREAS, funding is available and identified in GP1516.

Now therefore,

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

SECTION I. That an agreement with the Tennessee Department of Transportation for the Main Street Redevelopment 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 Tennessee Department of Transportation for the Main Street Redevelopment 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:

Agreement Number:	160028
Project Identification Number:	123325.00
Federal Project Number:	STP-M-9108(48)
State Project Number:	82LPLM-F3-071

**State of Tennessee Department of Transportation
LOCAL AGENCY PROJECT AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 20____ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the CITY OF KINGSPORT (hereinafter called the "Agency") for the

purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

Main Street from Sullivan Street to Market Street

A. PURPOSE OF AGREEMENT

A.1 Purpose:

a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

a)

Environmental Clearance by:	Agency	Project
Preliminary Engineering by:	Agency	Project
Right-of-Way by:	Agency	Project
Utility Coordination by:	Agency	Project
Construction by:	Agency	Project

- b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.
- c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

B.2 Completion Date:

a) The Agency agrees to complete the herein assigned phases of the Project on or before April 1, 2021. If the Agency does not complete the herein described phases of the Project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.

B.3 Environmental Regulations:

- a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.
- b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.
- c) In the event the Agency is made responsible for the Environmental Clearances in section B.1(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed

will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.

b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.

1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.

c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for the land in question.

These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.

b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.

c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.

d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT

Traffic Engineer.

d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.

e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Department's Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.

b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:

1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.

2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

B.9 Railroad

a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.

c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line- item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.

b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.

c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) Misrepresentation:

The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) Litigation:

There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) Approval by Department:

The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) Conflict of Interests:

There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) Default:

The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.

b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

b) Nothing in this agreement shall be construed to limit the Department's right at any time

to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

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

b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

a) DBE Policy:

It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.

b) DBE Obligation:

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

a) Instructions for Certification - Primary Covered Transactions:

By signing and submitting this Agreement, the Agency is providing the certification set out below.

1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.

5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.

6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.

8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;

2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and

4) Have not within a 3-year period preceding this application/proposal had one or more

public transactions (Federal, State or local) terminated for cause or default.

5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.

b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of its subcontracts, the following provision:

1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub- recipients

of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.

b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.

b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.

b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.

c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency

shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

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

b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.

c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.

b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.

c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.

d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc

b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become

available.

D.32 Third Party Liability:

a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.

1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount	Open to Public and Vehicular Traffic
\$1.00 - \$200,000	5 Years
>\$200,000 - \$500,000	10 Years
>\$500,000 - \$1,000,000	20 Years

b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

a) If the Project is funded with federal funds the following shall apply: The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department. IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

[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 15th day of March, 2016.

JOHN CLARK, MAYOR

ATTEST:

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

J. MICHAEL BILLINGSLEY, CITY ATTORNE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT FUND BUDGET BY APPROPRIATING FEDERAL FUNDS TO THE MAIN STREET IMPROVEMENTS PROJECT FOR THE YEAR ENDING JUNE 30, 2016; 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 Fund budget be amended by appropriating \$1,359,684 from KMTPO STP funding to the Main Street Improvements project (GP1516). The local match is 20% or \$339,921 and is available in the project.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 311: General Project Fund			
Main Street Improvements (GP1516)			
Revenues:			
311-0000-337-5210 FHWA/TN FHWA 80%	\$ 0	\$ 1,359,684	\$ 1,359,684
311-0000-368-1047 2014 A GO Bonds	87,239	0	87,239
311-0000-368-1051 2015 A (Oct) GO PI Bonds	398,526	0	398,526
311-0000-368-2101 Premium From Bond Sale	28,060	0	28,060
Totals:	513,825	1,359,684	1,873,509
Expenditures:			
311-0000-601-4041 Bond Expense	13,825	0	13,825
311-0000-601-9003 Improvements	500,000	1,359,684	1,859,684
Totals:	513,825	1,359,684	1,873,509

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:

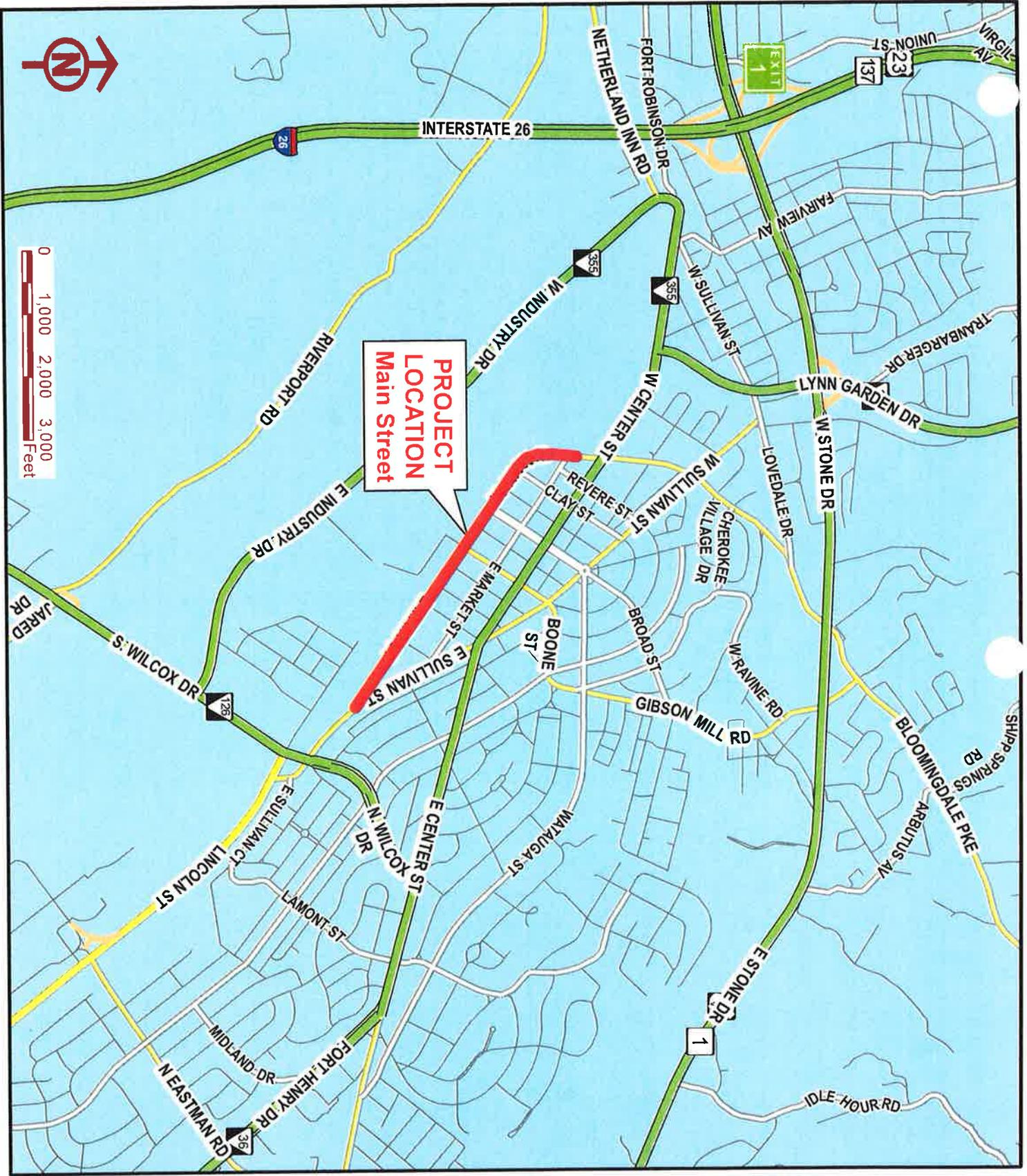
APPROVED AS TO FORM:

ANGELA L. MARSHALL
Deputy City Recorder

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____



**PROJECT
LOCATION
Main Street**



**Project Location Map - Sullivan County, TN
Main Street Kingsport Rebuild
from Sullivan Street to W. Market Street**

Legend

- State Routes
- Collector Street
- Ramp
- Expressway
- Interstate
- Minor Arterial
- Major Arterial
- Local Streets



AGENDA ACTION FORM

Budget Cleanup Ordinance for FY16

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

Action Form No.: AF-50-2016
Work Session: March 15, 2016
First Reading: March 15, 2016

Final Adoption: April 5, 2016
Staff Work By: Judy Smith
Presentation By: Jeff Fleming

Recommendation:

Approve the Ordinance.

Executive Summary:

This ordinance will close some old projects by transferring \$62,808 from the Traffic Equipment project (GP1524) to the Traffic Signal Equipment project (GP1619) and by transferring \$1,256 from the Lynn View Community Center Funfest project (NC1205) to a new Lynn View Community Center Funfest project (NC1607) and close GP1524 and NC1205. The Lynn View Community Center Funfest project is funded by donations. The funds in the amount of \$154,770 will be transferred from the East Stone Greenbelt project (GP0600) to the East Stone Greenbelt project Phase 2 project (GP1621) and close GP0600. Funds in the amount of \$17,618 will be transferred from the Greenbelt Development project (GP0608) to the Greenbelt Development project (GP1617) and close GP0608. Funds in the amount of \$5,681 will be transferred from the Tri City Line Improvements project (GP1209) to the Engineering Building Renovations project (GP1514) and close GP1209.

Attachments:

- 1. Ordinance

Funding source appropriate and funds are available:

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Budget Cleanup Ordinance for FY16

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

Action Form No.: AF-50-2016
Work Session: March 15, 2016
First Reading: March 15, 2016

Final Adoption: April 5, 2016
Staff Work By: Judy Smith
Presentation By: Jeff Fleming

Recommendation:

Approve the Ordinance.

Executive Summary:

This ordinance will close some old projects by transferring \$62,808 from the Traffic Equipment project (GP1524) to the Traffic Signal Equipment project (GP1619) and by transferring \$1,256 from the Lynn View Community Center Funfest project (NC1205) to a new Lynn View Community Center Funfest project (NC1607) and close GP1524 and NC1205. The Lynn View Community Center Funfest project is funded by donations. The funds in the amount of \$154,770 will be transferred from the East Stone Greenbelt project (GP0600) to the East Stone Greenbelt project Phase 2 project (GP1621) and close GP0600. Funds in the amount of \$17,618 will be transferred from the Greenbelt Development project (GP0608) to the Greenbelt Development project (GP1617) and close GP0608. Funds in the amount of \$5,681 will be transferred from the Tri City Line Improvements project (GP1209) to the Engineering Building Renovations project (GP1514) and close GP1209.

Attachments:

- 1. Ordinance

Funding source appropriate and funds are available: *JF*

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Oiterman	—	—	—
Parham	—	—	—
Clark	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND VARIOUS PROJECTS FOR
THE YEAR ENDING JUNE 30, 2016; 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 Fund and General Project Special Revenue Fund budgets be amended by transferring \$62,808 from the Traffic Equipment project (GP1524) to the Traffic Signal Equipment project (GP1619), by transferring \$1,256 from the Lynn View Community Center Funfest project (NC1205) to the Lynn View Community Center Funfest project (NC1607), by transferring \$154,770 from the East Stone Common Greenbelt project (GP0600) to the East Stone Common Greenbelt project Phase 2 (GP1621), by transferring \$17,618 from the Greenbelt Development project (GP0608) to the Greenbelt Park Development project (GP1617) and by transferring \$5,861 from the Tri City Linen Improvements project (GP1209) to the Engineering Building Renovations project (GP1514).

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 311: General Project Fund			
Traffic Equipment (GP1524)			
Revenues:	\$	\$	\$
311-0000-368-1047 Series 2014A GO Bonds	159,471	0	159,471
311-0000-368-2101 Bond Sale Premium	16,699	0	16,699
311-0000-391-0100 From General Fund	67,500	(62,808)	4,692
Totals:	243,670	(62,808)	180,862

Expenditures:	\$	\$	\$
311-0000-601-2031 Electric Street Lights	112,500	(62,730)	49,770
311-0000-601-2032 Traffic Signals	40,000	27,422	67,422
311-0000-601-4041 Bond Sale Expense	2,170	0	2,170
311-0000-601-9006 Purchases Over \$5,000	89,000	(27,500)	61,500
Totals:	243,670	(62,808)	180,862

Fund 311: General Project Fund			
Traffic Signal Equipment (GP1619)			
Revenues:	\$	\$	\$
311-0000-391-0100 From General Fund	0	62,808	62,808
Totals:	0	62,808	62,808

Expenditures:	\$	\$	\$
311-0000-601-2031 Electric Street Lights	0	62,808	62,808
Totals:	0	62,808	62,808

**Fund 111: General Project-Special Rev. Fund
Lynn View CM CTR Funfest (NC1205)**

Revenues:	\$	\$	\$
111-0000-364-2000 From Corporations	2,320	(1,256)	1,064
111-0000-364-3000 From Non-Profit Groups	74	0	74
Totals:	2,394	(1,256)	1,138

Expenditures:	\$	\$	\$
111-0000-601-3020 Operating Supplies & Tools	2,394	(1,256)	1,138
Totals:	2,394	(1,256)	1,138

**Fund 111: General Project-Special Rev. Fund
Lynn View CM CTR Funfest (NC1607)**

Revenues:	\$	\$	\$
111-0000-364-2000 From Corporations	0	1,256	1,256
Totals:	0	1,256	1,256

Expenditures:	\$	\$	\$
111-0000-601-3020 Operating Supplies & Tools	0	1,256	1,256
Totals:	0	1,256	1,256

**Fund 311: General Project Fund
East Stone Common Greenbelt (GP0600)**

Revenues:	\$	\$	\$
311-0000-364-2000 From Corporations	80,000	(39,889)	40,111
311-0000-364-3000 From Non-Profits	114,881	(114,881)	0
Totals:	194,881	(154,770)	40,111

Expenditures:	\$	\$	\$
311-0000-601-2022 Construction Contracts	167,990	(151,020)	16,970
311-0000-601-2023 Arch/Eng/Landscaping	26,891	(3,750)	23,141
Totals:	194,881	(154,770)	40,111

**Fund 311: General Project Fund
East Stone Common Grnbel Ph 2 (GP1621)**

Revenues:	\$	\$	\$
311-0000-364-2000 From Corporations	0	39,889	39,889
311-0000-364-3000 From Non-Profits	0	114,881	114,881
Totals:	0	154,770	154,770

Expenditures:	\$	\$	\$
311-0000-601-2022 Construction Contracts	0	151,020	151,020
311-0000-601-2023 Arch/Eng/Landscaping	0	3,750	3,750
Totals:	0	154,770	154,770

**Fund 311: General Project Fund
Greenbelt Development (GP0608)**

Revenues:	\$	\$	\$
311-0000-337-4300 Federal Thru State/ISTEA	54,908	(54,908)	0
311-0000-337-5100 Federal Thru State/TEA 21	424,000	54,908	478,908
311-0000-391-0100 From General Fund	171,173	(17,618)	153,555
Totals:	650,081	(17,618)	632,463

Expenditures:	\$	\$	\$
311-0000-601-2022 Construction Contracts	591,581	(12,137)	579,444
311-0000-601-2023 Arch/Eng/Landscaping	58,500	(5,481)	53,019
Totals:	650,081	(17,618)	632,463

**Fund 311: General Project Fund
Greenbelt Prk Development (GP1617)**

Revenues:	\$	\$	\$
311-0000-391-0100 From General Fund	249	17,618	17,867
Totals:	249	17,618	17,867

Expenditures:	\$	\$	\$
311-0000-601-2022 Construction Contracts	0	17,618	17,618
311-0000-601-2023 Arch/Eng/Landscaping	249	0	249
Totals:	249	17,618	17,867

**Fund 311: General Project Fund
Tri City Linen Improvements (GP1209)**

Revenues:	\$	\$	\$
311-0000-368-1040 Series 2011 GO Bonds	353,048	(5,861)	347,187
311-0000-368-2101 Bond Premium	4,283	0	4,283
Totals:	357,331	(5,861)	351,470

Expenditures:	\$	\$	\$
311-0000-601-2022 Construction Contracts	35,691	(167)	35,524
311-0000-601-2023 Arch/Eng/Landscaping	36,340	165	36,505
311-0000-601-2036 Natural Gas	1,000	141	1,141
311-0000-601-4041 Bond Sale Exp.	7,332	0	7,332
311-0000-601-9003 Improvements	276,968	(6,000)	270,968
Totals:	357,331	(5,861)	351,470

Fund 311: General Project Fund
Engineering Bldg Renovations (GP1514)

Revenues:	\$	\$	\$
311-0000-368-1040 Series 2011GO Pub Imp	0	5,861	5,861
311-0000-368-1047 Series 2014A GO Bonds	458,251	0	458,251
311-0000-368-1051 Series 2015 A (Oct) GO PI	246,117	0	246,117
311-0000-368-2101 Premium From Bond Sale	56,555	0	56,555
Totals:	760,923	5,861	766,784

Expenditures:	\$	\$	\$
311-0000-601-2023 Arch/Eng/Landscaping	25,000	0	25,000
311-0000-601-4041 Bond Sale Expense	10,923	0	10,923
311-0000-601-9003 Improvements	725,000	5,861	730,861
Totals:	760,923	5,861	766,784

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:

APPROVED AS TO FORM:

 JAMES H. DEMMING, City Recorder

 J. MICHAEL BILLINGSLEY, City Attorney

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



AGENDA ACTION FORM

Appropriating Available Funds to GP1615 and Enter into an Agreement with Mattern & Craig, Inc. for the Indian Trail Drive Extension Project

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

Action Form No.: AF-68-2016
Work Session: March 15, 2016
First Reading: March 15, 2016

Final Adoption: April 5, 2016
Staff Work By: Michael Thompson
Presentation By: Ryan McReynolds

Recommendation:

Approve the ~~Resolution~~ and Ordinance.

Executive Summary:

The Indian Trail Drive Extension Project involves the construction of a new roadway from the south end of Indian Trail Drive including a new bridge over Reedy Creek to connect to the existing Reedy Creek Road and would terminate at Eastman Road with a new signalized intersection. The Agreement for this project includes survey, design and final construction documents.

We request entering into an Agreement with Mattern & Craig for engineering services concerning the Indian Trail Drive Extension Project in an amount not to exceed \$304,480.00 without written authorization.

A budget ordinance appropriating available funds from GP1401 in the amount of \$45,000.00 to GP1615 is requested.

Funding is available and identified in GP1615.

Attachments:

- 1. Resolution
- 2. Ordinance
- 3. Location Map (2)
- 4. Proposal (3 pages)

Funding source appropriate and funds are available:  _____

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olteman	—	—	—
Parham	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Appropriating Available Funds to GP1615 and Enter into an Agreement with Mattern & Craig, Inc. for the Indian Trail Drive Extension Project

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

Action Form No.: AF-68-2016
 Work Session: March 15, 2016
 First Reading: March 15, 2016

Final Adoption: April 5, 2016
 Staff Work By: Michael Thompson
 Presentation By: Ryan McReynolds

Recommendation:

Approve the Resolution and Ordinance.

Executive Summary:

The Indian Trail Drive Extension Project involves the construction of a new roadway from the south end of Indian Trail Drive including a new bridge over Reedy Creek to connect to the existing Reedy Creek Road and would terminate at Eastman Road with a new signalized intersection. The Agreement for this project includes survey, design and final construction documents.

We request entering into an Agreement with Mattern & Craig for engineering services concerning the Indian Trail Drive Extension Project in an amount not to exceed \$304,480.00 without written authorization.

A budget ordinance appropriating available funds from GP1401 in the amount of \$45,000.00 to GP1615 is requested.

Funding is available and identified in GP1615.

Attachments:

1. Resolution
2. Ordinance
3. Location Map (2)
4. Proposal (3 pages)

Funding source appropriate and funds are available: *JF*

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH MATTERN & CRAIG, INC. FOR THE INDIAN TRAIL DRIVE EXTENSION PROJECT, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the city would like to enter into an professional services agreement with Mattern & Craig for the Indian Trail Drive Extension Project; and

WHEREAS, the project consists of construction of a new roadway from the south end of Indian Trail Drive including a new bridge over Reedy Creek to connect to the existing Reedy Creek Road and would terminate at Eastman Road with a new signalized intersection; and

WHEREAS, the agreement for this project includes survey, design and final construction documents; and

WHEREAS, the agreement with Mattern & Craig for engineering services concerning the Indian Trail Drive Extension Project is for an amount not to exceed \$304,480.00, without written authorization.

WHEREAS, funding will be available and identified in GP1615 after the budget ordinance has been passed with the second reading on April 5, 2016.

Now therefore,

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

SECTION I. That a professional services agreement with Mattern & Craig for the Indian Trail Drive Extension 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 Mattern & Craig for the Indian Trail Drive Extension 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.

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

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

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

ADOPTED this the 15th day of March, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT FUND BUDGET BY TRANSFERRING FUNDS TO THE INDIAN TRAIL DRIVE EXTENSION PROJECT FOR THE YEAR ENDING JUNE 30, 2016; 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 Fund budget be amended by transferring \$45,000 from the Cooks Valley Road project (GP1401) to the Indian Trail Drive Extension project (GP1615).

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 311: General Project Fund			
Cooks Valley Road (GP1401)			
Revenues:			
311-0000-368-1040 Series 2011 GO Pub Imp	\$ 459,694	\$ 0	\$ 459,694
311-0000-368-1046 Series 2013B GO Pub Imp	846,186	(45,000)	801,186
311-0000-368-2101 Premium From Bond Sale	61,414	0	61,414
Totals:	1,367,294	(45,000)	1,322,294

Expenditures:			
311-0000-601-2023 Arch/Eng/Landscaping	\$ 136,000	\$ (45,000)	\$ 91,000
311-0000-601-2097 State Reviews & Permits	2,000	0	2,000
311-0000-601-4041 Bond Expense	11,762	0	11,762
311-0000-601-9001 Land	6,238	0	6,238
311-0000-601-9003 Improvements	1,211,294	0	1,211,294
Totals:	1,367,294	(45,000)	1,322,294

Fund 311: General Project Fund			
Indian Trail Dr. Ext. (GP1615)			
Revenues:			
311-0000-368-1040 Series 2011 GO Pub Imp	\$ 253,635	\$ 0	\$ 253,635
311-0000-368-1046 Series 2013B GO Pub Imp	0	45,000	45,000
311-0000-368-1047 Series 2014 A GO Bonds	6,645	0	6,645
Totals:	260,280	45,000	305,280
Expenditures:			
311-0000-601-2023 Arch/Eng/Landscaping	\$ 260,280	\$ 45,000	\$ 305,280
Totals:	260,280	45,000	305,280

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:

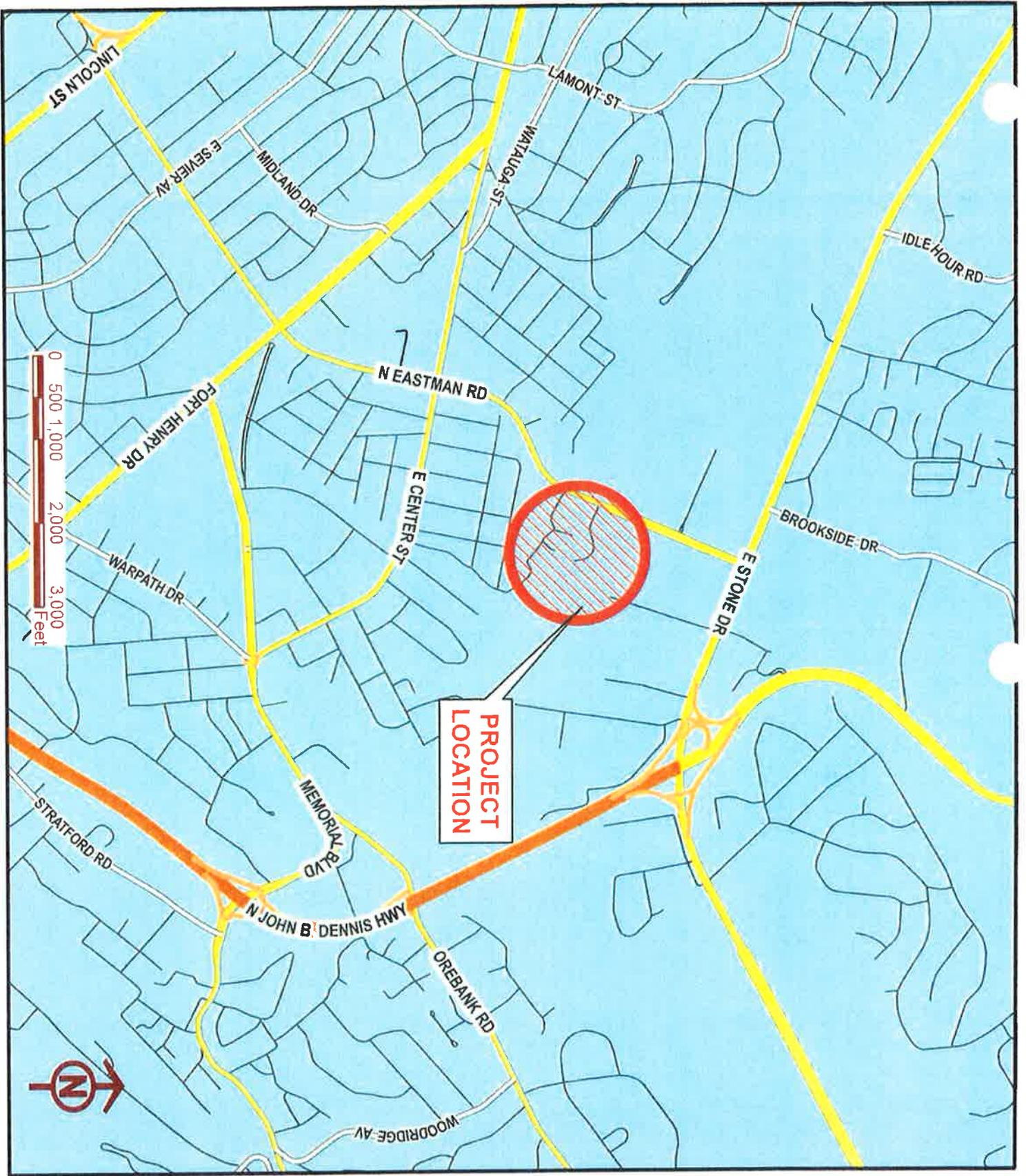
APPROVED AS TO FORM:

ANGIE MARSHALL
Deputy City Recorder

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____



Project Location Map
Indian Trail Drive Extension

Legend

- Collector Street
- Ramp
- Expressway
- Interstate
- Major Arterial
- Minor Arterial
- Local Streets



■ PROPOSED ROADWAY
■ PROPOSED SIDEWALK
■ 50 FT. TO BE ACQUIRED

RYDER CURVE #2
 PI 54+25.00
 PC 822.300-2147
 L 2,981.300-2145
 P 52+28.51
 PT 55+20.26
 A 54° 18' 31" (INT)
 D 347.51-28"
 R 198.00
 T 201.75
 SE 0.036 FT/FT
 DESIGN SPEED 20 MPH
 S.E. RUMPOFF 50 FT

RYDER CURVE #1
 PI 50+84.75
 PC 822.022-4279
 L 2,981.366-0740
 P 50+53.32
 PT 51+25.07
 A 50° 12' (INT)
 D 38° 58' 24"
 R 147.00
 L 81.54
 T 31.25
 SE 0.036 FT/FT
 DESIGN SPEED 20 MPH
 S.E. RUMPOFF 50 FT

RYDER CURVE #1
 PI 90+94.90
 PC 821.743-1656
 L 2,981.366-0740
 P 70+91.27
 A 54° 06' 41" (LTS)
 B 46° 57' 50"
 R 122.00
 L 119.22
 T 62.31
 SE 0.036 FT/FT
 DESIGN SPEED 20 MPH
 S.E. RUMPOFF 55 FT

ALY CREEK CURVE #1
 PI 21+01.11
 PC 821.452-7845
 L 2,981.418-2941
 P 11+00.22
 PT 25+48.32
 A 101° 53' 15"
 D 7° 00' 45"
 R 811.00
 L 1,448.10
 T 1,000.93
 SE 0.028 FT/FT
 DESIGN SPEED 30 MPH
 S.E. RUMPOFF 65 FT

ALY CREEK CURVE #2
 PI 10+72.03
 PC 821.907-6127
 L 2,981.008-2767
 P 10+72.99
 PT 10+72.99
 A 72° 00'
 D 72° 00'
 R 72.00
 SE 0.036 FT/FT
 DESIGN SPEED 30 MPH
 S.E. RUMPOFF 55 FT



8'-24"

15'

5'-12" 00' 00"

11'-17" 21' 50"
 6'-34"

11'-17" 21' 50"
 6'-34"

LIMITS OF CONST.

LIMITS OF CONST.

LIMITS OF CONST.

LIMITS OF CONST.

Michael S. Agee
Steven A. Campbell
Randy W. Beckner
Bradley C. Craig
Vernon Thomas Austin
David P. Wilson
James B. Voso
Randy L. Dodson
Chad M. Thomas



Edwin K. Mattern, Jr. (1949-1982)
Gene R. Cress (1935-2014)
Sam H. McGhee, III (Retired)
Stewart W. Hubbell (Retired)
J. Wayne Craig (Retired)

March 1, 2016

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

Re: Indian Trail Drive Extension – Final Design
City Project No. GP1208
Comm. No. 7100-P

Dear Michael:

As you requested, enclosed please find Mattern & Craig's proposal for the above project. Based on our discussions, the following is our understanding of the Project Scope.

Scope:

Mattern & Craig proposes to provide survey, design, and final construction documents for the extension of Indian Trail Drive, from behind K-Mart to Eastman Road, based on the conceptual alignment depicted as "Alternate 2", dated December 2015, as we provided to the City. Services shall include the following:

- Provide topographic field survey of the 0.4 mile corridor. Property boundaries shall be based on deed research and limited field investigation; full boundary surveys of properties will not be completed.
- Provide design of approximately 0.5 miles of roadways within the project area, including typical sections, horizontal and vertical alignments, cross-sections, storm sewer, EPSC measures, and maintenance of traffic:
 1. Indian Trail Drive, from behind K-Mart to Eastman Road (approximately 1700').
 2. Approximately 500' of side roads (Autumn Lane, Reedy Creek Road, and Ryder Drive).
 3. Approximately 12 driveways.
- Coordinate subsurface investigation with a geotechnical engineer (to be contracted by City).
- Provide design of a bridge over Reedy Creek. We anticipate the bridge will be approximately 120'-140' in length, and will be a single-span bridge with cast in place abutments and bridge deck. We will evaluate two alternatives for bridge girders; both prestressed concrete girders and steel girders. We will also provide a hydraulic analysis to determine the appropriate span length.

Design of the bridge foundations will be in coordination with the geotechnical investigation. We anticipate there will be at least one mechanically stabilized earth (MSE) wall on the project; this wall will be designed by others.

- Provide design of a new traffic signal at the intersection of Indian Trail Drive and Eastman Road. Signal design will detail installation of all signal poles, conduit and cable, and controller, and will contain basic signal timing data. Updating the coordinated signal timings along Eastman Road is not included, however.
- Determine the need for right-of-way and easement acquisition, and prepare plats and a composite drawing of acquired areas for each affected property.
- Prepare applications for necessary permits from reviewing agencies, including TVA, Corps of Engineers, and TDEC.
- Coordinate with affected utility owners, to determine the need for utility relocations. Design of utility relocations is not included, however.
- Prepare for and attend regular meetings with City staff.
- Prepare and update an Engineer's Opinion of Probable Cost at the various stages of the project.
- Prepare bid documents and finalize construction plans, for use in construction of the project.
- Assist the City in advertising for and obtaining bids for the project, including maintaining a record of bidders, preparing for and attending a pre-bid conference, answering questions from bidders and issuing addenda as needed, attending the bid opening, tabulating and evaluating bids, and assembling final contract documents.

Fee:

The above described services will be billed at the following hourly rates, not to exceed \$304,480.00 without written authorization:

Principal - \$175, Professional Engineer - \$145, Project Engineer - \$80, CADD Technician - \$75, 3-Man Survey Crew - \$200, 2-Man Survey Crew - \$150, Administrative - \$55. Reimbursable expenses will be billed at actual cost times a factor of 1.1. All billings will be on a monthly basis. All permitting, application, and similar fees will be paid directly by the City. The fee is detailed in the following table.

PHASE	MAN-HOURS	COST
Survey & Preliminary Design	1216	\$120,420
ROW Documents & Permits	264	\$31,360
Final Documents	1222	\$144,400
Bidding	66	\$8,300
TOTAL:	2768	\$304,480

Production Schedule:

Mattern & Craig will begin the survey immediately following notice to proceed. Preliminary plans will be submitted to the City for review within 120 days of notice to proceed. ROW documents will be submitted within 90 days of approval of preliminary plans. Final documents will be submitted following authorization by the City.

We appreciate the opportunity to work with you on this project, and look forward to starting work. Should the terms of this proposal be acceptable, please forward the City's standard Agreement to us for signature. Should you have any questions or comments regarding this proposal, please do not hesitate to contact me for clarification.

Sincerely,
MATTERN & CRAIG



Jason A. Carder, P.E.
Project Manager

Approved:
MATTERN & CRAIG



Randy W. Beckner, P.E.
Principal

JAC/lah



AGENDA ACTION FORM

Execute an Agreement for the Sale of Water to Scott County Public Service Authority

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

Action Form No.: AF-61-2016
Work Session: April 4, 2016
First Reading: N/A

Final Adoption: April 5, 2016
Staff Work By: C. Austin
Presentation By: R. McReynolds

Recommendation:

Approve the Resolution.

Executive Summary:

A neighboring utility district, Scott County Public Service Authority, has requested service from the City at a location along East Carter's Valley Rd near the intersection of Flanary St. We have been in discussions with their director and engineers for a plan to provide service.

This agreement would provide service to Scott Co PSA with no upgrade of infrastructure on the City's system. A meter has been installed and has been tested to ensure adequate service to Scott Co PSA. The agreement would provide a contracted rate for this service.

A five-year contract is proposed with a rate of \$3.00 per thousand gallons. Minimum billed usage is proposed to be 120,000 gallons per month (4,000 gallons per day) at a maximum rate of 100 gallons per minute.

The proposed agreement is attached.

Attachments:

1. Resolution
2. Proposed Water Service Agreement
3. Location Map

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH SCOTT COUNTY PUBLIC SERVICE AUTHORITY, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the Scott County Public Service Authority has requested water service from the city at a location along East Carter's Valley Road near the intersection of Flanary Street; and

WHEREAS, the services requested would require no upgrade in the city's infrastructure system; and

WHEREAS, an agreement with a contracted rate of \$3.00 per thousand gallons is set out below and is for a period of five years.

Now therefore,

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

SECTION I. That an agreement with Scott County Public Service Authority 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 Scott County Public Service Authority 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:

AGREEMENT

This Agreement is entered into this the ____ day of _____, 2016, by and between the CITY OF KINGSPORT, hereinafter referred to as "Kingsport", a municipal corporation of the state of Tennessee and the SCOTT COUNTY PUBLIC SERVICE AUTHORITY, hereinafter referred to as "Scott Co PSA", a utility district of the state of Virginia.

WITNESSETH:

WHEREAS, the parties are authorized to enter into this Agreement pursuant to Tennessee Code Annotated § 7-35-416; and

WHEREAS, it is deemed in the public interest for the parties hereto to enter into this Agreement for the sale and purchase of water.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

Section 1. Kingsport will, subject to the terms set out in this Agreement, provide at the point of delivery during the term of this Agreement at the price hereinafter set out in Sections 7 and 8, potable treated water to Scott Co PSA as follows:

a. The point of delivery of the water will be near the intersection of East Carter's Valley Rd and Flanary St at an existing meter, and the service will be 100 gallons per minute maximum, subject to availability.

b. Kingsport will operate and maintain the metering equipment at its expense and calibrate such metering equipment when requested by Scott Co PSA, but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result will be deemed to be accurate. Readings of any meter disclosed by test to be inaccurate will be corrected for the three (3) months previous to such test in accordance with the percentage of inaccuracy found by such tests. Unless the parties agree upon a different amount, if any meter fails to register for any period, the amount of water furnished during such period will be deemed to be the amount of water delivered in the period immediately prior to the failure. The metering equipment will

be read along with other meters in the area. An appropriate official of Scott Co PSA will have access to the meter at all reasonable times for the purpose of verifying its readings.

c. Investigate the possibility of installing telemetry at the meter location for future monitoring and communication.

Section 2. The initial term of this Agreement will be for five (5) years commencing on _____, 2016 and ending on _____, 2021, unless renewed for one (1) additional term of five (5) years upon agreement of the parties, including renegotiation of the rates for the water supplied by Kingsport to Scott Co PSA, and provided the renewal is reduced to writing properly executed by the parties and fully effective on the ending date of the initial term.

Section 3. The water service provided by Kingsport to Scott Co PSA will be contingent on the continued positive performance of both systems.

a. If the system does not perform as planned for Kingsport, the Agreement may be terminated by Kingsport upon at least thirty (30) days written notice to Scott Co PSA.

b. If the system does not perform as planned for Scott Co PSA, the Agreement may be terminated by Scott Co PSA upon thirty (30) days written notice to Kingsport.

Section 4. Kingsport may discontinue water service to Scott Co PSA during an emergency, as determined in the sole discretion of Kingsport. Reasonable effort will be made to contact Scott Co PSA prior to such discontinuation. Additionally, emergency failures of pressure or supply due to main supply line breaks, power failure, planned maintenance or repair, flood, fire and use of water to fight fire, earthquake or other catastrophe will excuse Kingsport from the requirement to provide water for such reasonable period of time as may be necessary to restore service. Temporary or partial failures to deliver water will be remedied with reasonable dispatch. In the event of an extended shortage of water, or the supply of water available to Kingsport is otherwise diminished over an extended period of time, the supply of water to Scott Co PSA may be reduced or diminished by Kingsport in the same ratio or proportion as the supply to Kingsport's consumers is reduced or diminished.

Section 5. No connection fee will be required for this connection as the delivery point is at an existing meter in the system and requires no work to be done by Kingsport.

Section 6. Scott Co PSA will be billed a minimum usage of 120,000 gallons per month (4,000 gallons per day) during the initial term of the Agreement if Scott Co PSA does not use at least that amount per month as measured by the water meter or estimate if the meter fails to register during any period. If Scott Co PSA uses more gallons per month it will be billed for the gallons recorded by the meter or estimate, if the meter fails to register during any period. The water will be metered at the point of delivery.

Section 7. Scott Co PSA will be charged the rate of \$3.00 per thousand gallons for the minimum usage or the gallons recorded by the meter, whichever is greater. The rates may be modified during the term of this Agreement as required by *Parsons v. Perryville Utility District*, 594 S.W.2d 402 (Tenn. App. 1979). Scott Co PSA intends to re-sell water purchased pursuant to this Agreement to its utility customers. If Scott Co PSA wants to purchase the water from Kingsport without sales tax, Scott Co PSA will provide Kingsport with a valid Certificate of Exemption from Sales Tax as specified by the Tennessee Department of Revenue, as often as needed by Kingsport.

Section 8. Kingsport will deliver to Scott Co PSA via mail, a billing statement each month at the same time as other customers in the same area, showing the either the minimum usage set out in Section 6 or the amount of water furnished Scott Co PSA during the preceding month.

Section 9. Scott Co PSA will pay Kingsport by the due date indicated on the billing statement each month for the minimum usage set out in Section 6 or the water furnished Scott Co PSA as shown on such itemized statement specified in Section 8. Payment will be delivered by Scott Co PSA to the Kingsport Finance Department and is subject to late payment fees, interest and penalties charged to customers of Kingsport.

Section 10. This Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in the state of Tennessee, and the parties will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

Section 11. Neither party will be liable to the other party or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, severe weather, thunderstorms, severe winds, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or governmental authorities' approval delays which are not caused by any act or omission by either party. The party whose performance is affected agrees to notify the other party promptly of the existence and nature of the delay.

Section 12. In the event that any provision or portion of this Agreement is found to be invalid or unenforceable, then such provision or portion thereof will be reformed in accordance with the

applicable laws. The invalidity or unenforceability of any provision or portion of any of this Agreement will not affect the validity or enforceability of any other provision or portion of the Agreement.

Section 13. The failure of either party to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions set forth in this Agreement, and the continuance of such default for a period of thirty (30) days after the defaulting, party's receipt of written notice from the non-defaulting party of said failure will be a default. Upon the occurrence of an alleged default, or a dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement or, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties will engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it will be to meet for the purpose of attempting to resolve such Dispute. The designated officers will meet as often as the parties deem reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this Section 13, and in the event either party concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the parties may mutually agree to submit to nonbinding mediation. If the matter is not resolved by mediation either party will have the right, at its sole option, without further demand or notice, to take whatever action at law or in equity may appear necessary or desirable to enforce its rights including, but not limited to, the suspension or termination of this Agreement. Venue for any litigation for any dispute arising out of or related to this Agreement, which cannot promptly be resolved by negotiation, will be the state courts for Kingsport, Sullivan County, Tennessee. This Agreement will be construed under and will be governed by the laws of the state of Tennessee.

Section 14. Notices, statements and other communications to be given under the terms of this Agreement will be in writing and delivered by hand, sent by certified mail, postage prepaid, return receipt requested, or sent by nationally recognized overnight delivery service, or email addressed to the parties as follows:

To Kingsport:

Distribution and Collection Manager for Water/Wastewater
City of Kingsport
225 West Center Street
Kingsport, Tennessee 37660

with copy to:

City Attorney
City of Kingsport
225 West Center Street
Kingsport, Tennessee 37660

To Scott Co PSA:

C. Michael Dishman, PE
Executive Director
Scott Co PSA
156 Legion St
Weber City, VA 24290

Such notice may also be sent to such other address as is from time to time designated by the party receiving the notice. Any such notice that is sent in accordance with this Section 14 will be deemed received when hand delivery is received or refused, as shown on the return receipt if mailed or shown as delivered if sent by nationally recognized overnight delivery service.

Section 15. Both parties are governmental entities having substantial experience with the subject matter of this Agreement, and each has fully participated in the negotiation and drafting of this Agreement. Accordingly, this Agreement will be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences will be drawn from the fact that the final, duly executed Agreement differs in any respect from any previous draft hereof.

Section 16. This Agreement, together with any other writings signed by the parties expressly stated to be supplemental hereto and together with any instruments to be executed and delivered pursuant to this Agreement, constitutes the entire agreement between the parties and supersedes all prior understandings and writings, and this Agreement may only be modified or amended during the term only by a written non-electronic instrument that has been duly executed by the non-electronic signatures of authorized representatives of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate original counterparts, each of which constitutes an original.

[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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

AGREEMENT

This Agreement is entered into this the ____ day of _____, 2016, by and between the CITY OF KINGSPORT, hereinafter referred to as "Kingsport", a municipal corporation of the state of Tennessee and the SCOTT COUNTY PUBLIC SERVICE AUTHORITY, hereinafter referred to as "Scott Co PSA", a utility district of the state of Virginia.

WITNESSETH:

WHEREAS, the parties are authorized to enter into this Agreement pursuant to Tennessee Code Annotated § 7-35-416; and

WHEREAS, it is deemed in the public interest for the parties hereto to enter into this Agreement for the sale and purchase of water.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

Section 1. Kingsport will, subject to the terms set out in this Agreement, provide at the point of delivery during the term of this Agreement at the price hereinafter set out in Sections 7 and 8, potable treated water to Scott Co PSA as follows:

- a. The point of delivery of the water will be near the intersection of East Carter's Valley Rd and Flanary St at an existing meter, and the service will be 100 gallons per minute maximum, subject to availability.
- d. Kingsport will operate and maintain the metering equipment at its expense and calibrate such metering equipment when requested by Scott Co PSA, but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result will be deemed to be accurate. Readings of any meter disclosed by test to be inaccurate will be corrected for the three (3) months previous to such test in accordance with the percentage of inaccuracy found by such tests. Unless the parties agree upon a different amount, if any meter fails to register for any period, the amount of water furnished during such period will be deemed to be the amount of water delivered in the period immediately prior to the failure. The metering equipment will be read along with other meters in the area. An appropriate official of Scott Co PSA will have access to the meter at all reasonable times for the purpose of verifying its readings.
- e. Investigate the possibility of installing telemetry at the meter location for future monitoring and communication.

Section 2. The initial term of this Agreement will be for five (5) years commencing on _____, 2016 and ending on _____, 2021, unless renewed for one (1) additional term of five (5) years upon agreement of the parties, including renegotiation of

the rates for the water supplied by Kingsport to Scott Co PSA, and provided the renewal is reduced to writing properly executed by the parties and fully effective on the ending date of the initial term.

Section 3. The water service provided by Kingsport to Scott Co PSA will be contingent on the continued positive performance of both systems.

- a. If the system does not perform as planned for Kingsport, the Agreement may be terminated by Kingsport upon at least thirty (30) days written notice to Scott Co PSA.
- b. If the system does not perform as planned for Scott Co PSA, the Agreement may be terminated by Scott Co PSA upon thirty (30) days written notice to Kingsport.

Section 4. Kingsport may discontinue water service to Scott Co PSA during an emergency, as determined in the sole discretion of Kingsport. Reasonable effort will be made to contact Scott Co PSA prior to such discontinuation. Additionally, emergency failures of pressure or supply due to main supply line breaks, power failure, planned maintenance or repair, flood, fire and use of water to fight fire, earthquake or other catastrophe will excuse Kingsport from the requirement to provide water for such reasonable period of time as may be necessary to restore service. Temporary or partial failures to deliver water will be remedied with reasonable dispatch. In the event of an extended shortage of water, or the supply of water available to Kingsport is otherwise diminished over an extended period of time, the supply of water to Scott Co PSA may be reduced or diminished by Kingsport in the same ratio or proportion as the supply to Kingsport's consumers is reduced or diminished.

Section 5. No connection fee will be required for this connection as the delivery point is at an existing meter in the system and requires no work to be done by Kingsport.

Section 6. Scott Co PSA will be billed a minimum usage of 120,000 gallons per month (4,000 gallons per day) during the initial term of the Agreement if Scott Co PSA does not use at least that amount per month as measured by the water meter or estimate if the meter fails to register during any period. If Scott Co PSA uses more gallons per month it will be billed for the gallons recorded by the meter or estimate, if the meter fails to register during any period. The water will be metered at the point of delivery.

Section 7. Scott Co PSA will be charged the rate of \$3.00 per thousand gallons for the minimum usage or the gallons recorded by the meter, whichever is greater. The rates may be modified during the term of this Agreement as required by *Parsons v. Perryville Utility District*, 594 S.W.2d 402 (Tenn. App. 1979). Scott Co PSA intends to resell water purchased pursuant to this Agreement to its utility customers. If Scott Co PSA wants to purchase the water from Kingsport without sales tax, Scott Co PSA will provide Kingsport with a valid Certificate of Exemption from Sales Tax as specified by the Tennessee Department of Revenue, as often as needed by Kingsport.

Section 8. Kingsport will deliver to Scott Co PSA via mail, a billing statement each month at the same time as other customers in the same area, showing the either the minimum usage set out in Section 6 or the amount of water furnished Scott Co PSA during the preceding month.

Section 9. Scott Co PSA will pay Kingsport by the due date indicated on the billing statement each month for the minimum usage set out in Section 6 or the water furnished Scott Co PSA as shown on such itemized statement specified in Section 8. Payment will be delivered by Scott Co PSA to the Kingsport Finance Department and is subject to late payment fees, interest and penalties charged to customers of Kingsport.

Section 10. This Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in the state of Tennessee, and the parties will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

Section 11. Neither party will be liable to the other party or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, severe weather, thunderstorms, severe winds, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or governmental authorities' approval delays which are not caused by any act or omission by either party. The party whose performance is affected agrees to notify the other party promptly of the existence and nature of the delay.

Section 12. In the event that any provision or portion of this Agreement is found to be invalid or unenforceable, then such provision or portion thereof will be reformed in accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of any of this Agreement will not affect the validity or enforceability of any other provision or portion of the Agreement.

Section 13. The failure of either party to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions set forth in this Agreement, and the continuance of such default for a period of thirty (30) days after the defaulting, party's receipt of written notice from the non-defaulting party of said failure will be a default. Upon the occurrence of an alleged default, or a dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement or, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties will engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it will be to meet for the purpose of attempting to resolve such Dispute. The designated officers will meet as often as the parties deem reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this Section 13, and in the event either party concludes in good faith that amicable resolution through continued negotiation with respect to the

Dispute is not reasonably likely, then the parties may mutually agree to submit to nonbinding mediation. If the matter is not resolved by mediation either party will have the right, at its sole option, without further demand or notice, to take whatever action at law or in equity may appear necessary or desirable to enforce its rights including, but not limited to, the suspension or termination of this Agreement. Venue for any litigation for any dispute arising out of or related to this Agreement, which cannot promptly be resolved by negotiation, will be the state courts for Kingsport, Sullivan County, Tennessee. This Agreement will be construed under and will be governed by the laws of the state of Tennessee.

Section 14. Notices, statements and other communications to be given under the terms of this Agreement will be in writing and delivered by hand, sent by certified mail, postage prepaid, return receipt requested, or sent by nationally recognized overnight delivery service, or email addressed to the parties as follows:

To Kingsport:
Distribution and Collection Manager for Water/Wastewater
City of Kingsport
225 West Center Street
Kingsport, Tennessee 37660

with copy to:

City Attorney
City of Kingsport
225 West Center Street
Kingsport, Tennessee 37660

To Scott Co PSA:
C. Michael Dishman, PE
Executive Director
Scott Co PSA
156 Legion St
Weber City, VA 24290

Such notice may also be sent to such other address as is from time to time designated by the party receiving the notice. Any such notice that is sent in accordance with this Section 14 will be deemed received when hand delivery is received or refused, as shown on the return receipt if mailed or shown as delivered if sent by nationally recognized overnight delivery service.

Section 15. Both parties are governmental entities having substantial experience with the subject matter of this Agreement, and each has fully participated in the

negotiation and drafting of this Agreement. Accordingly, this Agreement will be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences will be drawn from the fact that the final, duly executed Agreement differs in any respect from any previous draft hereof.

Section 16. This Agreement, together with any other writings signed by the parties expressly stated to be supplemental hereto and together with any instruments to be executed and delivered pursuant to this Agreement, constitutes the entire agreement between the parties and supersedes all prior understandings and writings, and this Agreement may only be modified or amended during the term only by a written non-electronic instrument that has been duly executed by the non-electronic signatures of authorized representatives of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate original counterparts, each of which constitutes an original.

SCOTT CO PSA UTILITY DISTRICT

ATTEST:

By: _____
C. Michael Dishman, Executive Director

APPROVED AS TO FORM:

Attorney for Scott Co PSA

CITY OF KINGSPORT, TENNESSEE

ATTEST:

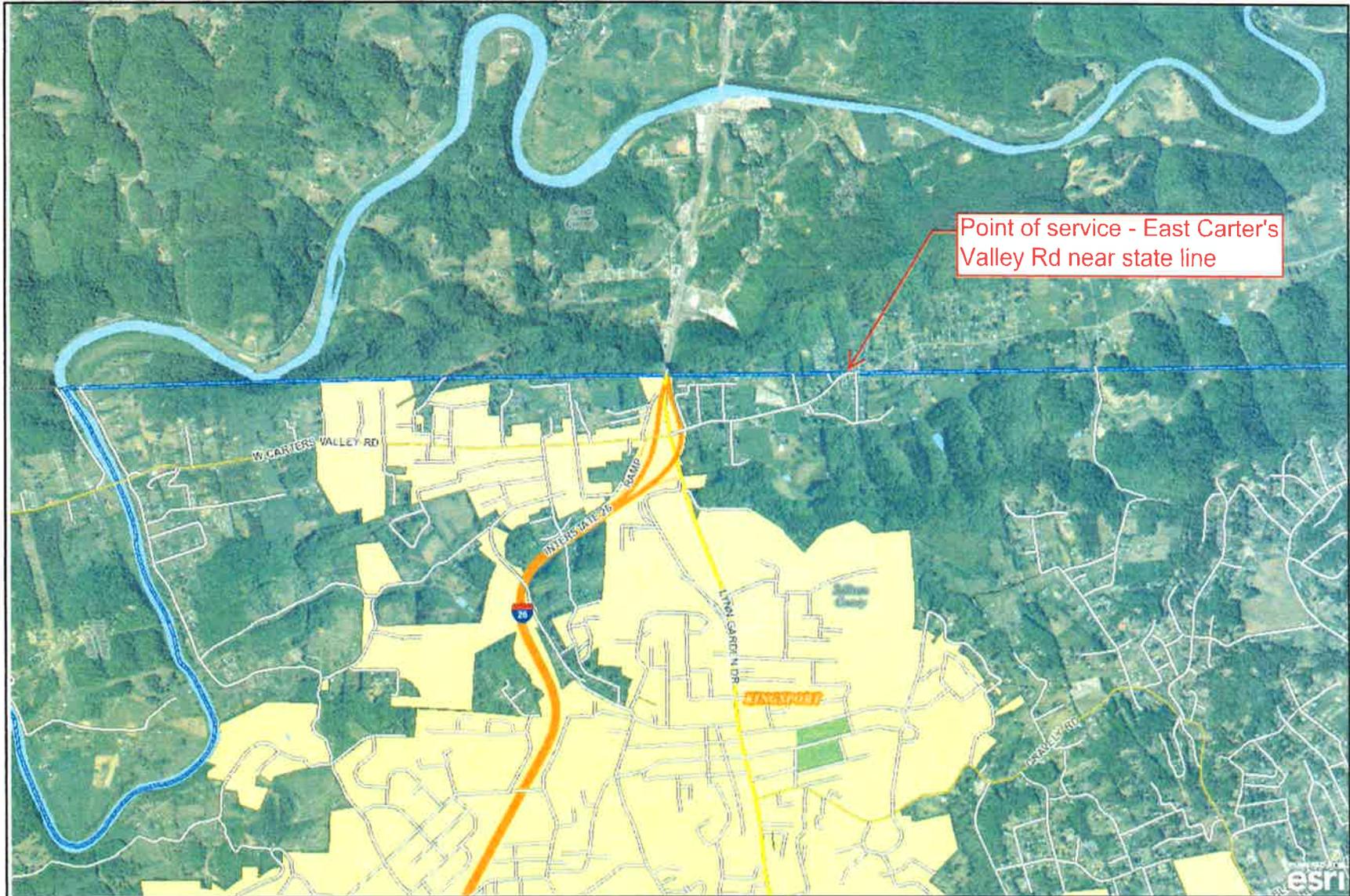
James H. Demming, City Recorder

By: _____
John Clark, Mayor

APPROVED AS TO FORM:

J. Michael Billingsley
City Attorney for Kingsport

Scott Co PSA Water Service



3,209 ft



The City of Kingsport uses the most current and complete data available. However, GIS data and product accuracy may vary. GIS data and products may be developed from sources of differing accuracy, accurate only at certain scales, based on modeling or interpretation, incomplete, who being created or revised, etc. The City of Kingsport reserves the right to correct, update, modify, or replace GIS products without notification. The City of Kingsport cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. Using GIS data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may neither assert any proprietary rights in this information nor represent it to anyone as other than City government-produced information. The City of Kingsport shall not be liable for any activity involving this information, with respect to lost profits, lost savings, or any other consequential damages.

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VANTAGEPOINTS



AGENDA ACTION FORM

Skyland Drive Property Exchange between the City and Eastman Chemical Company

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

Action Form No.: AF-70-2016
Work Session: April 4, 2016
First Reading: N/A

Final Adoption: April 5, 2016
Staff Work By: Committee
Presentation By: R. McReynolds, N. Ensor

Recommendation:

Approve the Resolution.

Executive Summary:

Eastman and the City own adjacent property at 4011 and 4015 Skyland Drive. Eastman representatives discovered that their air monitoring equipment is actually located on the city's property. In order to correct this issue, they propose to exchange the back portion of the city's lot for more road frontage of Eastman's property. The attached plat shows the proposed property exchange. Planning has reviewed and approved the exchange.

Attachments:

1. Resolution
2. Location Map
3. Property Plat

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING A PROPERTY EXCHANGE WITH EASTMAN CHEMICAL COMPANY, AND AUTHORIZING THE MAYOR TO EXECUTE THE ANY AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE EXCHANGE

WHEREAS, both the city and Eastman Chemical Company own adjacent property at 4011 and 4015 Skyland Drive; and

WHEREAS, recently, Eastman representatives discovered that its air monitoring equipment is actually located on the city's property; and

WHEREAS, in order to correct this issue, Eastman proposes to exchange the back portion of the city's lot for a portion of Eastman's property that provides additional frontage for the road on Skyland Drive.

Now therefore,

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

SECTION I. That a property exchange with Eastman Chemical Company regarding the lots at 4011 and 4015 Skyland Drive, as shown on the boundary survey, attached as Exhibit A, 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, a quitclaim deed conveying the property it is exchanging with Eastman Chemical Company, 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, and any and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the exchange or this resolution.

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

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

ADOPTED this the 5th day of April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Skyland Dr Property

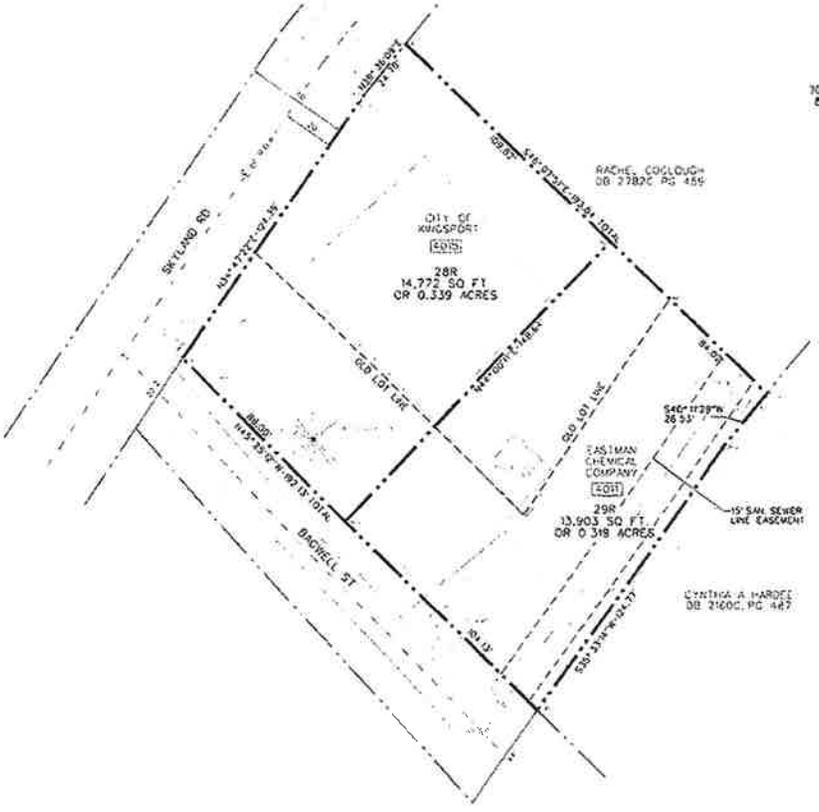
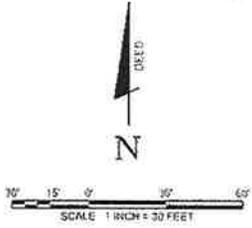
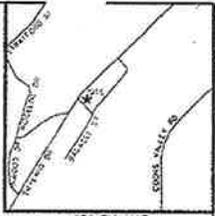


201 ft



The City of Kingsport uses the most current and complete data available. However, GIS data and product accuracy may vary. GIS data and products may be developed from sources of differing accuracy, accurate only at certain scales, based on modeling or interpretation, incomplete while being created or revised, etc. The City of Kingsport reserves the right to correct, update, modify, or replace GIS products without notification. The City of Kingsport cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. Using GIS data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may neither assert any proprietary rights to this information nor represent it to anyone as other than City Government produced information. The City of Kingsport shall not be liable for any activity involving this information with respect to lost profits, lost savings, or any other consequential damages.





LEGEND

---	Property Line
---	Survey Boundary
---	Right of Way
---	Utility Line
---	Other

NOTES

UTILITIES THAT ARE VISIBLE

UNDERGROUND UTILITIES ARE NOT VISIBLE

NO WARRANTY OR GUARANTEE

SURVEYOR MAKES

PRELIMINARY

<p>1. The survey was conducted in accordance with the standards and practices of the Surveying and Mapping Act of 1992.</p> <p>2. The survey was conducted in accordance with the standards and practices of the Surveying and Mapping Act of 1992.</p>

<p>3. The survey was conducted in accordance with the standards and practices of the Surveying and Mapping Act of 1992.</p> <p>4. The survey was conducted in accordance with the standards and practices of the Surveying and Mapping Act of 1992.</p>	<p>5. The survey was conducted in accordance with the standards and practices of the Surveying and Mapping Act of 1992.</p> <p>6. The survey was conducted in accordance with the standards and practices of the Surveying and Mapping Act of 1992.</p>
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PREPARED FOR
EASTMAN CHEMICAL COMPANY
P.O. BOX 511
KINGSPORT TN 37662

BWSC BARGE WAGGONER SUMNER & CANNON, INC

1000 W. MAIN ST. SUITE 100 KINGSPORT, TENNESSEE 37662
PHONE: 423-247-1231 FAX: 423-247-1232
WWW.BWSC-INC.COM

RE-SUBDIVISION OF
LOT 28 & 29 CITY VIEW ADDITION
KINGSPORT REGIONAL DEVELOPMENT CORPORATION



AGENDA ACTION FORM

Agreement with Perkin + Will, Inc. for Architectural Services for Kingsport City Schools

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

Action Form No.: AF-77-2016
Work Session: April 4, 2016
First Reading: N/A

Final Adoption: April 5, 2016
Staff Work By: Committee
Presentation By: Dr. Ailshie/David Frye

Recommendation:

Approve the Resolution.

Executive Summary:

Request for Qualifications were requested from Architectural Firms on October 12, 2015 for Architectural Services for the Kingsport City Schools. On December 1, 2015, six firms submitted proposals. Three firms were selected to interview. After diligent review and consideration of all proposals, references, and interview evaluations, Perkins + Will in association with Beeson, Lusk, & Street were chosen for fee negotiations. Fees and Scope of Work were agreed upon by both parties.

It is recommended to award Perkins+ Will in association with Beeson, Lusk, & Street Phase One (1) Programming and Schematic Design Architectural Services for the Dobyns-Bennett High School Science and Technology Center and Dobyns-Bennett High School Renovations:

<u>Programming:</u>	\$30,000
<u>Schematic Design:</u>	\$154,875
Total Phase 1	\$184,874

Funding will be from the Kingsport City Schools Local Regular Operating Account 0722.

Attachments:

- 1. Resolution

Funding source appropriate and funds are available:

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Oiterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PROPOSAL FROM PERKINS + WILL, INC. FOR ARCHITECTURAL SERVICES FOR KINGSPORT CITY SCHOOLS, APPROVING AN AGREEMENT FOR THE SAME AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, on December 1, 2015, the city reviewed responses for request of qualifications for architectural services for the Kingsport City Schools for the Phase One (1) Programming and Schematic Design Architectural Services for the Dobyons-Bennett High School Science and Technology Center and Dobyons-Bennett High School Renovations; and

WHEREAS, upon review of the proposals, and in the best interest and advantage to the city, it is recommended by the board of education to enter into a professional services agreement with Perkins+ Will, Inc. in association with Beeson, Lusk, & Street, Inc., for Phase One (1) Programming and Schematic Design Architectural Services for the Dobyons-Bennett High School Science and Technology Center and Dobyons-Bennett High School Renovations at an estimated cost of \$184,874.00; and

WHEREAS, funding is identified Kingsport City Schools Local Regular Operating Account 0722;

Now therefore,

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

SECTION I. That the agreement with Perkins + Will, Inc., in association with Beeson, Lusk, & Street, for the Phase One (1) Programming and Schematic Design Architectural Services for the Dobyons-Bennett High School Science and Technology Center and Dobyons-Bennett High School Renovations at an estimated cost of \$184,874.00, 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 Perkins + Will, Inc., in association with Beeson, Lusk, & Street, for the Phase One (1) Programming and Schematic Design Architectural Services for the Dobyons-Bennett High School Science and Technology Center and Dobyons-Bennett High School Renovations 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:

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, effective on April 6, 2016, by and between Perkins + Will, Inc., Inc., hereinafter referred to as "CONSULTANT" and the CITY OF KINGSPORT, hereinafter referred to as "OWNER".

WITNESSETH:

WHEREAS, OWNER has need for professional services and other adjunct services as may be authorized by OWNER for Architectural Services for the Dobyons-Bennett High School Science and Technology Center and Dobyons-Bennett High School Renovations, and;

WHEREAS, CONSULTANT desires to provide such services and being competent to do so;

NOW THEREFORE, OWNER and CONSULTANT in consideration of the mutual covenants and agreements herein contained, do hereby agree as follows:

ARTICLE I
SCOPE OF SERVICES AND SCHEDULE

1.1 The work and services to be performed (hereinafter referred to as "Services") by CONSULTANT shall be in accordance with CONSULTANT's Scope of Work, as detailed in Appendix A attached hereto and made a part hereof as though fully set out in the body of this Agreement.

1.2 On receiving authorization to proceed with the work, CONSULTANT shall proceed with the Scope of Work contained in Appendix A.

1.3 CONSULTANT shall proceed on a schedule mutually agreed with OWNER.

ARTICLE II INDEPENDENT CONTRACTOR

2.1 CONSULTANT warrants to be an independent contractor and responsible for its Services, and not as the agent of OWNER, in performing the Agreement, maintaining complete control over its employees and all of its subcontractors. Nothing contained in this Agreement or any subcontract awarded by CONSULTANT shall create any contractual relationship between any such subcontractor and OWNER. CONSULTANT shall provide services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. The CONSULTANT shall review State of Tennessee and City of Kingsport laws and regulations applicable to its services.

CONSULTANT agrees to comply with all applicable Federal, State and Local codes and ordinances, including all applicable requirements of the Americans with Disabilities Act, in the design or implementation of the Project.

ARTICLE III COMMITMENT OF PERSONNEL

3.1 CONSULTANT represents that it has, or will secure at its own expense, the qualified personnel required in performing the Services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with OWNER.

3.2 All the Services required hereunder will be performed by CONSULTANT or subcontractors under their supervision and all personnel engaged in the Services shall be fully qualified and shall be authorized or permitted under State of Tennessee and local laws to perform such Services.

ARTICLE IV COMPENSATION

4.1 OWNER agrees to compensate CONSULTANT for Services performed pursuant to Article I, which Services are identified in Appendix A, for an amount not to exceed ONE HUNDRED EIGHTY FOUR THOUSAND EIGHT HUNDRED SEVENTY FOUR DOLLARS AND ZERO CENTS (\$184,874.00). Said fee is inclusive of all labor, expenses and subcontracts to complete all elements of the Services for the Scope of Work, (Appendix A) except as may be identified as OWNER'S Responsibility in Appendix A, if such is included.

4.2 CONSULTANT shall submit periodic invoices in a form consistent with OWNER'S needs. Invoices for work performed shall indicate the time period during which the work was performed. The invoices are to be signed and certified as to their accuracy.

4.3 OWNER will promptly review monthly invoices. OWNER may require any additional information deemed necessary and appropriate to substantiate the invoice. OWNER shall have ten (10) work days from date of receipt from CONSULTANT of an invoice to reject all or any part of the invoice. OWNER shall pay the undisputed amounts to CONSULTANT within thirty (30) days of receipt of the invoice. The invoice shall show the percentage of completion of the Services as of the end of the period covered by the invoice.

4.4 CONSULTANT shall be responsible for alerting OWNER in any instance when it anticipates exceeding the budget amount; shall provide justification for same; and shall do so prior to expending 100% of the amount set out in 4.1 of this Agreement. The Agreement may be amended as the work progresses, provided CONSULTANT receives written authorization from OWNER to make such amendments.

ARTICLE V PERIOD OF PERFORMANCE

5.1 The Scope of the Services to be performed by CONSULTANT shall commenced on the date when this Agreement is executed by all the parties. The Scope of the Service shall be fully and finally completed by September 30, 2016, unless the parties mutually agree in writing to extend the time. Final completion is the completion of all Services and all contract requirements by CONSULTANT.

ARTICLE VI LIABILITY AND INSURANCE

6.1 Public and Professional Liability - CONSULTANT shall fully indemnify, defend and save harmless OWNER, its Board of Mayor and Aldermen, employees and agents from and against damages, liabilities, expenses, compensations, claims, demands, suits or judgments of sums of money, including but not limited to court costs and reasonable counsel fees, to any party for loss of life or injury or damage to persons or property to the extent caused by, any negligent act, error, omission, of CONSULTANT, its agents, servants, or employees while engaged upon or in connection with the Services required or performed by CONSULTANT. The provisions of this Article VI shall

survive the termination or expiration of this Agreement.

6.2 Insurance - Prior to beginning these Services, CONSULTANT shall, at CONSULTANT'S expense, obtain, keep in force during the term of this Agreement the following minimum amounts of insurance:

1. General Liability - occurrence basis bodily injury, personal injury and property damage - \$500,000 – \$1,000,000 combined single limit per occurrence;
2. Automobile liability - owner, hired, and non-owned bodily injury and property damage - \$500,000 – \$1,000,000 combined single limit per occurrence;
3. Workmen's compensation with statutory limits and employer's liability insurance with minimum limits of \$500,000, to provide for the payment of employees of CONSULTANT employed on or in connection with the work and/or to their dependents, of worker's compensation benefits, including when required, occupational disease benefits in accordance with the U. S. Longshoremen's and Harbor Worker's Compensation Act and the Jones Act. With the prior approval of OWNER, CONSULTANT may substitute different types of coverage for those specified as long as the total amount of required protection is not reduced.

OWNER, its Board of Mayor and Aldermen, its employees, and agents shall be named as additional insured on the certificates of insurance (General Liability or Automobile Liability) for such policies, and a certified copy of such certificates shall be provided to OWNER by CONSULTANT prior to the start of Services. CONSULTANT shall provide OWNER, upon its request, a certified copy of any insurance policy required by this Agreement. Any failure or non- coverage by such policy or the limit of any such insurance shall not limit the liability of CONSULTANT to OWNER. The policy, or policies, shall contain a provision that such policy or policies may not be cancelled without thirty (30) days prior written notice of such cancellation to OWNER. Insurance required hereunder shall be in companies reasonably acceptable to OWNER.

ARTICLE VII TERMS AND CONDITIONS

7.1 Successors and Assigns - This Agreement and all of its terms and conditions shall extend to and be binding upon the parties hereto and upon their respective heirs, executors, administrators, successors, and assigns.

7.2 Subletting, Assignment, or Transfer - This Agreement may not be sublet, assigned or transferred, changed, modified, or amended, in whole or in part, except as may be agreed, in writing, and signed by all the parties hereto.

7.3 Extent of Agreement - This Agreement constitutes the entire and integrated agreement between OWNER and CONSULTANT and no other written or oral understanding shall constitute part of this Agreement.

7.4 Severability - To the extent that any provision of this Agreement is finally adjudged invalid or unenforceable by a tribunal of competent jurisdiction, such provision shall be deemed modified to the extent necessary to make it enforceable.

7.5 Compliance of Laws - CONSULTANT shall comply with applicable laws, ordinances, rules, regulations and requirements of all federal, state and local governments, courts, boards, commissions or any other body exercising functions similar to the foregoing insofar as carrying out the provisions of this Agreement.

7.6 Termination – If through any cause, either party shall fail to fulfill in timely and proper manner the obligations, agreements or stipulations of this Agreement, the other party shall thereupon have the right to terminate this Agreement by filing written notice to the party in breach of such termination and specifying the effective date thereof, at least five days before the effective day of such termination.

In such event, all finished or unfinished documents, data, studies, and reports prepared by CONSULTANT under this Agreement shall, at the option of OWNER, become its property and CONSULTANT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents. Notwithstanding the foregoing, CONSULTANT shall not be relieved of liability to OWNER for damages sustained by virtue of any breach of the agreement by CONSULTANT and OWNER may withhold any payments to CONSULTANT for the purpose of set off until such time as the exact amount of damages due OWNER from CONSULTANT is determined.

7.7 Governing Law - This Agreement shall be interpreted under and governed by the laws of the state of Tennessee.

7.8 Right to Rely – The CONSULTANT shall have the right to reasonably rely upon the accuracy and completeness of the services and information furnished by the OWNER. The CONSULTANT shall provide prompt written notice to the OWNER if the CONSULTANT becomes aware of any errors, omissions or inconsistencies in such services or information. Nothing herein shall be construed so as to release CONSULTANT from its responsibility or liability.

7.9 Dispute Resolution – In the event that a conflict arises that cannot be resolved between the parties, OWNER and CONSULTANT agree that all disputes arising out of or relating to this

Agreement or the Project shall be first submitted to non-binding mediation, unless the parties mutually agree otherwise. The mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period of agreement of the parties or court order.

7.10 Waiver of Consequential Damages – Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the OWNER nor the CONSULTANT, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty.

ARTICLE VIII OWNERSHIP OF DOCUMENTS

8.1 All documents, reports and material prepared by CONSULTANT in the performance of this Agreement shall become the sole property of OWNER upon payment in full of all monies owed the CONSULTANT, provided CONSULTANT is not in breach of this Agreement. CONSULTANT hereby acknowledges that all right, title, and interest in the documents and all related reports, plans, drawings, technical memoranda and other directly related documents of any kind prepared or made by CONSULTANT or its subcontractors in the performance of or in connection with CONSULTANT'S Services and duties under this Agreement shall be vested solely with OWNER, including the right to hold, use, or dispose of same as OWNER deems appropriate in its sole discretion, but if OWNER uses such documents for other than intended purpose, OWNER assumes any and all liabilities for such use of the documents and CONSULTANT waives any property rights and copyright to such documents.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound have caused their duly authorized representative to, set their hand this day, month, and year first above written.

[Acknowledgements and Appendices 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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



AGENDA ACTION FORM

Execute an Agreement with Bloomingdale Utility District for the Installation of Waterlines for the John B. Dennis Annexation

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

Action Form No.: AF-71-2016
Work Session: April 4, 2016
First Reading: N/A

Final Adoption: April 5, 2016
Staff Work By: C. Austin
Presentation By: R. McReynolds

Recommendation:

Approve the Resolution.

Executive Summary:

The John B. Dennis Annexation was approved on July 10, 2012. As part of the Plan of Services for fire protection for the annexed parcels, Bloomingdale Utility District must upgrade their waterlines to provide adequate water flow and pressure. This agreement will provide funding for the project.

The agreement states that Bloomingdale will provide all engineering, materials, and construction for the project. The City will provide funding directly to Bloomingdale upon receipt of invoices for such services. The maximum amount of the agreement is \$129,500. Funding is available in GP1405.

Attachments:

- 1. Resolution
- 2. Proposed Agreement
- 3. Location Map

Funding source appropriate and funds are available: 

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH THE BLOOMINGDALE UTILITY DISTRICT FOR THE INSTALLATION OF WATERLINES FOR THE JOHN B. DENNIS ANNEXATION AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the John B. Dennis Annexation was approved on July 10, 2012; and

WHEREAS, as part of the Plan of Services, the Bloomingdale Utility District must upgrade its waterlines; and

WHEREAS, the agreement set out below will provide for the funding for the project, in the amount of \$129,500.00; and

WHEREAS, funding is available in GP1405.

Now therefore,

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

SECTION I. That an agreement with Bloomingdale Utility District, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the agreement with the Bloomingdale Utility District 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:

AGREEMENT

This Agreement is entered into this the ____ day of _____, 2016, by and between the CITY OF KINGSPORT, hereinafter referred to as "Kingsport", a municipal corporation of the state of Tennessee and the BLOOMINGDALE UTILITY DISTRICT, hereinafter referred to as "Bloomingdale", a utility district of the state of Tennessee.

WITNESSETH:

WHEREAS, the parties are authorized to enter into this Agreement pursuant to Tennessee Code Annotated § 7-35-416; and

WHEREAS, it is deemed in the public interest for the parties hereto to enter into this Agreement for the upgrade of waterlines for fire protection of newly annexed areas.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

Section 1. Bloomingdale will perform, as a condition precedent to Kingsport providing its obligations set out in this Agreement, the following:

a. Provide, at its costs, engineering and construction services for waterline upgrades to provide fire protection in an area known as the JB Dennis Annexation, effective date August 10, 2012.

b. Upgrades to the Bloomingdale water system shall provide 750 gallons per minute with fire hydrants installed within 600 feet of all properties contained in the annexation. (map is attached)

Section 2. Once Bloomingdale satisfactorily completes its obligation under Section 1, Kingsport will provide the following:

a. Kingsport will reimburse Bloomingdale upon receipt of applicable invoices for design, labor, equipment, and materials – up to \$129,500. Invoices will be provided by Bloomingdale on a monthly basis and will be paid within 30 days of approval of invoices by the Distribution & Collection Manager for Kingsport.

Section 3. The construction of waterline upgrades is to be completed by December 31, 2016.

Section 4. This Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in the state of Tennessee, and the parties will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

Section 5. Neither party will be liable to the other party or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, severe weather, thunderstorms, severe winds, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or governmental authorities' approval delays which are not caused by any act or omission by either party. The party whose performance is affected agrees to notify the other party promptly of the existence and nature of the delay.

Section 6. In the event that any provision or portion of this Agreement is found to be invalid or unenforceable, then such provision or portion thereof will be reformed in accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of any of this Agreement will not affect the validity or enforceability of any other provision or portion of the Agreement.

Section 7. The failure of either party to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions set forth in this Agreement, and the continuance of such default for a period of thirty (30) days after the defaulting party's receipt of written notice from the non-defaulting party of said failure will be a default. Upon the occurrence of an alleged default, or a dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement or, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties will engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it will be to meet for the purpose of attempting to resolve such Dispute. The designated officers will meet as often as the parties deem reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this Section 7, and in the event either party concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the parties may mutually agree to submit to nonbinding mediation. If the matter is not resolved by mediation either party will have the right, at its sole option, without further demand or notice, to take whatever action at law or in equity may appear necessary or desirable to enforce its rights including, but not limited to, the suspension or termination of this Agreement. Venue for any litigation for any dispute arising out of or related to this Agreement, which cannot promptly be resolved by negotiation, will be the state courts for Kingsport, Sullivan County, Tennessee. This Agreement will be construed under and will be governed by the laws of the state of Tennessee.

Section 8. Notices, statements and other communications to be given under the terms of this Agreement will be in writing and delivered by hand, sent by certified mail, postage prepaid, return receipt requested, or sent by nationally recognized overnight delivery service, or email addressed to the parties as follows:

To Kingsport:

W/WW Distribution and Collection Manager

City of Kingsport

225 West Center Street

Kingsport, Tennessee 37660

with copy to:

City Attorney

City of Kingsport

225 West Center Street

Kingsport, Tennessee 37660

To Bloomingdale Utility District:

Freddie Hicks, Manager

Bloomingdale Utility District

Bloomingdale Road

Kingsport, Tennessee 37660

Such notice may also be sent to such other address as is from time to time designated by the party receiving the notice. Any such notice that is sent in accordance with this Section 8 will be deemed received when hand delivery is received or refused, as shown on the return receipt if mailed or shown as delivered if sent by nationally recognized overnight delivery service.

Section 9. Both parties are governmental entities having substantial experience with the subject matter of this Agreement, and each has fully participated in the negotiation and drafting of this Agreement. Accordingly, this Agreement will be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences will be drawn from the fact that the final, duly executed Agreement differs in any respect from any previous draft hereof.

Section 10. This Agreement, together with any other writings signed by the parties expressly stated to be supplemental hereto and together with any instruments to be executed and delivered pursuant to this Agreement, constitutes the entire agreement between the parties and supersedes all prior understandings and writings, and this Agreement may only be modified or amended during the term only by a written non-electronic instrument that has been duly executed by the non-electronic signatures of authorized representatives of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate original counterparts, each of which constitutes an original.

[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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

AGREEMENT

This Agreement is entered into this the ____ day of _____, 2016, by and between the CITY OF KINGSPORT, hereinafter referred to as "Kingsport", a municipal corporation of the state of Tennessee and the BLOOMINGDALE UTILITY DISTRICT, hereinafter referred to as "Bloomingtondale", a utility district of the state of Tennessee.

WITNESSETH:

WHEREAS, the parties are authorized to enter into this Agreement pursuant to Tennessee Code Annotated § 7-35-416; and

WHEREAS, it is deemed in the public interest for the parties hereto to enter into this Agreement for the upgrade of waterlines for fire protection of newly annexed areas.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

Section 1. Bloomingtondale will perform, as a condition precedent to Kingsport providing its obligations set out in this Agreement, the following:

- a. Provide, at its costs, engineering and construction services for waterline upgrades to provide fire protection in an area known as the JB Dennis Annexation, effective date August 10, 2012.
- b. Upgrades to the Bloomingtondale water system shall provide 750 gallons per minute with fire hydrants installed within 600 feet of all properties contained in the annexation. (map is attached)

Section 2. Once Bloomingtondale satisfactorily completes its obligation under Section 1, Kingsport will provide the following:

- a. Kingsport will reimburse Bloomingtondale upon receipt of applicable invoices for design, labor, equipment, and materials – up to \$129,500. Invoices will be provided by Bloomingtondale on a monthly basis and will be paid within 30 days of approval of invoices by the Distribution & Collection Manager for Kingsport.

Section 3. The construction of waterline upgrades is to be completed by December 31, 2016.

Section 4. This Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in the state of Tennessee, and the parties will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

Section 5. Neither party will be liable to the other party or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, severe weather, thunderstorms, severe winds, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or governmental authorities' approval delays which are not caused by any act or omission by either party. The party whose performance is affected agrees to notify the other party promptly of the existence and nature of the delay.

Section 6. In the event that any provision or portion of this Agreement is found to be invalid or unenforceable, then such provision or portion thereof will be reformed in accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of any of this Agreement will not affect the validity or enforceability of any other provision or portion of the Agreement.

Section 7. The failure of either party to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions set forth in this Agreement, and the continuance of such default for a period of thirty (30) days after the defaulting party's receipt of written notice from the non-defaulting party of said failure will be a default. Upon the occurrence of an alleged default, or a dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement or, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties will engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it will be to meet for the purpose of attempting to resolve such Dispute. The designated officers will meet as often as the parties deem reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this Section 7, and in the event either party concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the parties may mutually agree to submit to nonbinding mediation. If the matter is not resolved by mediation either party will have the right, at its sole option, without further demand or notice, to take whatever action at law or in equity may appear necessary or desirable to enforce its rights including, but not limited to, the suspension or termination of this Agreement. Venue for any litigation for any dispute arising out of or related to this Agreement, which cannot promptly be resolved by negotiation, will be the state courts for Kingsport, Sullivan County, Tennessee. This Agreement will be construed under and will be governed by the laws of the state of Tennessee.

Section 8. Notices, statements and other communications to be given under the terms of this Agreement will be in writing and delivered by hand, sent by certified mail, postage prepaid, return receipt requested, or sent by nationally recognized overnight delivery service, or email addressed to the parties as follows:

To Kingsport:
WWW Distribution and Collection Manager
City of Kingsport
225 West Center Street
Kingsport, Tennessee 37660

with copy to:

City Attorney
City of Kingsport
225 West Center Street
Kingsport, Tennessee 37660

To Bloomingdale Utility District:
Freddie Hicks, Manager
Bloomingdale Utility District
Bloomingdale Road
Kingsport, Tennessee 37660

Such notice may also be sent to such other address as is from time to time designated by the party receiving the notice. Any such notice that is sent in accordance with this Section 8 will be deemed received when hand delivery is received or refused, as shown on the return receipt if mailed or shown as delivered if sent by nationally recognized overnight delivery service.

Section 9. Both parties are governmental entities having substantial experience with the subject matter of this Agreement, and each has fully participated in the negotiation and drafting of this Agreement. Accordingly, this Agreement will be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences will be drawn from the fact that the final, duly executed Agreement differs in any respect from any previous draft hereof.

Section 10. This Agreement, together with any other writings signed by the parties expressly stated to be supplemental hereto and together with any instruments to be executed and delivered pursuant to this Agreement, constitutes the entire agreement between the parties and supersedes all prior understandings and writings, and this Agreement may only be modified or amended during the term only by a written non-electronic instrument that has been duly executed by the non-electronic signatures of authorized representatives of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate original counterparts, each of which constitutes an original.

BLOOMINGDALE UTILITY DISTRICT

ATTEST:

By: _____
Freddie Hicks, Manager

APPROVED AS TO FORM:

Attorney for Bloomingdale Utility District

CITY OF KINGSPORT, TENNESSEE

ATTEST:

James H. Demming, City Recorder

By: _____
John C. Clark, Mayor

APPROVED AS TO FORM:

J. Michael Billingsley
City Attorney for Kingsport

John B Dennis water upgrades



1,234 ft



The City of Kingsport uses the most current and complete data available. However, GIS data and product accuracy may vary. GIS data and products may be developed from sources of differing accuracy, accurate only at certain scales, based on modeling or interpretation, incomplete while being created or revised, etc. The City of Kingsport reserves the right to correct, update, modify, or replace GIS products without notification. The City of Kingsport cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. Using GIS data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may neither assert any proprietary rights to this information nor represent it to anyone as other than City Government-produced information. The City of Kingsport shall not be liable for any activity involving this information with respect to lost profits, lost savings, or any other consequential damages.

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AGENDA ACTION FORM

Second Amendment to Funding Agreement with the Industrial Development Board of the City of Kingsport (KEDB), Sullivan County, Tennessee and the Bank of Tennessee

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

Action Form No.: AF-76-2016
Work Session: April 4, 2016
First Reading: N/A

Final Adoption: April 5, 2016
Staff Work By: KEDB Atty. Waddell
Presentation By: Jeff Fleming

Recommendation:

Approve the Resolution.

Executive Summary:

Effective July 5, 2011, The Industrial Development Board of the City of Kingsport, Tennessee (KEDB) entered into a purchase option with Magneti Marelli North America, Inc., whereby KEDB was granted the option to purchase the Magneti Marelli Manufacturing facility located on Airport Parkway in Kingsport, Tennessee.

Effective August 23, 2011, KEDB exercised its option to purchase this property for a gross purchase price of \$3,400,000. KEDB then leased the Property to C & F Manufacturing USA, Inc. (C & F) by lease dated August 23, 2011, for an initial term of 10 years with two successive five year renewal terms. The monthly rental payments during the initial term was \$22,615.93.

In order to finance the purchase of the property, KEDB borrowed the sum of \$3,500,000, from Bank of Tennessee as evidenced by Promissory Note dated August 22, 2011. The Note was for a term of 20 years, accruing interest at the rate of 4.680% per annum for a period of 10 years until August 22, 2021, after which time interest may change based on a variable rate as described in the Note. Monthly note payments of principal and interest are \$22,615.93, the amount C & F is required to pay under the Lease.

Executive Summary continued.

Attachments:

- 1. Continuation of Executive Summary
- 2. Resolution

Funding source appropriate and funds are available:

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

[Executive Summary Action Form 76-2016 continued]

Pursuant to the Funding Agreement dated July 21, 2011, between KEDB, the City of Kingsport, Tennessee and Sullivan County, Tennessee, the Board of Mayor and Aldermen of the City and the Sullivan County Commission adopted resolutions to provide contingency funding to KEDB in the aggregate amount of up to \$300,000 per year. More specifically, the Funding Agreement provides that to support KEDB's acquisition of the Property and Bank of Tennessee's making of the Acquisition Loan, the City and County each agreed to pay to KEDB 50% of the amount by which the rent payments as collected by KEDB under the Lease are insufficient to make the payments required under the Acquisition Loan, with the maximum amount of each governmental entity's contingency payment to be \$150,000 per year.

Apparently, C & F defaulted in the payment of rent due under the Lease and KEDB has acquired C & F's leasehold interest in the Property by judicial process through a Writ of Detainer. The Property is now vacant and is being aggressively marketed for sale or for long term lease with purchase option.

In March of 2015, KEDB requested and the City and County agreed to a First Amendment to Funding Agreement.

KEDB has again requested an Amendment to the Funding Agreement, modifying the payment as set out in Section 3 of the Second Amendment to Funding Agreement set out in the attached resolution.

RESOLUTION NO. _____

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE FUNDING AGREEMENT WITH THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KINGSPORT AND SULLIVAN COUNTY FOR FUNDING FOR THE MANUFACTURING FACILITY LOCATED AT 10388 AIRPORT PARKWAY, AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENTS

WHEREAS, in August 22, 2011, the board approved a Funding Agreement, which the city and Sullivan County agreed to make certain funding commitments to support a loan made by the Bank of Tennessee to the Industrial Development Board of the City of Kingsport, Tennessee to acquire a manufacturing facility located at 10388 Airport Parkway, Kingsport Tennessee; and

WHEREAS, the Industrial Development Board of the City of Kingsport then leased the facility to C&F Manufacturing USA, Inc.; and

WHEREAS, C&F Manufacturing USA, Inc. has defaulted in the payment of rent under their lease agreement with the Industrial Development Board of the City of Kingsport; and

WHEREAS, KEDB has requested the board approve a First Amendment to the Funding Agreement with the Industrial Development Board of the City of Kingsport, Tennessee and Sullivan County, Tennessee reaffirming its contingency funding commitment pursuant to the July 21, 2011, Funding Agreement.

WHEREAS, the Industrial Development Board of the City of Kingsport has requested a second amendment to the agreement, modifying the payment schedule for the Promissory Note set out in Section 3 of the Second Amendment to Funding Agreement set out herein below.

Now therefore,

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

SECTION I. That a Second Amendment to Funding Agreement with the Industrial Development Board of the City of Kingsport, Tennessee and Sullivan County, Tennessee, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a Second Amendment to Funding Agreement the with Industrial Development Board of the City of Kingsport, Tennessee and Sullivan County, Tennessee, 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:

SECOND AMENDMENT TO FUNDING AGREEMENT

THIS SECOND AMENDMENT TO FUNDING AGREEMENT, effective as of _____, 2016, is made by and among **THE CITY OF KINGSPORT, TENNESSEE**, a municipal corporation of the State of Tennessee (herein the "City"), **SULLIVAN COUNTY, TENNESSEE**, a political subdivision of the State of Tennessee (herein the "County"), and **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KINGSPORT, TENNESSEE**, a corporation organized under T.C.A. § 7-53-101 et seq., commonly known as the "Kingsport Economic Development Board" (herein "KEDB") (the City, County and KEDB sometimes referred to herein individually as a "Party" or collectively as the "Parties").

RECITALS:

A. The Parties previously have entered into a Funding Agreement dated as of August 22, 2011 (the "Funding Agreement") pursuant to which the City and County have undertaken certain contingency funding commitments to support a loan made by Bank of Tennessee (the "Lender") to KEDB in the principal amount of \$3,500,000 (the "Term Loan"), the proceeds of which were used by KEDB to acquire a manufacturing facility located at 10388 Airport Parkway, Kingsport, Tennessee (the "Facility").

B. Pursuant to Lease Agreement dated August 23, 2011 (the "Lease Agreement") KEDB leased the Facility to C & F Manufacturing USA, Inc. ("C&F") for the purpose of facilitating C & F's manufacturing operations at such Facility.

C. C & F defaulted in the payment of rent due under the Lease Agreement thereby necessitating the performance of the obligations of the City and the County under the Funding Agreement to provide funds to KEDB for the purpose of making payments due under the Term Loan.

D. Pursuant to the request of the City, County, and KEDB, Lender has previously agreed to modify the payment terms under the Term Loan pursuant to First Amendment to Loan and Security Agreement dated April 3, 2015, and Modification to Promissory Note dated April 3, 2015.

E. KEDB has requested that Lender further amend and extend the Term Loan pursuant to a Second Amendment to Loan Agreement and a Second Modification to Promissory Note, and Lender has requested that the City, County and KEDB enter into this Second Amendment to Funding Agreement in connection with such loan modification.

NOW, THEREFORE, in consideration of the foregoing premises, and in consideration of and to induce Lender's modification of the Term Loan as described herein, the City, County and KEDB do hereby contract and agree as follows:

1. Status of Term Loan. The Term Loan is evidenced by KEDB's Promissory Note dated August 22, 2011, payable to Lender in the original principal amount of \$3,500,000 as amended by the Modification to Promissory Note dated April 3, 2015 and Second Modification to Promissory Note dated _____, 2016 (collectively the "Promissory Note"). The Parties acknowledge that the current outstanding principal balance under the Promissory Note is \$3,090,303.85.

2. Continuation of Original Interest Rate Formula. Interest under the Promissory Note shall continue to accrue at the original interest rate of 4.68% per annum until August 22, 2021 at which time the interest rate shall be adjusted according to the "Variable Rate" as specified in the Promissory Note as originally executed.

3. Modified Payment Schedule for Promissory Note.

(a) April 22, 2016 through March 22, 2018. Payments under the Promissory Note shall be due on the 22nd day of each calendar month. Effective with the monthly payment due April 22, 2016, and continuing through the monthly payment due March 22, 2018, principal amortization required under the Promissory Note shall be suspended and payments of only accrued interest shall be due and payable on the 22nd day of each calendar month.

(b) April 22, 2018 through August 22, 2021. Effective with the monthly payment due April 22, 2018 and continuing on the 22nd day of each succeeding calendar month through August 22, 2021, principal and interest shall be due and payable in equal consecutive monthly installments of \$25,993.31 each.

(c) September 22, 2021 to Maturity. Effective as of August 22, 2021, interest on the outstanding principal balance shall be adjusted according to the "Variable Rate" as set forth in the Promissory Note as originally executed and the monthly payments of principal and interest due under the Promissory Note for September 22, 2021 and each month thereafter shall be adjusted accordingly.

(d) Maturity Date. The final payment of all remaining principal and accrued interest under the Promissory Note shall be due on August 22, 2031.

4. Reaffirmation of Contingency Funding Commitment by the City of Kingsport. In consideration of the modification of the Promissory Note as described herein, the City hereby reaffirms its commitment under the Funding Agreement to pay to KEDB 50% of the amount by which the rent payments collected by KEDB under the Lease Agreement are insufficient to make the payments required under the Promissory Note, as amended by the Second Modification to Promissory Note. All other terms

and conditions of the City's funding commitment remain as originally stated in the Funding Agreement.

5. Reaffirmation of Contingency Funding Commitment by Sullivan County. In consideration of the modification of the Promissory Note as described herein, the County hereby reaffirms its commitment under the Funding Agreement to pay to KEDB 50% of the amount by which the rent payments collected by KEDB under the Lease Agreement are insufficient to make the payments required under the Promissory Note, as amended by the Second Modification to Promissory Note. All other terms and conditions of the County's funding commitment remain as originally stated in the Funding Agreement.

6. Reaffirmation of Security Interest and Pledge. The City and County hereby acknowledge and agree that (i) KEDB has assigned, pledged and granted to Lender a security interest in its rights under the Funding Agreement as collateral for the Promissory Note, (ii) KEDB shall modify the Loan and Security Agreement as required by Lender to reflect the loan modification as described in the Second Modification to Promissory Note, and, (iii) Lender, as the assignee, pledgee and holder of such security interest, shall be entitled to enforce KEDB's rights under the Funding Agreement, as modified by this Second Amendment to Funding Agreement, and to apply the monies payable by the City and County under the Funding Agreement, as modified by this Second Amendment to Funding Agreement, to the monies due from time to time under the Promissory Note, as modified.

7. No Other Amendments or Modifications. Except as set for the herein, all other terms and provisions of the Funding Agreement remain in full force and effect as originally executed.

8. No Personal Liability. No member, director, officer, commissioner, elected representative or employee, whether past present or future, of the City, County or KEDB, or any successor body, shall have any personal liability for the performance of any obligations of the City, the County or KEDB respectively, under the Funding Agreement as modified by this Second Amendment to Funding Agreement.

IN WITNESS WHEREOF, the Parties have caused this instrument to be executed by their respective duly authorized representatives as of the date first written hereinabove on the following pages.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the amendment set out herein that do not substantially alter the material provisions of the amendment, 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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



AGENDA ACTION FORM

Agreement with TDOT for Widening of SR-347 (Rock Springs Rd) from Cox Hollow Rd (LM 9.52) to I-26 (US-23) (LM 10.73)

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

Action Form No.: AF-75-2016
Work Session: April 4, 2016
First Reading: N/A

Final Adoption: April 5, 2016
Staff Work By: Michael Thompson
Presentation By: Ryan McReynolds

Recommendation:

Approve the Resolution.

Executive Summary:

This project consists of widening Rock Springs Road (SR-347) from Cox Hollow Road (LM 9.52) to I-26 (US-23) (LM 10.73). This will be an improved 2-lane roadway similar to the city's investment west of Cox Hollow Road.

Project is an 80% federally funded, and 20% state funded. The estimated total cost for all phases of this project is \$10,000,000.00, and a maximum contribution of \$2,000,000.00 Federal will be provided by the Kingsport MPO.

We request to enter into an agreement with TDOT for Widening of SR-347 (Rock Springs Rd) from Cox Hollow Rd (LM 9.52) to I-26 (US-23) (LM 10.73); Agreement No. 160027; PIN 112965.00; Federal Project No. STP/M-347(10); State Project No. 82023-3219-54.

Attachments:

- 1. Resolution
- 2. Agreement (23 pages)
- 3. Location Map

Funding source appropriate and funds are available: *JF*

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AGREEMENT NO. 160027 WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE WIDENING OF SR-347 (ROCK SPRINGS ROAD), AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, Rock Springs Road has been widened by the state from Cox Hollow Road westward towards Adams Elementary School; and

WHEREAS, the state would like to widen the portion of Rock Spring Road from Cox Hollow Road (LM 9.52) to I-26 (US-23) (LM 10.73); and

WHEREAS, the cost of the project is \$10,000,000.00 which requires no local match; and

WHEREAS, the Kingsport MPO will be contributing to the federal match of 80% with a 20% match of \$2,000,000.00.

Now therefore,

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

SECTION I. That Agreement No. 160027 with the Tennessee Department of Transportation, 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, Agreement No. 160027 with the Tennessee Department of Transportation 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:

Agreement Number:	160027
Project Identification Number:	112965.00
Federal Project Number:	STP/M-347(10)
State Project Number:	82023-3219-54

State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20_ by _____ and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the City of Kingsport (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

"Widening of SR-347(Rock Springs Rd) from Cox Hollow Rd (LM 9.52) to 1-26 (US-23) (LM 10.73)"

A. PURPOSE OF AGREEMENT

A.1 Purpose:

a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be

undertaken and completed.

A.2 Modifications and Additions:

a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

8.1 General Requirements:

a)		Funding provided by
	Responsible Party	Agency or Project
Environmental Clearance By:	Department	Project
Preliminary Engineering by:	Department	Project
Right-Of-Way by:	Department	Project
Utility Coordination by:	Department	Project
Construction by:	Department	Project

b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.

c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

8.2 Completion Date:

a) The Agency agrees to complete the herein assigned phases of the Project on or before NIA. If the Agency does not complete the herein described phases of the Project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.

8.3 Environmental Regulations:

a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.

b) In the event the Agency is made responsible for the Environmental Clearances in Section B.I (a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.

c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

8.4 Plans and Specifications

a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.I.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.

b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.

1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed

shall be sufficient cause for nonpayment by the Department.

c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TOOT Traffic Engineer responsible for the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

8.5 Right-of-Way

a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.

b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.

c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.

d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

8.6 Approval of the Construction Phase

a) In the event that the Agency is made responsible for the Construction phase in section B.1(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.

b) In the event that the Department is made responsible for the Construction phase in section B.1(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.

d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.

e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.

b) In the event that the Agency is made responsible for the Utilities Phase in section B.1(a) of this Agreement, the following applies:

1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval

prior to the Project advertisement for bids.

2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

8.9 Railroad

a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.

c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.

b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.

c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**

The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**

There is then pending litigation with respect to the performance by the Agency or any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**

The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**

There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**

The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.

b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of funds:

a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

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

b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D. 10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

a) DBE Policy:

It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.

b) DBE Obligation:

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

a) Instructions for Certification - Primary Covered Transactions:

By signing and submitting this Agreement, the Agency is providing the certification set out below.

- 1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- 2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.
- 3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
- 5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.
- 6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.
- 8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent

person in the ordinary course of business dealings.

9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;

2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and

4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI - Civil Rights Act of 1964:

a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.

b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of its subcontracts, the following provision:

1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to Congress (applies to federal aid projects):

a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

D.19 Records:

a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.

b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

1.20 Inspection:

a) The Agency shall permit, and shall require its Contractor, subcontractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.

b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subcontractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

1.21 Annual Report and Audit:

a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.

b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.

c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed

independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

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

b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.

c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.

b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.

c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.

d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc

b) In the event that the Department is made responsible in section B.I.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

1.35 Congestion Mitigation and Air Quality Requirement:

a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.

1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

1.36 Investment of Public Funds:

a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below :

Amount	=	Open to Public and Vehicular Traffic
\$1.00 - \$200,000	=	5 Years
>\$200,000-\$500,000	=	10 Years
>\$500,000-\$1,000,000	=	20 Years

b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

1.37 Federal Funding Accountability and Transparency Act:

a) If the Project is funded with federal funds the following shall apply: The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

[Acknowledgements Deleted for Inclusion in this Resolution]

EXHIBIT "A"

AGREEMENT NUMBER: 160027

PROJECT IDENTIFICATION NUMBER: 1 1 2965.00 FEDERAL PROJECT NUMBER: STP/M-347(10)

PROJECT DESCRIPTION: SR-347 (ROCK SPRINGS RD) FROM SR-93 TO INTERSTATE 26 (US-23)

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

TYPE OF WORK: WIDENING

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-NEPA	STP-M	80%	20%	0%	\$350,000.00

PE-DSIGN	STP-M	80%	20%	0%	\$400,000.00
ROW	STP-M	80%	20%	0%	\$ 1,250,000.00
ROW	STP-S	80%	20%	0%	\$1,188,400.00
CONST	STP-M	80%	20%	0%	\$500,000.00
CONST-CE	STP-S	80%	20%	0%	\$520,000.00
CONST	STP-S	80%	20%	0%	\$4,196,400.00

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds following expenditure of the most recently approved TIP cost or if the use of said federal funds is ruled ineligible at any time by the Federal Highway Administration.

LEGISLATIVE AUTHORITY: STP: 23 U.S.C.A, Section 133, Surface Transportation Program funds allocated or subject to allocation to the Agency.

Note: A Maximum contribution of \$2,000,000.00 Federal will be provided by the Kingsport MPO.

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.

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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

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

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Agreement Number: 160027

Project Identification Number: 112965.00

Federal Project Number: STP/M-347(10)

State Project Number: 82023-3219-54

State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20__ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the City of Kingsport (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

“Widening of SR-347(Rock Springs Rd) from Cox Hollow Rd (LM 9.52) to I-26 (US-23) (LM 10.73)”

A. PURPOSE OF AGREEMENT

A.1 Purpose:

- a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

- a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

a)

	Responsible Party	Funding Provided by Agency or Project.
Environmental Clearance by:	Department	Project
Preliminary Engineering by:	Department	Project
Right-of-Way by:	Department	Project
Utility Coordination by:	Department	Project
Construction by:	Department	Project

- b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.
- c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

B.2 Completion Date:

- a) The Agency agrees to complete the herein assigned phases of the Project on or before **N/A**. If the Agency does not complete the herein described phases of the Project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.

B.3 Environmental Regulations:

- a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.
- b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.
- c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

- a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.
 - 1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.
- c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for

the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

- a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.
- b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.
- c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.
- d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

- a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if

the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

- c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.
- d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.
- e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

- a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

- a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.
- b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:
 - 1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.
 - 2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

B.9 Railroad

- a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

- a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

- b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.
- c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.
- b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.
- c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

- a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department

to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

- 1) **Misrepresentation:**
The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;
- 2) **Litigation:**
There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;
- 3) **Approval by Department:**
The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;
- 4) **Conflict of Interests:**
There has been any violation of the conflict of interest provisions contained herein in D.16; or
- 5) **Default:**
The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon

demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

- a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

- a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.
- b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

- a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be

made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

- a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

- a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

- a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

- a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

- a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting

entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

- b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

- a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

- a) **DBE Policy:**

It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.

b) **DBE Obligation:**

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

- a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

a) **Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

- 1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- 2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

- 3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
- 5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.
- 6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.
- 8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;
- 2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and
- 4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

- a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to

insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

- a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

- a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

- a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.
- b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of it's subcontracts, the following provision:
 - 1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

- a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

- a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.
- b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

- a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.
- b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

- a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.
- b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

- a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.
- b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.
- c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the

Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

- a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

- a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.
- b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.
- c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

- a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

- a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

- a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.
- b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.
- c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.
- d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

- a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

- a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

- a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

- a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

- a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc
- b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

- a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

- a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

- a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

- a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.
 - 1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

- a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount	=	Open to Public and Vehicular Traffic
\$1.00 - \$200,000	=	5 Years
>\$200,000 - \$500,000	=	10 Years
>\$500,000 - \$1,000,000	=	20 Years

- b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

- a) **If the Project is funded with federal funds the following shall apply:** The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF KINGSPORT

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

By: _____ Date _____ By: _____ Date _____
John Clark **John C. Schroer**
Mayor **Commissioner**

**APPROVED AS TO
FORM AND LEGALITY**

**APPROVED AS TO
FORM AND LEGALITY**

By: _____ Date _____ By: _____ Date _____
Mike Billingsley **John Reinbold**
Attorney **General Counsel**

EXHIBIT "A"

AGREEMENT NUMBER: I60027
PROJECT IDENTIFICATION NUMBER: I12965.00
FEDERAL PROJECT NUMBER: STP/M-347(10)

PROJECT DESCRIPTION: SR-347 (ROCK SPRINGS RD) FROM SR-93 TO INTERSTATE 26 (US-23)

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

TYPE OF WORK: WIDENING

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-NEPA	STP-M	80%	20%	0%	\$350,000.00
PE-DESIGN	STP-M	80%	20%	0%	\$400,000.00
ROW	STP-M	80%	20%	0%	\$1,250,000.00
ROW	STP-S	80%	20%	0%	\$7,188,400.00
CONST	STP-M	80%	20%	0%	\$500,000.00
CONST-CEI	STP-S	80%	20%	0%	\$520,000.00
CONST	STP-S	80%	20%	0%	\$4,196,400.00

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds following expenditure of the most recently approved TIP cost or if the use of said federal funds is ruled ineligible at any time by the Federal Highway Administration.

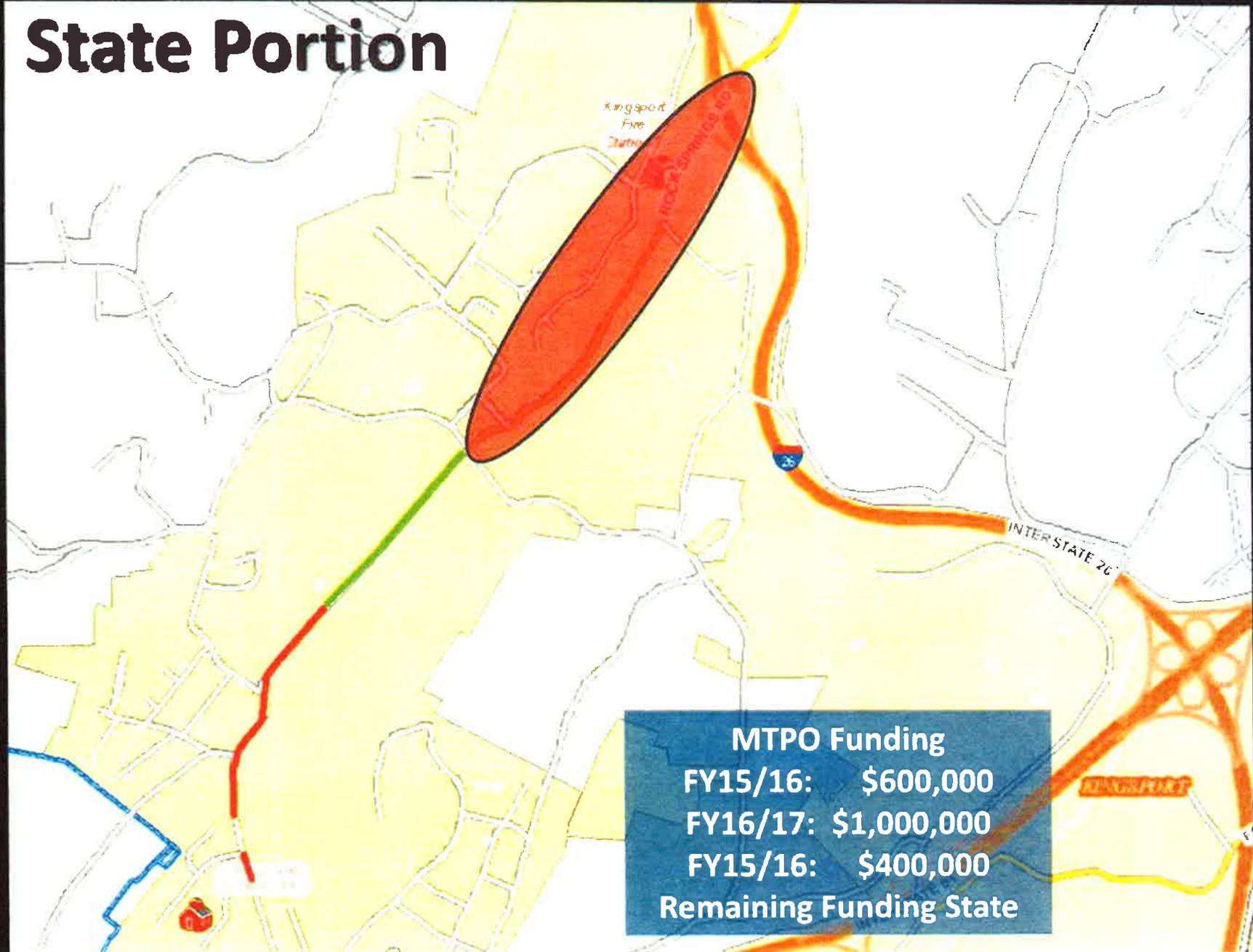
LEGISLATIVE AUTHORITY: STP: 23 U.S.C.A, Section 133, Surface Transportation Program funds allocated or subject to allocation to the Agency.

Note: A Maximum contribution of \$2,000,000.00 Federal will be provided by the Kingsport MPO.

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.

SR 347 -Rock Spring Road

State Portion





AGENDA ACTION FORM

2016 Emergency Solutions Grant Application and Allocation Plan

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

Action Form No.: AF-83-2016
Work Session: April 4, 2016
First Reading: N/A

Final Adoption: April 5, 2016
Staff Work By: Haga
Presentation By: Lynn Tully, AICP

Recommendation:

Approve the Resolution.

Executive Summary:

The Community Development office requests the Board to approve the use of Emergency Solutions Grant (formerly "Emergency Shelter Grant") funds for Fiscal Year 2016/2017. For next fiscal year, the City is entitled to receive \$83,208 in ESG funds from the Tennessee Housing Development Agency. ESG funds are intended to provide emergency shelter of homeless individuals and families as well as provide for activities which help prevent homelessness and rapidly re-house, with supportive services, families which have become homeless. Community Development proposes to utilize these funds in the following manner:

- Salvation Army - \$29,282 to provide emergency shelter services.
- Greater Kingsport Alliance for Development (GKAD) - \$16,904 to provide prevention and rapid re-housing services.
- Family Promise (formerly Interfaith Hospitality Network) - \$29,282 to provide emergency shelter services.
- City of Kingsport – THDA prescribes set-asides within the program for program administration and HMIS participation. The City's share for administration and HMIS would be \$7,740.

The attached resolution authorizes the Mayor to sign the application for funds to THDA.

Attachments:

1. Resolution

Funding source appropriate and funds are available: 

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. 2016-___

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO RECEIVE EMERGENCY SOLUTIONS GRANT FUNDING FOR FISCAL YEAR 2017, FROM THE TENNESSEE HOUSING DEVELOPMENT AGENCY

WHEREAS, Emergency Solutions Grant funding, for fiscal year 2017, is available through the Tennessee Housing Development Agency; and

WHEREAS, certain documents must be completed and executed to receive the funds.

Now therefore,

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

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized to execute, in a form approved by the city attorney, all documents necessary and proper to receive Emergency Solutions Grant funding, for fiscal year 2017, through the Tennessee Housing Development Agency.

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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



AGENDA ACTION FORM

Appointment to the Employee Dependent Scholarship Program

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

Action Form No.: AF-72-2016
 Work Session: April 4, 2016
 First Reading: N/A

Final Adoption: April 5, 2016
 Staff Work By: Committee
 Presentation By: Mayor Clark

Recommendation:

Approve the appointment to the Employee Dependent Scholarship Program.

Executive Summary:

This program provides financial assistance to children of current Kingsport Housing and Redevelopment Authority and City of Kingsport general government employees, helping them to continue their education after high school.

Mrs. Sherri Mosley has agreed to serve a three-year term if approved by the Board of Mayor and Aldermen and will replace member Dr. Marvin Cameron whose term and eligibility of reappointment has expired. The term is effective immediately and will expire April 30, 2019.

Sherri Mosley, is the Executive Director of the Downtown Kingsport Association. She and her family moved to Kingsport from London, KY in 2008. Sherri was the Executive Director of the London Downtown Main Street program for 4 years prior to moving to Kingsport. While overseeing the program she worked to transform London's sidewalks and oversaw a two-phase streetscape project to rebrand London, KY as "London Alive... A Garden City." Sherri attended the University of Kentucky but graduated in May 2012 from East Tennessee State University with a bachelor's degree. Her concentration was in Public Relations, Communications and Marketing.

Sherri was born and raised in Lexington, KY and is married to Neil Mosley. They have two children; Rachel and Bradley. Sherri enjoys going back home to Lexington, KY to watch the horse races, UK basketball and tour the bourbon trails! Yes, she bleeds BLUE!

Attachments:

None

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Awarding the Bid for Commodity Processing of Certain Food Items for the City of Kingsport School Food and Nutrition Program

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

Action Form No.: AF-78-2016
Work Session: April 4, 2016
First Reading: N/A

Final Adoption: April 5, 2016
Staff Work By: Committee
Presentation By: J. Walker

Recommendation:

Approve the Resolution.

Executive Summary:

Kingsport City Schools Nutrition Services administers various contracts to maintain a continual supply of food items. The requirements for Commodity Processing of commodities allocated by the USDA were put out to bid in January 2016 with bids being opened February 23, 2016. The bid invitation was publicly advertised and posted on the City web site. Bids were received from 3 (three) potential suppliers. School Nutrition will process 50,000 to 60,000 pounds of chicken from entitlement funds with a processing fee amount not to exceed \$110,000. It is recommended to award \$65,000 to Tyson Prepared Foods, Inc. and \$45,000 to Pilgrim's Pride Corporation and authorize the mayor to sign all applicable documents for each vendor.

These contracts will cover the period of July 1, 2016 thru June 30, 2017. The bid documents include a renewal option on an annual basis in one year increments for up to three additional years providing all terms, conditions and cost are acceptable to both parties.

These costs, and all other expenses of the School Nutrition Program, are completely funded by the School Food and Nutrition Program revenue received from meals and USDA reimbursement.

Attachments:

- 1. Resolution
- 2. Bid Minutes
- 3. Recommendation Letter

Funding source appropriate and funds are available: 

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION AWARDING THE BID FOR THE PURCHASE OF
COMMODITY PROCESSING CERTAIN FOOD ITEMS FOR THE
KINGSPORT CITY SCHOOLS FOOD AND NUTRITION
PROGRAM AND AUTHORIZING THE CITY MANAGER TO
EXECUTE A PURCHASE ORDER FOR THE SAME

WHEREAS, bids were opened February 23, 2016, for the purchase of 8 items of commodities allocated by the USDA for the Kingsport City Schools Food and Nutrition Program; and

WHEREAS, the schools will process 50,000 to 60,000 pounds of chicken from entitlement funds, in an amount not to exceed \$110, 000; and

WHEREAS, upon review of the bids, the board finds both Tyson Prepared Foods, Inc. and Pilgrim's Pride Corporation to be 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

WHEREAS, the City of Kingsport desires to purchase breaded chicken breast filet and popcorn style chicken from Pilgrim's Pride Corporation at a total purchase cost of \$45,000.00 and

WHEREAS, the City of Kingsport desires to purchase chicken nuggets, tenders, grilled breast, tack meant, breakfast filet and drumsticks from Tyson' Prepared Foods at a total purchase cost of \$65,000.00 and

WHEREAS, the contracts are for the term of July 1, 2016, through June 30, 2017, and have an option to renew on an annual basis in one year increments for up to three years, providing all terms, conditions and cost are acceptable to both parties; and

WHEREAS, these costs, and all other expenses of the School Nutrition Program, are completely funded by the School Food and Nutrition Program revenue received from meals and USDA reimbursement.

Now therefore,

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

SECTION I. That the bid for the purchase breaded chicken breast filet and popcorn style chicken is awarded to Pilgrim's Pride Corporation at a total purchase cost of \$45,000.00, and the city manager is authorized to execute a purchase order for same.

SECTION I. That the bid for the purchase chicken nuggets, tenders, grilled breast, tack meant, breakfast filet and drumsticks from is awarded to Tyson' Prepared Foods at a total purchase cost of \$65,000.00, and the city manager is authorized to execute a purchase order for same.

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

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

ADOPTED this the 5th day of April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

MINUTES
BID OPENING
February 23, 2016
4:00 P.M.

Present: Brent Morelock, Assistant Procurement Manager; and Lisa Tallman, Assistant Procurement Manager, Schools

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

The Assistant Procurement Manager opened with the following bids:

SCHOOL NUTRITION COMMODITY PROCESSING FOR CHICKEN								
Vendor:	Item #1	Item #2	Item #3	Item #4	Item #5	Item #6	Item #7	Item #8
Pilgrims Pride Corp.	\$38.40	No Bid	\$62.80	No Bid	\$38.40	No Bid	\$67.80	\$44.40
Rich Chicks	\$40.85	\$40.85	No Bid	No Bid	\$40.85	No Bid	\$46.15	No Bid
Tyson Food Service	\$39.37	\$60.43	\$72.97	\$19.73	\$57.00	\$55.13	\$75.00	\$39.35

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

MEMORANDUM

TO: KCS Board of Education/ Kingsport City Board of Mayor and Alderman

FROM: Jennifer Walker

DATE: 02/26/2016

RE: KCS Commodity Chicken Bid

Special Instructions:

Recommendation: Approve recommendation to award Tyson Prepared Foods, Inc. and Pilgrim's Pride Corporation various specified chicken products to commodity process SY 2016-17.

Kingsport City accepted bids for commodity chicken processing for school nutrition on Tuesday Feb. 23, 2016. Three vendors submitted bids but one was non-compliant with the bid procedure. The remaining two vendors are recommended for award of the following chicken items with reasons listed:

- Item 1, Chicken, nuggets, Tyson - lowest price per ounce
- Item 2, Chicken, tenders, Tyson – no other bids
- Item 3, Chicken breast, grilled, Tyson – lowest price per ounce
- Item 4, Chicken, taco meat, Tyson – no other bids
- Item 5, Chicken, breakfast filet – Tyson – other bidders were non-compliant with bid procedure
- Item 6, Chicken, Drumstick, Tyson – no other bids
- Item 7, Chicken, Breaded Breast Filet, Pilgrim's Pride – lowest price per ounce
- Item 8, Chicken, popcorn style, Pilgrim's Pride – other bidder was not equal to acceptable brand bid

School Nutrition will process 50,000 to 60,000 pounds of chicken from entitlement funds with a processing fee amount not to exceed \$110,000. I recommend awarding \$65,000 to Tyson Prepared Foods, Inc. and \$45,000 to Pilgrim's Pride Corporation. The funding will be provided by Kingsport City Schools School Nutrition.



AGENDA ACTION FORM

Agreement with National Cooperative Purchasing Alliance

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

Action Form No.: AF-80-2016
 Work Session: April 4, 2016
 First Reading: N/A

Final Adoption: April 5, 2016
 Staff Work By: M. Woomer
 Presentation By: M. Woomer

Recommendation:

Approve the Resolution recommending that the City sign the National Cooperative Purchasing Alliance Master Intergovernmental Cooperative Purchasing Agreement.

Executive Summary:

The National Cooperative Purchasing Alliance works with vendors and State and Local governments to provide a variety of goods, products, and services based on national volume pricing. Government entities executing a Master Intergovernmental Cooperative Purchasing Agreement may purchase goods, products, and services at the national volume pricing levels. No funding is required to enter into this agreement.

Attachments:

1. Resolution
2. Agreement

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT THROUGH THE NATIONAL COOPERATIVE PURCHASING ALLIANCE, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, pursuant to T.C.A. § 12-3-1205(b)(1) and (2), the city may participate in a cooperative purchasing agreement for the procurement of any goods, supplies, services, or equipment with one or more other governmental entities outside of the state, to the extent the laws of the other state permit the joint exercise of purchasing authority and the city may participate in a master agreement by adopting a resolution accepting the terms of the master agreement; and

WHEREAS, Region XIV Education Service Center in Abilene, Texas is a regional education service center created pursuant to the authority of the law of the state of Texas, is a governmental entity under Texas law, and it is the lead agency referenced in the Master Intergovernmental Cooperative Purchasing Agreement, set out in this resolution; and

WHEREAS, through the National Cooperative Purchasing Alliance, Region XIV Education Service Center in Abilene, Texas issued a bid compliant with its purchasing requirements and has made cooperative purchasing of certain goods, products and services at national volume pricing levels available to other governmental entities; and

WHEREAS, the city would like to enter into a Master Intergovernmental Cooperative Purchasing Agreement with Region XIV Education Service Center in Abilene, Texas through the National Cooperative Purchasing Alliance.

Now therefore,

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

SECTION I. That an agreement with the National Cooperative Purchasing Board (NCPA) is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the agreement with the National Cooperative Purchasing Board (NCPA) 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:

Master Intergovernmental Cooperative Purchasing Agreement

This agreement is made between a government agency that executes a Lead Agency Certificate ("Lead Agency") to be appended and made a part hereof and other public agencies ("Participating Public Agencies") that register electronically with National Cooperative Purchasing Alliance ("NCPA") or otherwise execute a Participating Public Agency Certificate to be appended and made a part hereof.

Recitals

WHEREAS, after a competitive solicitation and selection process by Lead Agency, in compliance with their own policies, procedures, rules and regulations, a number of Vendors have entered into Master Agreements to provide a variety of goods, products and services based on national volumes (herein "Products");

WHEREAS, Master Agreements are made available by Lead Agency through NCPA and provide that Participating Public Agencies may purchase Products on the same terms, conditions and pricing as the Lead Agency, subject to any applicable local purchasing ordinances and the laws of the State of purchase;

NOW, THEREFORE, in consideration of the mutual promises contained in this agreement, and of the mutual benefits to result, the parties agree as follows:

1. That each party will facilitate the cooperative procurement of Products.
2. That the procurement of Products subject to this agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules and regulations that govern each party's procurement practices.
3. That the cooperative use of bids obtained by a party to this agreement shall be in accordance with the terms and conditions of the bid, except as modification of those terms and conditions is otherwise allowed or required by applicable law.
4. That the Lead Agencies will make available, upon reasonable request and subject to convenience, information which may assist in improving the procurement of products by the Participating Public Agencies.
5. That a procuring party will make timely payments to the Vendor for Products received in accordance with the terms and conditions of the procurement. Payment for Products and inspections and acceptance of Products ordered by the procuring party shall be the exclusive obligation of such procuring party. Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.
6. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar products or services.
7. Not Applicable for Tennessee Entities.
8. This agreement shall remain in effect until termination by a party giving 30 days written notice to the other party. The provisions of paragraphs 5, 6 and 7 hereof shall survive any such termination.
9. This agreement shall take effect after execution of the Lead Agency Certificate or Participating Public Agency Registration, as applicable.

[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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



National Cooperative Purchasing Alliance

Master Intergovernmental Cooperative Purchasing Agreement

This agreement is made between a government agency that executes a Lead Agency Certificate ("Lead Agency") to be appended and made a part hereof and other public agencies ("Participating Public Agencies") that register electronically with National Cooperative Purchasing Alliance ("NCPA") or otherwise execute a Participating Public Agency Certificate to be appended and made a part hereof.

Recitals

WHEREAS, after a competitive solicitation and selection process by Lead Agency, in compliance with their own policies, procedures, rules and regulations, a number of Vendors have entered into Master Agreements to provide a variety of goods, products and services based on national volumes (herein "Products");

WHEREAS, Master Agreements are made available by Lead Agency through NCPA and provide that Participating Public Agencies may purchase Products on the same terms, conditions and pricing as the Lead Agency, subject to any applicable local purchasing ordinances and the laws of the State of purchase;

NOW, THEREFORE, in consideration of the mutual promises contained in this agreement, and of the mutual benefits to result, the parties agree as follows:

1. That each party will facilitate the cooperative procurement of Products.
2. That the procurement of Products subject to this agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules and regulations that govern each party's procurement practices.
3. That the cooperative use of bids obtained by a party to this agreement shall be in accordance with the terms and conditions of the bid, except as modification of those terms and conditions is otherwise allowed or required by applicable law.
4. That the Lead Agencies will make available, upon reasonable request and subject to convenience, information which may assist in improving the procurement of products by the Participating Public Agencies.
5. That a procuring party will make timely payments to the Vendor for Products received in accordance with the terms and conditions of the procurement. Payment for Products and inspections and acceptance of Products ordered by the procuring party shall be the exclusive obligation of such procuring party. Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.



National Cooperative Purchasing Alliance

6. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar products or services.
7. Not Applicable for Tennessee Entities.
8. This agreement shall remain in effect until termination by a party giving 30 days written notice to the other party. The provisions of paragraphs 5, 6 and 7 hereof shall survive any such termination.
9. This agreement shall take effect after execution of the Lead Agency Certificate or Participating Public Agency Registration, as applicable.

Participating Agency

Agency

Street Address

Date

City, State

Zip Code

Contact Person

Phone Number

Title of Contact

Email Address

By _____
Authorized Signature



AGENDA ACTION FORM

Law Enforcement Agency Traffic Services Safety Grant from the Tennessee Department of Transportation, Governors Highway Safety Office

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

Action Form No.: AF-69-2016
Work Session: April 4, 2016
First Reading: N/A

Final Adoption: April 5, 2016
Staff Work By: Capt. Jenny Castle
Presentation By: Chief David Quillin

Recommendation:

Approve the Resolution.

Executive Summary:

The Governor's Highway Safety Office provides grant funding to programs designed to reduce the number of fatalities, injuries and related economic losses that result from traffic crashes on Tennessee's roadways. Local governments can apply for National Highway Safety Transportation Administration pass-through funding for projects related to various areas of highway safety.

The Kingsport Police Department is seeking funding to assist with a Multiple Traffic Violation / Crash Reduction Campaign consisting of overtime enforcement.

This request is for up to \$25,000.00 with no match required. Funding is for a one year period.

Attachments:

- 1. Resolution

Funding source appropriate and funds are available: 

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Oiterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE A LAW ENFORCEMENT AGENCY TRAFFIC SERVICES SAFETY GRANT FROM THE TENNESSEE DEPARTMENT OF TRANSPORTATION THROUGH THE GOVERNOR'S HIGHWAY SAFETY OFFICE

WHEREAS, the Tennessee Department of Transportation, through the Governor's Highway Safety Office, offers a Law Enforcement Agency Traffic Services Safety Grant; and

WHEREAS, the grant provides funding to programs designed to reduce the number of fatalities, injuries, and related economic losses that result from traffic crashes on Tennessee's roadways; and

WHEREAS, the police department would like to apply for the grant for funding to assist with a Multiple Traffic Violation/Crash Reduction Campaign consisting of overtime enforcement; and

WHEREAS, the maximum amount of the grant award is in an amount up to \$25,000.00, the grant requires no match, and the funding is for a one year period.

Now therefore,

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

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized and directed to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, all documents necessary and proper to apply for and receive a Law Enforcement Agency Traffic Services Safety Grant from the Tennessee Department of Transportation through the Governor's Highway Safety Office in the amount up to \$25,000.00 for the police department for a period of one year.

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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



AGENDA ACTION FORM

Issuance of Certificates of Compliance for Retail Food Stores to Sell Wine

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

Action Form No.: AF-73-2016
 Work Session: April 4, 2016
 First Reading: N/A

Final Adoption: April 5, 2016
 Staff Work By: Angie Marshall
 Presentation By: Jim Demming

Recommendation:

Approve the issuance of Certificates of Compliance to the following retail food stores to sell wine.

1. Wal-Mart #742, 2500 West Stone Drive
2. Wal-Mart #5734, 750 Lynn Garden Drive
3. Wal-Mart #599, 3200 Fort Henry Drive

Executive Summary:

This is the list of the applications for retail food stores who have filed with the City Recorder for their Certificate of Compliance to sell wine. This Certificate, which must be issued and signed by the mayor if the business is within a municipality, is a required attachment to the application these businesses will submit to the Tennessee Alcoholic Beverage Commission to obtain a license to sell wine in a retail food store.

Tennessee Code Annotated, Section 57-3-806 directs municipalities the Certificate must state:

1. The applicant in charge of the business has not been convicted of a felony within the past ten years; and
2. The applicant's business location complies with local zoning laws.

These applications have met the requirements of TCA 57-3-806. Police background checks have been conducted on each of the applicants with nothing found that would prevent any from receiving these certificates. Planning has also verified the businesses are properly zoned.

Attachments:

None

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—



AGENDA ACTION FORM

Apply and Accept for a Section 5307 Capital Grant, Federal Transit Administration Grant from the U.S. Department of Transportation

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

Action Form No.: AF-82-2016
 Work Session: April 4, 2016
 First Reading: N/A

Final Adoption: April 5, 2016
 Staff Work By: KATS Staff
 Presentation By: Chris McCartt

Recommendation:
 Approve the Resolution.

Executive Summary:

The Board of Mayor and Aldermen is required to approve a resolution authorizing the filing of an application with the Department of Transportation under the Urban Mass Transportation Act of 1964, as amended. This application provides funding for Capital expenditures of Right of Way, Engineering & Design, and construction of KATS new transit center.

Capital Assistance (80%) Federal; (10%) Local; (10%) State	Local	State	Federal	Total
Engineering & Design	35,000	35,000	280,000	350,000
Land Acquisition	53,500	53,500	428,000	535,000
Construction	426,827	426,827	3,414,616	4,268,270
TOTAL CAPITAL	\$515,327	\$515,327	\$4,122,616	\$5,153,270

The local funding for this project has been approved in the CIP.

Attachments:

- 1. Resolution

Funding source appropriate and funds are available: *JF*

	Y	N	O
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Oiterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE FEDERAL TRANSIT ADMINISTRATION SECTION 5307 FUNDS FROM THE U.S. DEPARTMENT OF TRANSPORTATION

WHEREAS, Federal Transit Administration Section 5307 Grant Funds Grant in the total amount of \$4,122,616.00 including a \$515,327.00 local match, are available for funding for capital expenditures of right of way, engineering and design, and construction of KATS new transit center; and

WHEREAS, the City of Kingsport must enter into a contract with the Federal Transit Administration to receive the funds under Section 5307 funds; and

WHEREAS, the \$515,327.00 local match will be provided by the city general fund and programed in City's CIP Program, fare box revenues and income received from leasing of space to the RCAT Center.

Now therefore,

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

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, all documents necessary and proper to apply for and receive Federal Transit Administration Section 5307 Grant Funds, in the total amount \$4,122,616.00, including a \$515,327.00 local match, that may include a contract with the Federal Transit Administration available through the Tennessee Department of Transportation for capital expenditures of right of way, engineering and design, and construction of KATS new transit center.

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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



AGENDA ACTION FORM

Apply and Accept for a Section 5307 Operations Grant, Federal Transit Administration Grant from the U.S. Department of Transportation

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

Action Form No.: AF-81-2016
 Work Session: April 4, 2016
 First Reading: N/A

Final Adoption: April 5, 2016
 Staff Work By: KATS Staff
 Presentation By: Chris McCartt

Recommendation:

Approve the Resolution.

Executive Summary:

Annually, the Board of Mayor and Aldermen is required to approve a resolution authorizing the filing of an application with the Department of Transportation under the Urban Mass Transportation Act of 1964, as amended. This application provides funding for operation expenditures of fixed route bus and ADA/Handicapped transportation services.

Below are the program category amounts budgeted for FY 2016 and 2017.

Federal Transit Administration	\$688,050
Tennessee Dept. of Transportation	\$344,025
City of Kingsport	\$344,025
Total	\$1,376,100

**City's local share for FY 15/16 was \$324,275. City's local share for FY 16/17 is \$344,025.*

Attachments:

- 1. Resolution

Funding source appropriate and funds are available. 

	<u>Y</u>	<u>N</u>	<u>O</u>
Duncan	—	—	—
George	—	—	—
McIntire	—	—	—
Mitchell	—	—	—
Olterman	—	—	—
Parham	—	—	—
Clark	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE FEDERAL TRANSIT ADMINISTRATION SECTION 5307 FUNDS FROM THE U.S. DEPARTMENT OF TRANSPORTATION FOR FISCAL YEAR 2016-2017

WHEREAS, Federal Transit Administration Section 5307 Grant Funds Grant in the total amount of \$1,376,100.00, including a \$344,025.00 local match, are available for operation of a fixed route bus service and ADA/handicapped transportation service for fiscal year 2016-2017; and

WHEREAS, the City of Kingsport must enter into a contract with the Federal Transit Administration to receive the funds under Section 5307 funds; and

WHEREAS, the \$344,025.00 local match will be provided by the city general fund, fare box revenues and income received from leasing of space to the RCAT Center.

Now therefore,

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

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, all documents necessary and proper to apply for and receive Federal Transit Administration Section 5307 Grant Funds, in the total amount \$1,376,100.00, including a \$344,025.00 local match that may include a contract with the Federal Transit Administration available through the Tennessee Department of Transportation for operation of a fixed route bus service and ADA/handicapped transportation service for fiscal year 2016-2017.

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 April, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY