



AGENDA

BOARD OF MAYOR AND ALDERMEN WORK SESSION

Monday, May 2, 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. Quarterly Financials, Sales Tax, Wellness Clinic, Safety & Projects Status – Jeff Fleming
4. Budget – CIP/Revenue – Jeff Fleming
5. ONEKingsport Year One Recommendations Presentation – Lynn Tully / Justin Steinmann
6. Review of Items on May 3, 2016 Business Meeting Agenda
7. Adjourn

Next Work Session, Called, May 10, 2016, 2pm: Budget – Schools/City

Work Session, May 16, 2016: Budget Follow-up as needed, ONEKingsport Summit Priority Project 1, Projects Status.

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.

**FY16 Third Quarter Report
General Fund Summary**

General Fund	Previous Quarters		Year to Date at 75% of Year Lapsed		% YTD Variance
	FY14 Actual	FY15 Actual	Actual 3rd Qtr YTD Total	Revised Annual Budget	
Revenue					
Property Taxes ¹	\$ 35,280,684	\$ 37,626,811	\$ 37,296,268	\$ 37,768,000	98.75%
Gross Receipts	\$ 3,631,763	\$ 3,248,780	\$ 3,325,090	\$ 5,357,400	62.07%
License & Permits ²	\$ 380,241	\$ 249,996	\$ 346,110	\$ 457,100	75.72%
Fines & Forfeitures	\$ 555,519	\$ 546,440	\$ 627,988	\$ 757,500	82.90%
Earnings On Invesments	\$ 4,782	\$ 8,597	\$ 25,556	\$ 10,500	243.39%
Charges for Services ³	\$ 692,289	\$ 982,580	\$ 1,242,506	\$ 1,986,400	62.55%
Inter-Local Revenue ⁴	\$ 9,802	\$ 101,715	\$ 26,335	\$ 426,100	6.18%
Local Option Sales Tax	\$ 10,762,854	\$ 12,576,311	\$ 13,092,605	\$ 16,814,000	77.87%
State Shared Revenue ⁵	\$ 3,655,293	\$ 3,838,253	\$ 4,035,634	\$ 5,898,990	68.41%
Transfers In	\$ 2,146,418	\$ 2,362,993	\$ 2,395,352	\$ 3,570,039	67.10%
Other Revenue	\$ 218,623	\$ 77,018	\$ 82,116	\$ 228,075	36.00%
Total General Fund Revenue	\$ 57,338,268	\$ 61,619,494	\$ 62,495,560	\$ 73,274,104	85.29%
Expenses					
Salaries & Benefits	\$ 22,164,720	\$ 22,252,199	\$ 22,416,049	\$ 32,881,700	68.17%
Contractual Services	\$ 4,468,970	\$ 4,277,973	\$ 4,365,215	\$ 6,235,694	70.00%
Commodities	\$ 929,089	\$ 865,678	\$ 962,613	\$ 1,681,823	57.24%
Insurance	\$ 688,152	\$ 681,576	\$ 686,401	\$ 895,200	76.68%
Other Expenses	\$ 956,404	\$ 1,006,082	\$ 816,314	\$ 985,296	82.85%
Subsidies ⁶	\$ 1,750,977	\$ 1,608,695	\$ 1,721,244	\$ 2,632,069	65.40%
TIFS ⁷	\$ -	\$ 64,955	\$ -	\$ 369,700	0.00%
Capital Outlay	\$ 108,643	\$ 105,645	\$ 55,365	\$ 99,345	55.73%
Other Transfers ⁸	\$ 720,794	\$ 324,956	\$ 734,939	\$ 1,201,777	61.15%
To Solid Waste Fund	\$ 2,334,825	\$ 2,481,225	\$ 2,591,250	\$ 3,455,000	75.00%
To Schools MOE	\$ 7,538,550	\$ 7,763,550	\$ 7,763,550	\$ 10,351,400	75.00%
To Schools Debt Serv.	\$ 2,213,511	\$ 2,687,925	\$ 2,844,820	\$ 3,302,000	86.15%
To Debt Serv. Fund	\$ 5,365,483	\$ 7,238,776	\$ 7,817,179	\$ 8,007,200	97.63%
To State Street Aid	\$ 629,439	\$ 937,696	\$ 664,178	\$ 1,175,900	56.48%
Total General Fund Expenses	\$ 49,869,557	\$ 52,296,931	\$53,439,117	\$ 73,274,104	72.93%

Revenue

1. Most of the property tax revenue is collected in the 2nd Quarter. FY15 Third Quarter revenue was more due to prior year collections and receiving PILOT revenue later than usual.

FY16 Third Quarter Report General Fund Summary

2. Building permits increased for FY14 due to the tornado damage in July and also the construction of the ballfield complex.
3. Charges for service revenue increased due to Leisure Services receipts and Engineering Fee revenue.
4. Most of the Inter-Local Revenue is received in the fourth quarter.
5. Hall Income Tax is recorded at year-end (4th quarter report). It is received in Aug. or September of each year and accrued back to the 4th quarter.
TVA In Lieu Of Taxes are received in the 2nd quarter, 3rd and 4th quarters.

Expenditure

6. Some of the Special Programs are paid annually while others are paid quarterly.
7. The majority of the TIF payments are made in the 4th quarter.
8. Transfers to Capital Projects are included in other transfers.

BMA Report, May 2, 2016

Financial Comments, Judy Smith



Sales were stronger in February compared to last year due to inclement weather conditions last year. 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	\$1,201,182
January 2016	\$1,287,536
• \$27,355 above budget	+2.17%
• \$86,354 Above last year's actual	+7.19%
Year to Date 2015	\$11,152,221
Year to Date 2016	\$11,690,731
• \$498,027 above budget	+4.35%
• \$538,510 above last year	+4.86%

Kingsport Employee Wellness, Terri Evans

	01/01/2016 – 03/31/2016	04/01/2016 – 04/24/2016
Total Utilization		
City – Active Employees	33.4%	37.1%
City – Dependents	19.6%	20.7%
City – Retirees	3.0%	5.3%
Schools – Active Employees	22.4%	19.9%
Schools – Dependents	11.9%	12.7%
Schools – Retirees	2.0%	1.2%
Extended-Patient Services/Other	1.7%	.7%
Work Comp	.3%	0
No Show	4.2%	2.8%

HRA Event/Wellness Screenings (City only):

March = 217

April (to date) = 247

Worker's Compensation, Terri Evans

For the month of March 2016 the city had three (3) recordable claims – two (2) were restricted duty claims and one (1) was a medical only.

BMA Monthly Project Updates

May 2, 2016

Page 2

1. **Building Maintenance**, date of injury 3/8/2016, has been on restricted duty since 3/9/2016.
What happened- Installing metal sleeve thru a block wall while standing on the scissors lift and went to place sleeve thru the wall and felt sharp pain in lower back.
Action taken- Employee was instructed to use the lifts available instead of manually lifting.
2. **School System**, date of injury 3/8/2016, medical only claim.
What happened- Cleaning white boards with ammonia and water. He inhaled the ammonia and it caused his throat to swell.
Action taken- Replaced cleaning product to prevent further allergic reaction.
3. **School System**, date of injury 3/21/2016, has been on restricted duty since 3/21/2016.
What happened- Student in cafeteria became aggressive/agitated with another student. Employee had to restrain student to protect him from others. Student tried to pull away, twisting employees arm/elbow.
Action taken- None that is noted.

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 313' into the main tunnel and 60' connector tunnel (20' to complete). The road header is on site so blasting should be at a minimum.
\$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 approved 4/5/16. Routed for City signatures.
\$5,600,000.00	Chad Austin	Norman Eichmann	Reedy Creek Sewer Trunk Line	SW1400	6/30/2017	Adv. 4/17/16. Pre Bid 5/11/16. Bid 6/8/16.
\$3,192,108.00	Chad Austin	Mike Hickman	Colonial Heights Ph II Sewer & Water	SW1501	3/9/2017	Crews working on Beechwood Drive and installing fire hydrants.
\$2,609,000.00	Chad Austin	Pamela Gilmer	System Wide Water Upgrades FY15 Phase 1	WA1601	6/4/2016	Working on East Sullivan St., Myrtle St., Cherry St., N. Wilcox Dr., Orebank Rd., and Trinity Lane.
\$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 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	Waiting on signed contract to set up Pre-construction Mtg.
\$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	Prebid meeting 4/27/16.
\$1,123,727.93	Chad Austin	Pamela Gilmer	Ft. Henry and Moreland Dr. Sewer Rehabilitation	SW1401	10/31/2016	Waiting on signed contract to set up Pre-construction Mtg.
\$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	Project update/status meeting scheduled for April 26.
\$900,000.00	Chad Austin	Sam Chase	ARC Kingsport Sewer System Upgrade	SW1504	12/31/2016	Advertise 6/5/16. Pre Bid 6/14/16. Bid 6/28/16.
\$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.
\$631,700.00	Ronnie Hammonds	Elesa, Tim	Wilcox Sidewalk Phase 5 [State & MTPO funded]	MPO15D	12/31/2016	Meeting being scheduled with District Attorney to clarify legal requirements.

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\$500,000.00	Michael Thompson	Clabaugh, Hank	2016 Citywide Sidewalk Extension	GP1403	12/31/2016	The bids for the Clinchfield/Stone Drive/Bloomington portion of the project will be opened on May 5. The Pendragon section is currently under design.
\$500,000.00	Niki Ensor	Niki Ensor	WWTP Blower (175,000 CTEG Grant)	SW1507	6/30/2016	Electricians will be hooking up blower and scheduling start up.
\$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	Sheetrock and electrical rough-in in progress.
\$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	Awaiting contract documents and bonds 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 II Sewer Project.
\$90,000.00	Kitty Frazier	Clabaugh, Hank	Reedy Creek Terrace Bridge	ST1503	12/31/2016	Met with Spoden Wilson to discuss final contract documents. Project will be advertised for bids in several weeks.
\$81,116.00	David Quillen	Gilmer, Pamela	Police Seize Car Lot - Landfill	GP1609	7/31/2016	Waiting on additional funds approval from BMA.
\$75,000.00	Chad Austin	Hank Clabaugh	Cliffside Dr Force Main Replacement	TBD	6/30/2016	
\$60,000.00	Kitty Frazier	Mason, David	V.O. Dobbins Field Lighting	GP1214	7/1/2016	1st reading of budget ordinance on 5/3 to transfer funds to cover \$82,287 bid.
\$40,000.00	Chad Austin	Jim Gilreath	Clinchfield Street Waterline Replacement	Operating	9/30/2016	New waterline to be installed on west side of Clinchfield this spring.
\$20,000.00	Chad Austin	Chris Alley	Robindale Subdivision Water Service	Operating	6/30/2016	Working on details of acquiring 21 new customers of private system.
\$18,000.00	Chad Austin	Chris Alley	Sullivan County Agriculture Center Waterline Extension	Operating	6/15/2016	Awaiting ARAP permit. Coordinating easement/right-of-way with Sullivan County
\$15,000.00	Chad Austin	Harvey Page	Centennial Park sewer line replacement - Main St.	Operations	9/1/2016	Survey pending. Requested status on design from Engineering via email.

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\$15,000.00	Chad Austin	Harvey Page	Centennial Park sewer line replacement - Main St.	Operations	9/1/2016	Per Hank, layout nearly complete. Hank to schedule meeting soon.
		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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AGENDA

BOARD OF MAYOR AND ALDERMEN

BUSINESS MEETING

Tuesday, May 3, 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
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City Administration

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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

Revision II.B. INVOCATION – Vice Mayor Mike McIntire

III. ROLL CALL

IV. RECOGNITIONS & PRESENTATIONS

1. Proclamation – Kingsport Times-News' Centennial (Mayor Clark)
2. Above and Beyond
 - Public Information Officer Tom Patton, Police Dept. (Alderman Olterman)
 - Public Education Officer Barry Brickey, Fire Dept. (Alderman Mitchell)
3. Proclamation - National Water Safety Month (Alderman Parham)

V. APPROVAL OF MINUTES

1. Work Session – April 18, 2016
2. Business Meeting – April 19, 2016

VI. COMMUNITY INTEREST ITEMS

A. PUBLIC HEARINGS

1. Public Hearing for the 2015 Annual Action Plan for Community Development and Apply for and Receive Fiscal Year 15/16 Community Development Block Grant (CDBG) Funds (AF: 105-2016) (Lynn Tully)
 - Public Hearing
 - Resolution

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. Accept TRPA Community Garden Grant and Appropriate Funds (AF: 102-2016) (Morris Baker)
 - Resolution
 - Ordinance – First Reading
2. Budget Ordinance to Transfer Funds (AF: 103-2016) (Kitty Frazier)
 - Ordinance – First Reading

C. BUSINESS MATTERS REQUIRING FINAL ADOPTION

1. Award Contract and Appropriation of Funds for the Water System Improvement – Phase 2 Project (AF: 93-2016) (Ryan McReynolds, Chad Austin)
 - Ordinance – **Second Reading & Final Adoption**
2. Budget Ordinance to Transfer Funds to Provide Security Over Seized or Impounded Vehicles (AF: 97-2016) (David Quillin)
 - Ordinance – **Second Reading & Final Adoption**

D. OTHER BUSINESS

1. Detailed Bond Resolutions Authorizing the Issuance of Not to Exceed \$37,500,000 General Obligation Refunding Bonds, Series 2016A and Series 2016B, of the City of Kingsport, Tennessee (AF: 101-2016) (Jim Demming, Jeff Fleming)
 - Resolution Series A
 - Resolution Series B

2. Engage the Firm of Brown, Edwards, and Company, LLP to Audit the Financial Statements of the City of Kingsport for the Fiscal Year Ending June 30, 2017 with Expected Annual Renewals For Fiscal Years 2018, 2019, 2020, and 2021 (AF: 107-2016)

- Resolution

Addition

3. Approving a Payment in Lieu of Tax Agreement for KEDB (AF112-2016) (Jeff Fleming)

- Resolution

E. APPOINTMENTS

1. Reappointment to 2016 Sullivan County Board of Equalization (AF: 109-2016) (Mayor Clark)

- Appointment

VII. CONSENT AGENDA

1. Contract for Maintenance Activities Performed on Designated State Highways and for Mowing and Litter on J.B. Dennis (AF: 99-2016) (Ryan McReynolds)

- Resolution

2. Application and Contract with VDOT for Transit Planning (AF: 74-2016) (Bill Albright)

- Resolution

3. Issuance of Certificate of Compliance for Retail Food Stores to Sell Wine (AF: 104-2016) (Jim Demming)

- Certificate of Compliance

4. Apply for and Accept a Section 5339b Bus and Bus Facilities Discretionary Program 2016 Funding Opportunity Grant, Federal Transit Administration Grant (FTA-2016-002-TPM) from the U.S. Department of Transportation (AF: 106-2016) (Chris McCart)

- 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
Monday, April 18, 2016, 4:30 PM
Council Room – City Hall

PRESENT: Board of Mayor and Aldermen

Mayor John Clark

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

Joseph E. May, Interim 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 a summary of this item. Chad Austin provided further details on specific projects.
 4. **MARKETING DEPARTMENT UPDATE.** Marketing and Public Relations Director Heather Cook gave a presentation on the goals and strategies of marketing the city. Adrienne Batara provided information on the need for updating the city's website. Some discussion followed.
 5. **ONEKINGPORT SUMMIT PRIORITY RECOMMENDATIONS.** Jane Henry presented this item to the board, noting the recommendations have been sorted by cost also. City Planner Justin Steinmann answered questions and presented the next steps, stating if the list was acceptable to the board he would bring it back with more definitive costs for these projects. There was considerable discussion.
 6. **REVIEW OF AGENDA ITEMS ON THE APRIL 19, 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.
- VII.1 Approve the Area Agency on Aging and Disability Grant for FY16-17 (AF: 91-2016).** Senior Center Director Shirley Buchanan explained this was flow through money from the state and where it will be used. She also gave an update on the Senior Center, noting the upcoming space study to evaluation needs.

**Minutes of the Regular Work Session of the Board of Mayor and Aldermen of
Kingsport, Tennessee, Monday, April 18, 2016**

7. **ADJOURN.** Seeing no other matters presented for discussion at this work session, Mayor Clark adjourned the meeting at 6:10 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, April 19, 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
Alderman Tom C. Parham

City Administration
Chris McCart, Assistant City Manager for Administration
Joseph E. May, Interim City Attorney
James Demming, City Recorder/Chief Financial Officer

- I. **CALL TO ORDER:** 7:00 p.m., by Mayor John Clark.
- II.A. **PLEDGE OF ALLEGIANCE TO THE FLAG:** Led by New Vision Youth.
- II.B. **INVOCATION:** Pastor Adam Love, Kingsley United Methodist Church.
- III. **ROLL CALL:** By City Recorder Demming. All Present.
- IV. **RECOGNITIONS AND PRESENTATIONS.**
 1. Friends of the Library, Archives and Library Commission – Vice Mayor McIntire.
- V. **APPROVAL OF MINUTES.**

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

- A. April 5, 2016 Regular Work Session
- B. April 6, 2016 Regular Business Meeting

Approved: All present voting “aye.”

VI. COMMUNITY INTEREST ITEMS.

A. PUBLIC HEARINGS.

1. **Annexation Annual Plan of Services Report** (AF: 88-2016)
(Corey Shepherd).

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

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

Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, Tuesday, April 19, 2016

B. BUSINESS MATTERS REQUIRING FIRST READING.

1. Bid Award and Appropriate Funds for the Water System Improvement – Phase 2 Project (AF: 93-2016) (Ryan McReynolds, Chad Austin).

Motion/Second: McIntire/George, to pass:

AN ORDINANCE TO AMEND THE WATER PROJECT FUND BUDGET BY TRANSFERRING FUNDS TO THE SYSTEM WATER UPGRADES PHASE 2 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.”

Motion/Second: McIntire/Mitchell, to pass:

Resolution No. 2016-147, A RESOLUTION AWARDED THE BID FOR THE WATER SYSTEM IMPROVEMENT-PHASE 2 PROJECT TO MERKEL BROTHERS CONSTRUCTION AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting “aye.”

2. Budget Ordinance to Transfer Funds to Provide Security Over Seized or Impounded Vehicles (AF: 97-2016) (David Quillin).

Motion/Second: McIntire/Duncan, to pass:

AN ORDINANCE TO AMEND THE GENERAL PROJECT FUND BUDGET BY TRANSFERRING FUNDS TO THE POLICE STORAGE LOT IMPROVEMENT 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. Amend Zoning of 1609 West Stone Drive Located Adjacent to the Intersection of West Stone Drive and Interstate 26 (AF: 34-2016) (Ken Weems).

Motion/Second: Olterman/George, to pass:

ORDINANCE NO. 6563, 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

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

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, April 19, 2016**

2. Bid Award and Ordinance to Transfer Funds for the Ft. Henry/Moreland Drive/West Center Street Replacement Project (AF: 79-2016) (Ryan McReynolds).

Motion/Second: McIntire/Parham, to pass:

ORDINANCE NO. 6564, 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

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

D. OTHER BUSINESS.

1. Bid Award for the Purchase of Two (2) Single Axle Dump Trucks (AF: 84-2016) (Chris McCartt, Ryan McReynolds, Steve Hightower).

Motion/Second: George/Parham, to pass:

Resolution No. 2016-148, A RESOLUTION AWARDED THE BID FOR THE PURCHASE OF TWO SINGLE AXLE DUMP TRUCKS TO GOODPASTURE MOTOR COMPANY AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

Passed: All present voting "aye."

2. Bid Award for the Purchase of One (1) Dual Rear Utility Bed Truck (AF: 85-2016) (Chris McCartt, Ryan McReynolds, Steve Hightower)

Motion/Second: Duncan/George, to pass:

Resolution No. 2016-149, A RESOLUTION AWARDED THE BID FOR THE PURCHASE OF ONE DUAL REAR UTILITY BED TRUCK TO AUTO WORLD OF BIG STONE GAP AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

Passed: All present voting "aye."

3. Bid Award for the Purchase of Three (3) Three Quarter (¾) Ton 4X4 Pickup Trucks (AF: 86-2016) (Chris McCartt, Ryan McReynolds, Steve Hightower).

Motion/Second: Mitchell/George, to pass:

Resolution No. 2016-150, A RESOLUTION AWARDED THE BID FOR THE PURCHASE OF (3) THREE QUARTER (¾) TON 4x4 PICKUP TRUCKS TO EMPIRE FORD, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

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, April 19, 2016

4. Bid Award for the Purchase of Eight (8) Police Pursuit Package Sedans (AF: 87-2016) (Chris McCartt, Steve Hightower).

Motion/Second: McIntire/Parham, to pass:

Resolution No. 2016-151, A RESOLUTION AWARDDING THE BID FOR THE PURCHASE OF EIGHT POLICE PURSUIT PACKAGE SEDANS TO AUTO WORLD OF BIG STONE GAP AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

Passed: All present voting "aye."

5. Bid Award for the Purchase and Installation of the Cooling Tower Replacement at Lincoln Elementary School to HVAC, Inc. (AF: 94-2016) (Bill Shedden).

Motion/Second: McIntire/Mitchell, to pass:

Resolution No. 2016-152, A RESOLUTION AWARDDING THE BID FOR THE LINCOLN ELEMENTARY SCHOOL COOLING TOWER REPLACEMENT PROJECT TO HVAC, INC. AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

E. APPOINTMENTS/REAPPOINTMENTS.

1. Appointment to the Employee Dependent Scholarship Program (AF: 98-2016) (Mayor Clark).

Motion/Second: Mitchell/Parham, to approve:

APPOINTMENT OF MS. NICOLE AUSTIN TO SERVE A THREE-YEAR TERM ON THE **EMPLOYEE DEPENDENT SCHOLARSHIP PROGRAM** EFFECTIVE IMMEDIATELY AND EXPIRING ON APRIL 30, 2019.

Passed: All present voting "aye."

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

Motion/Second: McIntire/George, to adopt:

1. Approve the Area Agency on Aging and Disability Grant for FY16-17 (AF: 91-2016) (Shirley Buchanan).

Pass:

Resolution No. 2016-153, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE GRANT FUNDING FOR FISCAL YEAR 2016-2017 FROM THE AREA AGENCY ON AGING AND DISABILITY

Passed: All present voting "aye."

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2. Signature Authority Form for Grant Reports as Required by the U.S. Department of Justice (AF: 92-2016) (David Quillin).

Pass:

Resolution No. 2016-154, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE SIGNATURE AUTHORITY CONSENT FORMS AND OTHER DOCUMENTS NECESSARY AND PROPER TO THE UNITED STATES DEPARTMENT OF JUSTICE AND TO DESIGNATE THE CHIEF OF POLICE AS HIS DESIGNEE TO EXECUTE GRANT REPORTS AND OTHER DOCUMENTS REQUIRED BY THE GRANTS FROM THE UNITED STATES DEPARTMENT OF JUSTICE

Passed: All present voting "aye."

3. Apply and Receive a DOJ – Office of Justice Programs/Bureau of Justice Assistance Bulletproof Vest Partnership (BVP) Reimbursement Grant (AF: 90-2016) (David Quillin).

Pass:

Resolution No. 2016-155, A RESOLUTION APPROVING AN APPLICATION FOR AND RECEIPT OF A UNITED STATES DEPARTMENT OF JUSTICE BUREAU OF JUSTICE ASSISTANCE BULLET PROOF VEST (BPV) REIMBURSEMENT GRANT AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER FOR SUCH APPLICATION AND RECEIPT OF GRANT FUNDS

Passed: All present voting "aye."

4. Property Acquisition for the Kingsport City School System (AF: 89-2016) (David Frye).

Pass:

Resolution No. 2016-156, A RESOLUTION APPROVING AN OFFER FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 1625 PARK STREET; AUTHORIZING THE MAYOR TO MAKE CERTAIN CHANGES TO THE AGREEMENT, IF NECESSARY; AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

Passed: All present voting "aye."

5. Rejecting All Bids of the January 13, 2016, Bid Opening for Internet Access and Related Internet Connectivity Management Services and Enter Into an Agreement with Metropolitan Nashville Schools (AF: 95-2016) (Scott Pierce).

Pass:

Resolution No. 2016-157, A RESOLUTION REJECTING ALL BIDS RELATED TO INTERNET ACCESS AND RELATED INTERNET CONNECTIVITY MANAGEMENT SERVICES

Passed: All present voting "aye."

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Pass:

Resolution No. 2016-158, A RESOLUTION APPROVING AN AGREEMENT WITH THE METROPOLITAN NASHVILLE PUBLIC SCHOOLS 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."

6. Approve Issuance of Certificates of Compliance for Retail Food Stores to Sell Wine (AF: 96-2016) (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. Assistant City Manager for Administration McCartt asked Chief Quilling to provide details on the crime report for 2015 that was just released by the TBI. He pointed out the numbers were good for Kingsport, noting an 18% decrease in serious crimes and a 24% decrease in the overall crime rate in the last three years.

B. MAYOR AND BOARD MEMBERS. Alderman George commented on what all the library has accomplished and how important it is to the community. Vice-Mayor McIntire stated Ms. Louise Hamilton will truly be missed in the community, noting she played the organ for 51 years at First Broad Street. Alderman Duncan stated his tie was signed by employees at the 911 center, pointing out last week was National Tele-communicators Week. He also commented on the clean sweep event this past Saturday where 13 organizations and hundreds of volunteers participated in picking up 15 tons of trash. Lastly, he recognized Domtar for donating 100 trees back to the city. Alderman Mitchell stated April was Child Abuse Awareness month, stating if you see blue ribbons that is what they signify. She also invited citizens to the State of the Theatre variety show this Thursday night at the State Theatre. Alderman Parham stated he was also impressed with the library and the volunteers, as well as operations excellence including the police and fire departments. Mayor Clark summarized the approval of investments to infrastructure which is important for the future of the city and the approval of new vehicles, which is important to keep our fleet maintained. He stated the ONEKingsport movement continues, as the priorities were presented to the Board at the work session yesterday. He stated the next phase is to work with city staff to understand the cost estimates for each of the recommendations. He also commented on the wrestling tournament this past weekend, pointing out that it brought over 1,000 people from several states to Kingsport with an

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen
of the City of Kingsport, Tennessee, Tuesday, April 19, 2016**

economic impact of over one million dollars. Lastly, he discussed recent recruiting efforts with developers, noting the word is getting out that Kingsport has energy around its future.

C. VISITORS. None.

IX. ADJOURN. Seeing no other business for consideration at this meeting, Mayor Clark adjourned the meeting at 7:54 p.m.

ANGELA MARSHALL
Deputy City Recorder

JOHN CLARK
Mayor



AGENDA ACTION FORM

Public Hearing for the 2015 Annual Action Plan for Community Development and Apply for and Receive Fiscal Year 15/16 Community Development Block Grant (CDBG) Funds

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

Action Form No.: AF-105-2016
 Work Session: May 2, 2016
 First Reading: N/A

Final Adoption: May 3, 2016
 Staff Work By: Haga
 Presentation By: Lynn Tully, AICP

Recommendation:

- Conduct Public Hearing
- Approve 2014 Annual Action Plan
- Approve Authorizing Resolution

Executive Summary:

To receive Community Development Block Grant, the City of Kingsport must submit an Annual Action Plan which describes the strategies, objectives, projects and activities for funding under the program. For Fiscal Year 2016/17, the City of Kingsport must approve an Action Plan utilizing \$342,166 CDBG funds. Attached to this action form is a summary of proposed activities of the 2016 Annual Action Plan, including recommendations for funding under the CDBG program.

On April 13, 2016, the Community Development Advisory Committee met to review a proposed plan and consider applications for funding from public services agencies and recommended an action plan budget to the Planning Commission and BMA. On April 21, the Kingsport Planning Commission voted to recommend the action plan budget proposed by the Advisory Committee. This recommendation and projects descriptions are attached. Also attached is a resolution authorizing the Mayor to execute all necessary documents to receive CDBG funding.

Attachments:

1. Public Hearing Notice
2. Resolution
3. Annual Action Plan Proposal

Funding source appropriate and funds are available: 

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

NOTICE

The Kingsport Board of Mayor and Aldermen will conduct a Public Hearing to receive citizen input concerning the City's 2016 Annual Action Plan for Housing and Community Development. The 2016 Annual Action Plan describes proposed activities of the City's Community Development Program for the period of July 1, 2016 through June 30, 2017 utilizing Community Development Block Grant funds. The Public Hearing will be held at the Regular Meeting of the Board of Mayor and Aldermen at 7:00 p.m. on Tuesday, May 3, 2016 in the Large Courtroom of City Hall, 225 W. Center Street. All citizens are invited to participate in this meeting. A draft of the proposed 2016 Annual Action Plan is available for review at the Community Development Office, 201 W. Market Street.

City Clerk

P1T: 4/27/16

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO RECEIVE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR FISCAL YEAR 2017, FROM THE UNITED STATES OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, Community Development Block Grant funding, for fiscal year 2017, is available through the U. S. Department of Housing and Urban Development; 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 Community Development Block Grant funding, for fiscal year 2017, through the U. S. Department of Housing and Urban Development.

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 3rd day of May, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Community Development Action Plan

FY 2016/2017

Proposed Project Descriptions

Housing

- KAHR Program – In FY 2016/2017, Community Development proposes to utilize \$123,733 in the KAHR program. KAHR provides emergency repair of low and moderate income housing city-wide. This program utilizes volunteer labor provided by Carpenter’s Helpers (FBSUMC) and ASP to offer emergency repair services to low and moderate income households. CDBG funds, as well as City General Funds, are used to purchase materials for repair projects.

Also as part of the KAHR program, CDBG funds could be used to purchase dilapidated, vacant properties identified through the City’s Codes Enforcement program.

Community Programs

- Learning Centers of KHRA – In 2016/2017, Community Development proposes to fund the KHRA literacy program at \$20,000. This grant is administered by Kingsport Housing and Redevelopment Authority through a sub-recipient agreement with the City. Literacy programs to benefit from these funds include Lee Family Learning Center, Dogwood After School Program and Boys and Girls Clubs at Cloud, Holly Hills and Riverview communities.
- CASA for Kids, Inc. – For Program Year 2016, Community Development proposes to fund CASA at \$6,000. CASA is an advocacy program for abused and neglected children in Kingsport. These funds are administered through a sub-recipient agreement.
- Community Enrichment – The South Central Kingsport Community Development Corporation and Help Our Potential Evolve organizations submitted application for funding. Review of both proposals revealed that both operated very similar community enrichment programs, with their target beneficiaries overlapping. Both programs provide opportunities for young minority children and teens to attend educational events geared toward developing community pride and encouraging pursuit of higher education. The Community Development Advisory Committee suggests that both groups develop an effective way to coordinate their programs to provide services which do not overlap but complement each other. The Committee proposes to set-aside \$15,000 in CDBG funding to be available upon both organizations developing an acceptable plan.

Code Enforcement – In 2016, the Mayor’s One Kingsport Summit recommended several action plan emphases to improve the Kingsport community in various target themes. Among these themes was the area of housing. The housing study committee has put forward a number of priorities for housing in the city, which spans the spectrum from affordable housing to up-scale market rate housing. One emphasis involved in housing is strengthening the City’s Code Enforcement program. Since a substantial amount of code enforcement effort for the City is relative to lower income housing, the Advisory Committee recommended allocating \$39,000 for the City’s Code Enforcement program. Funds would be used to bolster the City’s code enforcement inspections and review activities.

HOPE VI – For Program Year 2016, Community Development proposes to allocate \$70,000 for repayment of a Section 108 Loan in support of the HOPE VI Riverview/Sherwood/Hiwassee Improvement project. In 2007 the City applied for \$856,000 Section 108 Loan to fund acquisition or real property, demolition of existing structures and/or infrastructure improvements in the Riverview Neighborhood as part of the HOPE VI project. Section 108 requires that the local jurisdiction utilize its current and future CDBG funds as collateral for the loan. Community Development has calculated that the City would need to set aside approximately \$70,000 CDBG funds per year for 20 years to support this proposal.

Administration – For Program Year 2016, Community Development proposes an administration budget of \$68,433. These funds provide staffing and necessary office expenses for the overall administration of the CDBG program, including the addition of shared costs of a Grants Accountant in the Finance Department. Administration funds are also utilized for Fair Housing Activities.

2016 COMMUNITY DEVELOPMENT BLOCK GRANT

Housing

KAHR Program **\$123,733**

Community Programs

Learning Centers of KHRA **\$ 20,000**

CASA for Kids, Inc. **\$ 6,000**

Community Enrichment **\$ 15,000**

Code Enforcement **\$ 39,000**

HOPE VI Project **\$ 70,000**

Administration **\$ 68,433**

TOTAL **\$342,166**

2016 HOME CONSORTIUM GRANT

Rehab/Reconstruction
Homeownership

\$122,509
\$ 20,000

COMMUNITY DEVELOPMENT BLOCK GRANT

	<u>13/14</u>	<u>14/15</u>	<u>15/16</u>	<u>16/17</u>
Housing				
KAHR Program	\$ 99,924	\$ 107,786	\$110,603	\$123,733
Community Programs				
Learning Ctrs	\$ 34,851	\$ 28,648	\$ 26,945	\$ 20,000
CASA	\$ 15,294	\$ 12,572	\$ 11,825	\$ 6,000
Sons/Daughters	\$ 0	\$ 2,500	\$ 0	\$ 0
HOPE	\$ 0	\$ 2,500	\$ 2,500	\$ 0
South Central	\$ 50,000	\$ 40,000	\$ 32,000	\$ 0
Comm. Enrich.	\$ 0	\$ 0	\$ 0	\$ 15,000
Code Enforcement	\$ 0	\$ 0	\$ 0	\$ 39,000
HOPE VI Project	\$ 70,100	\$ 70,100	\$ 70,100	\$ 70,000
Administration	<u>\$ 66,860</u>	<u>\$ 66,026</u>	<u>\$ 63,493</u>	<u>\$ 68,433</u>
TOTAL	\$337,029	\$330,132	\$317,466	\$342,166

HOME CONSORTIUM GRANT

	<u>14/15</u>	<u>15/16</u>	<u>16/17</u>
Homeownership – City-wide	\$ 0	\$ 0	\$ 20,000
Rehab/Reconstruction	<u>\$150,205</u>	<u>\$131,268</u>	<u>\$122,509</u>
Total	\$150,205	\$131,268	\$142,509



AGENDA ACTION FORM

Accept TRPA Community Garden Grant and Appropriate Funds

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

Action Form No.: AF-102-2016
Work Session: May 2, 2016
First Reading: May 3, 2016

Final Adoption: May 17, 2016
Staff Work By: Kenny Lawson, Kitty Frazier
Presentation By: Morris Baker

Recommendation:

Approve the Resolution and Ordinance.

Executive Summary:

Parks & Recreation applied for a grant from TRPA and was awarded the max of \$2,000 to start a community garden in the Riverview Community at the V.O.D Community Center 301 Louis Street. The Parks & Recreation department has formed partnerships for the garden with United Way, UETHDA and Harvest of Hope to provide volunteers and educational offerings at the garden.

Attachments:

- 1. Resolution
- 2. Ordinance

Funding source appropriate and funds are available: 

	Y	N	O
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 A GRANT FROM THE TENNESSEE RECREATION AND PARKS ASSOCIATION AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL DOCUMENTS NECESSARY AND PROPER

WHEREAS, the would like to apply for a TRPA Community Garden grant from the Tennessee Recreation and Parks Association;

WHEREAS, the grant funds, in the amount of \$2,000.00 will be to help create the Riverview Community Garden located at 301 Louis Street; and

WHEREAS, there is no local match.

Now therefore,

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

SECTION I. That receipt of a Community Garden Grant from the Tennessee Recreation and Parks Association is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an agreement and all documents necessary and proper to receive a Community Garden Grant from the Tennessee Recreation and Parks Association I in the amount of \$2,000.00.

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 3rd day of May, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

**PRE-FILED
CITY RECORDER**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT-SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM TRPA 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-Special Revenue Fund budget be amended by appropriating grant funds received from TRPA to the Community Garden Project (NC1608) to start a community garden in the Riverview Community at the VO Dobbins Community Center.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
<u>Fund 111: General Project-Special Revenue Community Garden (NC1608)</u>			
<u>Revenues:</u>	\$	\$	\$
111-0000-332-6710 TN Recreation/Parks TRPA	0	2,000	2,000
<i>Totals:</i>	0	2,000	2,000
<u>Expenditures:</u>			
111-0000-601-3020 Operating Supplies & Tools	0	2,000,	2,000
<i>Totals:</i>	0	2,000	2,000

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: _____



AGENDA ACTION FORM

Budget Ordinance to Transfer Funds

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

Action Form No.: AF-103-2016
Work Session: May 2, 2016
First Reading: May 3, 2016

Final Adoption: May 17, 2016
Staff Work By: J. Smith, Alexa Tipton
Presentation By: Kitty Frazier

Recommendation:

Approve the Budget Ordinance.

Executive Summary:

A budget ordinance transferring funds from the Floating Stage Repair project (NC1000), Park Improvements project (GP1534) and the Recreation Facilities Improvement project (GP1214) to the Parks Improvement project (GP1622) to fund the field lighting at VO Dobbins and to close the old projects.

Attachments:

- 1. Ordinance

Funding source appropriate and funds are available: *JF*

	<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 GENERAL PROJECT FUND BUDGET BY TRANSFERRING FUNDS TO THE PARKS 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 and General Project-Special Revenue Fund budgets be amended by transferring \$17,592 from the Floating Stage Repair project (NC1000), by transferring \$8,172 from the Park Improvements project (GP1534) and by transferring \$62,350 from the Recreation Facilities Improvement project GP1214 to the Park Improvements project (GP1622) to fund the VO Dobbins lights and to close projects NC1000, GP1534 and GP1214.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 111: General Project-Special Revenue Fund			
Floating Stage Repair (NC1000)			
Revenues:			
111-0000-391-0100 From General Fund	\$ 50,000	\$ (17,592)	\$ 32,408
Totals:	50,000	(17,592)	32,408
Expenditures:			
111-0000-601-2022 Construction Contracts	11,080	0	11,080
111-0000-601-9006 Purchases Over \$5,000	38,920	(17,592)	21,328
Totals:	50,000	(17,592)	32,408
Fund 311: General Project Fund			
Park Improvements (GP1534)			
Revenues:			
311-0000-368-1046 Series 2013 B GO Pub Imp	\$ 17,999	\$ 0	\$ 17,999
311-0000-368-1051 Series 2015 A (Oct) GP PI	11,791	(8,172)	3,619
311-0000-368-2101 Premium From Bond Sale	411	0	411
Totals:	30,201	(8,172)	22,029
Expenditures:			
311-0000-604-4041 Bond Expense	225	0	225
311-0000-601-9003 Improvements	29,976	(8,172)	21,804
Totals:	30,201	(8,172)	22,029
Fund 311: General Project Fund			
Recr Facil Improvements (GP1214)			
Revenues:			
311-0000-364-3000 From Non-Profit Groups	\$ 20,000	\$ (20,000)	\$ 0
311-0000-368-1037 Series 2009D (BABS) GO	50,000	0	50,000
311-0000-368-1040 Series 2011 GO Pub Imp	605,226	(27,370)	577,856
311-0000-368-1051 Series 2015 A (Oct) GP PI	0	233	233
311-0000-368-1051 Series 2015 A (Oct) GP PI	14,980	(14,980)	0
311-0000-368-2101 Premium From Bond Sale	7,857	0	7,857
Totals:	698,063	(62,350)	635,946
Expenditures:			
311-0000-601-2020 Professional Consultant	50,897	4,103	55,000
311-0000-601-2022 Construction Contracts	150,000	(23,388)	126,612

311-0000-601-2023 Arch/Eng/Landscaping	169,374	275	169,649
311-0000-604-4041 Bond Expense	12,850	0	12,850
311-0000-601-9001 Land	4,400	0	4,400
311-0000-601-9003 Improvements	0	233	233
311-0000-601-9003 Improvements	302,587	(43,340)	259,247
311-0000-601-9004 Equipment	7,955	0	7,955
Totals:	698,063	(62,350)	635,946

Fund 311: General Project Fund
Park Improvements (GP1622)

Revenues:	\$	\$	\$
311-0000-364-3000 From Non-Profit Groups	0	20,000	20,000
311-0000-368-1040 Series 2011 GO Pub Imp	0	27,370	27,370
311-0000-368-1051 Series 2015 A (Oct) GP PI	0	23,152	23,152
311-0000-391-0100 From General Fund	0	17,592	17,592
Totals:	0	88,114	88,114

Expenditures:			
311-0000-601-2023 Arch/Eng/Landscaping	0	5,814	5,814
311-0000-601-9003 Improvements	0	82,300	82,300
Totals:	0	88,114	88,114

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.

, Mayor
ATTEST:

JOHN CLARK

APPROVED AS TO FORM:

ANGELA L. MARSHALL
Deputy City Recorder

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____



AGENDA ACTION FORM

Award Contract and Appropriation of Funds for the Water System Improvement – Phase 2 Project

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

Action Form No.: AF-93-2016
 Work Session: April 18, 2016
 First Reading: April 19, 2016

Final Adoption: May 3, 2016
 Staff Work By: Committee
 Presentation By: R. McReynolds, C. Austin

Recommendation:

Approve the Budget Ordinance and Resolution.

Executive Summary:

Bids were opened for the Water System Improvements – Phase 2 project on March 31, 2016. This project consists of replacement of approximately 29,000 LF of waterline and all related appurtenances. The allotted time for construction will be 300 calendar days.

City staff reviewed the bids and recommends awarding the contract to the apparent low bidder, Merkel Brothers Construction as follows:

Base Bid	\$2,423,725.00
Engineering Fees 14%	374,400.00
Contingency 6%	145,500.00
Total Project Cost.....	\$2,943,625.00

The bids have been adjusted and quantities decreased due to a property owner request. They are placing their property, with a trailer court, on the market and they don't feel the trailer court will stay. The waterlines being replaced require easements and if the trailers are taken out will be no longer necessary. If the property doesn't sell and the trailer court remains, we will revisit it at a later time to replace the waterlines in another project.

A budget ordinance appropriating funds to WA1603 from WA1303, WA1401, and WA1510 is requested.

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: *js*

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



AGENDA ACTION FORM

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

Action Form No.: AF-93-2016
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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	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE WATER PROJECT FUND BUDGET BY TRANSFERRING FUNDS TO THE SYSTEM WATER UPGRADES PHASE 2 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 Water Project Fund budget be amended by transferring funds from the Master Plan Water System Upgrade project (WA1401) in the amount of \$2,706,448, \$115,686 from the Beech Creek/Lady Lane Ext. project (WA1303) and \$121,491 from the Double Springs Water Line project (WA1510) to the Systemwide Water Upgrades Phase 2 project (WA1603) and that the Water project Fund Budget be amended by transferring \$32,738 from the Beech Creek/Lady Lane Ext. project (WA1303) and \$111,081 from the Double Springs Water Line project (WA1510) to the Annexation Fire Hydrants project (WA1404).

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 451: Water Fund			
<u>Beech Creek/Lady Lane Ext. (WA1303)</u>			
<u>Revenues:</u>			
451-0000-333-5510 Lady Lane Line Extension	\$ 0	\$ 120,777	\$ 120,777
451-0000-391-4500 From Water Fund	175,878	(148,424)	27,454
Totals:	175,878	(27,647)	148,231
<u>Expenditures:</u>			
451-0000-605-2023 Arch/Eng/Landscaping	878	(546)	332
451-0000-605-9003 Improvements	0	120,777	120,777
451-0000-605-9003 Improvements	175,000	(147,878)	27,122
Totals:	175,878	(27,647)	148,231
Fund 451: Water Project Fund			
<u>Master Plan Water Upgrades (WA1401)</u>			
<u>Revenues:</u>			
451-0000-391-0529 Series 2013 B GO Pub Imp	\$ 10,377	\$ 0	\$ 10,377
451-0000-391-0531 2014 B GO Bond	953,703	(942,570)	11,133
451-0000-391-0540 2015 A (Oct) GP Pub Imp	1,730,000	(1,730,000)	0
451-0000-391-4500 From Water Fund	40,786	(33,878)	6,908
Totals:	2,734,866	(2,706,448)	28,418
<u>Expenditures:</u>			
451-0000-605-2023 Arch/Eng/Landscaping	326,000	(326,000)	0
451-0000-605-2097 State Reviews & Permits	5,000	196	5,196
451-0000-605-9001 Land	25,000	(12,755)	12,245
451-0000-605-9003 Improvements	2,378,866	(2,367,889)	10,977
Totals:	2,734,866	(2,706,448)	28,418
Fund 451: Water Project Fund			
<u>Double Springs Waterline (WA1510)</u>			
<u>Revenues:</u>			
451-0000-391-0529 Series 2013 B GO Pub Imp	\$ 122,041	\$ (121,491)	\$ 550
451-0000-391-4500 From Water Fund	54,874	(54,874)	0
451-0000-391-4600 Reserve Outside City Imp.	59,529	(56,207)	3,322
Totals:	236,444	(232,572)	3,872

Expenditures:

451-0000-605-2023 Arch/Eng/Landscaping
451-0000-605-9003 Improvements

Totals:

35,222	(35,222)	0
201,222	(197,350)	3,872
236,444	(232,572)	3,872

**Fund 451: Water Project Fund
Systemwide Water Upgrades PH 2 (WA1603)**

Revenues:

451-0000-391-0529 Series 2013 B GO Pub Imp
451-0000-391-0531 2014 B GO Bond
451-0000-391-0540 2015 A (Oct) GP Pub Imp
451-0000-391-4500 From Water Fund

Totals:

\$ 0	\$ 121,491	\$ 121,491
0	942,570	942,570
0	1,730,000	1,730,000
0	149,564	149,564
0	2,943,625	2,943,625

Expenditures:

451-0000-605-2023 Arch/Eng/Landscaping
451-0000-605-9003 Improvements

Totals:

0	374,400	374,400
0	2,569,225	2,569,225
0	2,943,625	2,943,625

**Fund 451: Water Project Fund
Annexation Fire Hydrants (WA1404)**

Revenues:

451-0000-391-0529 Series 2013 B GO Pub Imp
451-0000-391-4600 Reserve Outside City Imp.
451-0000-391-4500 From Water Fund

Totals:

\$ 300,000	\$ 0	\$ 300,000
0	56,207	56,207
0	87,612	87,612
300,000	143,819	443,819

Expenditures:

451-0000-605-2023 Arch/Eng/Landscaping
451-0000-605-9003 Improvements

Totals:

260,000	143,819	403,819
40,000	0	40,000
300,000	143,819	443,819

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.

ATTEST:

JOHN CLARK, Mayor

ANGELA L. MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____

RESOLUTION NO. _____

A RESOLUTION AWARDING THE BID FOR THE WATER SYSTEM IMPROVEMENT-PHASE 2 PROJECT TO MERKEL BROTHERS CONSTRUCTION AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, bids were opened March 31, 2016 for the water system improvements phase 2 project; and

WHEREAS, upon review of the bids, the board finds Merkel Brothers Construction 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 29,000 linear feet of waterline and all related appurtenances from Merkel Brothers Construction at an estimated construction cost of \$2,423,725.00; and

WHEREAS, funding will be identified in project number WA1603 after the second reading of the budget ordinance for same;

Now therefore,

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

SECTION I. That the bid for the Water System Improvements Phase 2 Project, consisting of replacement of approximately 29,000 linear feet of waterline and all related appurtenances at an estimated cost of \$2,423,725.00 is awarded to Merkel Brothers Construction, 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 19th 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 31, 2016
4:00 P.M.**

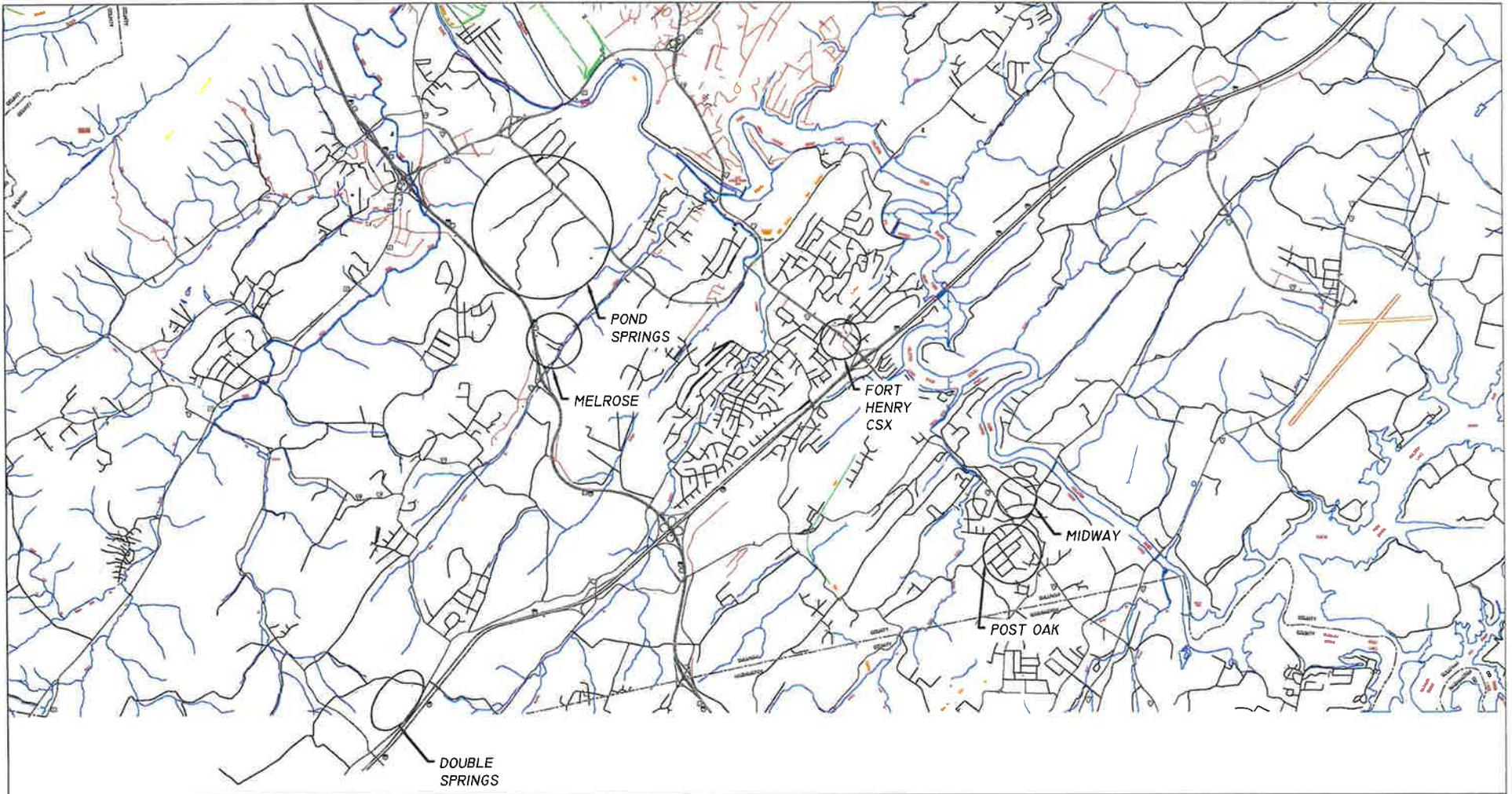
Present: Sandy Crawford, Procurement Manager; Brent Morelock, Assistant Procurement Manager; and Pamela Gilmer, Engineering Department

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

The Procurement Manager opened with the following bids:

WATERLINE SYSTEM IMPROVEMENTS – PHASE II		
Vendor:	Total Cost:	Comments:
Merkel Brothers Construction	\$2,512,315.00	Changes initialed on bid
Summers Taylor	\$2,596,228.00	N/A
Thomas Construction	\$2,697,525.00	N/A

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



LOCATION MAP
PROPOSED WATER FACILITIES
WATERLINE SYSTEM IMPROVEMENTS - PHASE II
N. T. S.

BID TABULATION FOR WATERLINE SYSTEMS IMPROVEMENTS PHASE 2

ITEM NO.	QUAN	UNIT	DESCRIPTION	MERKEL BROS. CONSTRUCTION		SUMMERS TAYLOR INC.		THOMAS CONSTRUCTION CO	
				UNIT COST	TOTAL COST	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST
1	1	LS	MOBILIZATION	\$ 150,000.00	\$ 150,000.00	\$ 198,500.00	\$ 198,500.00	\$ 185,000.00	\$ 185,000.00
2	9,064	CY	SOLID ROCK EXCAVATION IN TRENCH	\$ 35.00	\$ 317,240.00	\$ 35.00	\$ 317,240.00	\$ 35.00	\$ 317,240.00
3	11,550	TONS	BACKFILL STONE - PUG	\$ 10.00	\$ 115,500.00	\$ 18.00	\$ 207,900.00	\$ 23.00	\$ 265,650.00
4	222	TONS	ASPHALT SURFACE REPAIR (BINDER) 6-INCHES	\$ 150.00	\$ 33,300.00	\$ 145.00	\$ 32,190.00	\$ 210.00	\$ 46,620.00
5	103	TONS	ASPHALT DRIVEWAY/PARKING LOT REPAIRS 3-INCHES	\$ 150.00	\$ 15,450.00	\$ 250.00	\$ 25,750.00	\$ 210.00	\$ 21,630.00
6	26	CY	CONCRETE DRIVEWAY/PARKING LOT REPAIRS 6-INCHES	\$ 200.00	\$ 5,200.00	\$ 465.00	\$ 12,090.00	\$ 565.00	\$ 14,690.00
7	4,165	LF	10-INCH CEMENT LINED DUCTILE IRON WATER PIPE CLASS 200 PSI WORKING PRESSURE. INCLUDING FITTINGS	\$ 38.50	\$ 160,352.50	\$ 39.75	\$ 166,558.75	\$ 33.00	\$ 137,445.00
8	5,384	LF	8-INCH DUCTILE IRON PIPE	\$ 40.00	\$ 215,360.00	\$ 39.00	\$ 209,976.00	\$ 45.00	\$ 242,280.00
9	4,411	LF	6-INCH DUCTILE IRON PIPE	\$ 40.00	\$ 176,440.00	\$ 39.00	\$ 172,029.00	\$ 44.00	\$ 194,084.00
10	9,135	LF	4-INCH PVC PIPE INCLUDING FITTINGS	\$ 31.50	\$ 287,752.50	\$ 29.75	\$ 271,766.25	\$ 38.00	\$ 347,130.00
11	7,454	LF	2-INCH PVC PIPE INCLUDING FITTINGS	\$ 30.00	\$ 223,620.00	\$ 27.00	\$ 201,258.00	\$ 34.00	\$ 253,436.00
12	150	LF	18-INCH STEEL CASING PIPE RAILROAD CROSSING	\$ 300.00	\$ 45,000.00	\$ 495.00	\$ 74,250.00	\$ 560.00	\$ 84,000.00
13	30	LF	14-INCH STEEL CASING PIPE ROAD CROSSING	\$ 300.00	\$ 9,000.00	\$ 425.00	\$ 12,750.00	\$ 360.00	\$ 10,800.00
14	6	EA	10-INCH GATE VALVES & BOXES	\$ 2,500.00	\$ 15,000.00	\$ 1,750.00	\$ 10,500.00	\$ 1,700.00	\$ 10,200.00
15	10	EA	8-INCH GATE VALVES & BOXES	\$ 1,750.00	\$ 17,500.00	\$ 1,500.00	\$ 15,000.00	\$ 1,100.00	\$ 11,000.00
16	10	EA	6-INCH GATE VALVES & BOXES	\$ 1,200.00	\$ 12,000.00	\$ 1,100.00	\$ 11,000.00	\$ 750.00	\$ 7,500.00
17	14	EA	4-INCH GATE VALVES & BOXES	\$ 1,000.00	\$ 14,000.00	\$ 787.00	\$ 11,018.00	\$ 600.00	\$ 8,400.00
18	16	EA	2-INCH GATE VALVES & BOXES	\$ 750.00	\$ 12,000.00	\$ 421.00	\$ 6,736.00	\$ 500.00	\$ 8,000.00
19	20	EA	1-INCH AIR RELEASE VALVE AND BOX	\$ 800.00	\$ 16,000.00	\$ 1,000.00	\$ 20,000.00	\$ 800.00	\$ 16,000.00
20	15	EA	2-INCH BLOW OFF ASSEMBLY	\$ 1,500.00	\$ 22,500.00	\$ 1,200.00	\$ 18,000.00	\$ 1,150.00	\$ 17,250.00
21	13	EA	FIRE HYDRANT ASSEMBLY - COMPLETE INCLUDES TEE, VALVE & HYDRANT	\$ 4,200.00	\$ 54,600.00	\$ 3,900.00	\$ 50,700.00	\$ 4,000.00	\$ 52,000.00
22	142	EA	SERVICE CONNECTION TO EXISTING 3/4" - SHORT WITH COPPER WITH NEW METER BOX AND SETTER	\$ 800.00	\$ 113,600.00	\$ 801.00	\$ 113,742.00	\$ 800.00	\$ 113,600.00
23	155	EA	SERVICE CONNECTION TO EXISTING 3/4" - LONG WITH COPPER WITH NEW METER BOX AND SETTER	\$ 1,200.00	\$ 186,000.00	\$ 1,200.00	\$ 186,000.00	\$ 1,250.00	\$ 193,750.00

ITEM NO.	QUAN	UNIT	DESCRIPTION	MERKEL BROS. CONSTRUCTION		SUMMERS TAYLOR INC.		THOMAS CONSTRUCTION CO	
				UNIT COST	TOTAL COST	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST
24	1	EA	SERVICE CONNECTION TO EXISTING 1" - SHORT WITH COPPER WITH NEW METER BOX AND SETTER	\$ 1,200.00	\$ 1,200.00	\$ 1,100.00	\$ 1,100.00	\$ 900.00	\$ 900.00
25	1	EA	SERVICE CONNECTION TO EXISTING 1" - LONG WITH COPPER WITH NEW METER BOX AND SETTER	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,360.00	\$ 1,360.00
26	3	EA	8-INCH X 8-INCH WET TAP WITH TAPPING VALVE AND BOX	\$ 4,300.00	\$ 12,900.00	\$ 3,800.00	\$ 11,400.00	\$ 3,400.00	\$ 10,200.00
27	5	EA	6-INCH X 6-INCH WET TAP WITH TAPPING VALVE AND BOX	\$ 3,700.00	\$ 18,500.00	\$ 3,100.00	\$ 15,500.00	\$ 2,800.00	\$ 14,000.00
28	4	EA	4-INCH X 4-INCH WET TAP WITH TAPPING VALVE AND BOX	\$ 2,500.00	\$ 10,000.00	\$ 2,800.00	\$ 11,200.00	\$ 7,300.00	\$ 29,200.00
29	4	EA	2-INCH X 2-INCH WET TAP WITH TAPPING VALVE AND BOX	\$ 2,500.00	\$ 10,000.00	\$ 2,000.00	\$ 8,000.00	\$ 1,100.00	\$ 4,400.00
30	3	EA	16-INCH CONNECTIONS	\$ 4,000.00	\$ 12,000.00	\$ 1,700.00	\$ 5,100.00	\$ 1,400.00	\$ 4,200.00
31	1	EA	12-INCH CONNECTIONS	\$ 5,000.00	\$ 5,000.00	\$ 1,600.00	\$ 1,600.00	\$ 2,000.00	\$ 2,000.00
32	3	EA	10-INCH CONNECTIONS	\$ 4,000.00	\$ 12,000.00	\$ 1,600.00	\$ 4,800.00	\$ 1,800.00	\$ 5,400.00
33	2	EA	8-INCH CONNECTIONS	\$ 3,500.00	\$ 7,000.00	\$ 1,500.00	\$ 3,000.00	\$ 1,450.00	\$ 2,900.00
34	8	EA	6-INCH CONNECTIONS	\$ 3,500.00	\$ 28,000.00	\$ 1,500.00	\$ 12,000.00	\$ 565.00	\$ 4,620.00
35	3	EA	18-INCH JACK AND BORE RAILROAD CROSSING ATTEMPS	\$ 5,000.00	\$ 15,000.00	\$ 9,000.00	\$ 27,000.00	\$ 1.00	\$ 3.00
36	2	EA	6-INCH JACK AND BORE ROAD CROSSING ATTEMPS	\$ 2,000.00	\$ 4,000.00	\$ 6,500.00	\$ 13,000.00	\$ 1.00	\$ 2.00
37	14	EA	CUT-AND-PLUG EXISTING WATERLINE - 6-INCH AND SMALLER	\$ 1,000.00	\$ 14,000.00	\$ 1,000.00	\$ 14,000.00	\$ 850.00	\$ 11,900.00
38	4	EA	CUT-AND-PLUG EXISTING WATERLINE - 8-INCH AND LARGER	\$ 1,500.00	\$ 6,000.00	\$ 1,300.00	\$ 5,200.00	\$ 980.00	\$ 3,920.00
39	4	EA	REMOVE EXISTING VALVE BOXES	\$ 200.00	\$ 800.00	\$ 259.00	\$ 1,036.00	\$ 195.00	\$ 780.00
40	3	EA	REMOVE EXISTING BLOW OFFS	\$ 500.00	\$ 1,500.00	\$ 346.00	\$ 1,038.00	\$ 195.00	\$ 585.00
41	1	LS	WATERLINE STREAM CROSSING	\$ 15,000.00	\$ 15,000.00	\$ 4,200.00	\$ 4,200.00	\$ 5,550.00	\$ 5,550.00
42	1	LS	SEEDING WITH MULCH	\$ 119,000.00	\$ 119,000.00	\$ 110,000.00	\$ 110,000.00	\$ 36,800.00	\$ 36,800.00
43	1	EA	PROJECT SIGN	\$ 1,500.00	\$ 1,500.00	\$ 1,600.00	\$ 1,600.00	\$ 1,200.00	\$ 1,200.00
PROJECT TOTAL :					\$ 2,612,315.00		\$ 2,696,228.00		\$ 2,697,525.00



AGENDA ACTION FORM

Budget Ordinance to Transfer Funds to Provide Security Over Seized or Impounded Vehicles

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

Action Form No.: AF-97-2016
Work Session: April 18, 2016
First Reading: April 19, 2016

Final Adoption: **May 3, 2016**
Staff Work By: D/C Phipps
Presentation By: Chief Quillin

Recommendation:

Approve the Ordinance.

Executive Summary:

The police department is mandated to provide security over seized vehicles of alcohol or drug violations, as well as vehicles impounded for evidentiary purposes. Historically, the police department has been granted access to various lots or buildings throughout the city that have met the needs. Unfortunately, the time has come when those options are no longer available and logistically, not practical.

The police department is currently in the process of constructing a storage lot located adjacent to Idle Hour Rd that clearly meets the current needs while providing enough additional room for future seizures or impounds. This action would provide the needed funding of \$108,665.00 to supplement existing funds to complete the project. The funding would allow the final stages of construction which include engineering costs, fencing, and an outbuilding.

Attachments:

- 1. Ordinance

Funding source appropriate and funds are available: js

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



AGENDA ACTION FORM

Budget Ordinance to Transfer Funds to Provide Security Over Seized or Impounded Vehicles

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

Action Form No.: AF-97-2016
Work Session: April 18, 2016
First Reading: April 19, 2016

Final Adoption: May 3, 2016
Staff Work By: D/C Phipps
Presentation By: Chief Quillin

Recommendation:
Approve the Ordinance.

Executive Summary:

The police department is mandated to provide security over seized vehicles of alcohol or drug violations, as well as vehicles impounded for evidentiary purposes. Historically, the police department has been granted access to various lots or buildings throughout the city that have met the needs. Unfortunately, the time has come when those options are no longer available and logistically, not practical.

The police department is currently in the process of constructing a storage lot located adjacent to Idle Hour Rd that clearly meets the current needs while providing enough additional room for future seizures or impounds. This action would provide the needed funding of \$108,665.00 to supplement existing funds to complete the project. The funding would allow the final stages of construction which include engineering costs, fencing, and an outbuilding.

Attachments:

- 1. Ordinance

Funding source appropriate and funds are available: *JF*

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT FUND BUDGET BY TRANSFERRING FUNDS TO THE POLICE STORAGE LOT IMPROVEMENT 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 \$108,665 from the Police 911 Radios project (GP1418) to the Police Storage Lot Improvement project (GP1609) to provide security over seized or impounded vehicles.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
Fund 311: General Project Fund			
Police 911 Radios (GP1418)			
Revenues:			
311-0000-368-1040 Series 2011 GO Pub Imp	\$ 348,650	\$ 0	\$ 348,650
311-0000-368-1041 Series 2012C GO Pub Imp	271,660	0	271,660
311-0000-368-1046 Series 2013B GO Pub Imp	1,380,000	(108,665)	1,271,335
Totals:	2,000,310	(108,665)	1,891,645
Expenditures:			
311-0000-601-9004 Equipment	\$ 2,000,310	\$ (108,665)	\$ 1,891,645
Totals:	2,000,310	(108,665)	1,891,645
Fund 311: General Project Fund			
Police Storage Lot Improvements (GP1609)			
Revenues:			
311-0000-368-1046 Series 2013B GO Pub Imp	\$ 0	\$ 108,665	\$ 108,665
311-0000-368-1047 Series 2014 A GO Bonds	39,846	0	39,846
311-0000-368-2101 Premium From Bond Sale	9,654	0	9,654
311-0000-391-0100 From General Fund	26,500	0	26,500
Totals:	76,000	108,665	184,665
Expenditures:			
311-0000-601-2023 Arch/Eng/Landscaping	\$ 0	\$ 50,000	\$ 50,000
311-0000-601-9003 Improvements	76,000	58,665	134,665
Totals:	76,000	108,665	184,665

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: _____



AGENDA ACTION FORM

Detailed Bond Resolutions Authorizing the Issuance of Not to Exceed \$37,500,000 General Obligation Refunding Bonds, Series 2016A and Series 2016B, of the City of Kingsport, Tennessee

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

Action Form No.: AF-101-2016
Work Session: May 2, 2016
First Reading: N/A

Final Adoption: May 3, 2016
Staff Work By: James Demming
Presentation By: Demming/Fleming

Recommendation:

Approve the detailed bond resolutions authorizing the issuance of not to exceed \$21,200,000 General Obligation Refunding Bonds, Series 2016A and not to exceed \$16,300,000 General Obligation Refunding Bonds, Series 2016B.

Executive Summary:

Attached for consideration is a detailed bond resolution which authorizes the issuance of not to exceed \$21,200,000 General Obligation Refunding Bonds which refunds the outstanding indebtedness of certain maturities of the following City debt:

The Series 2009A General Obligation Public Improvement Bonds and the Series 2009C Local Option Sales Tax Revenue and Tax Bonds.

Also attached for consideration is a detailed bond resolution which authorizes the issuance of not to exceed \$16,300,000 General Obligation Refunding Bonds which refunds the outstanding indebtedness of certain maturities of the following City debt:

(See attached summary for a more complete explanation.)

Attachments:

1. Summary Sheet
2. Detailed Resolution-Series A
3. Detailed Resolution-Series B
4. Attachment I
5. Attachment II

Funding source appropriate and funds are available: 

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

SUPPLEMENTAL INFORMATION Action Form 101-2016

Executive Summary *continued*:

SUBJECT: Consideration of a Detailed Bond Resolutions Authorizing the Issuance of Not to Exceed \$37,500,000 General Obligation Refunding Bonds, Series 2016A and Series 2016B, of the City of Kingsport, Tennessee

The Series 2009B General Obligation Bonds (V.O. Dobbins Non-Profit Center) and the Series 2009E General Obligation Bonds (Aquatic Center).

Due to the 2009B and 2009E bonds being subject to different provisions of the federal tax code (relationship with Non-Profit organizations), Bond Counsel has recommended that the refunding transactions be separated into two separate series of bonds, Series 2016A and Series 2016B. The refunding plan submitted to the State reflects the combined program.

As of the date that the refunding plan was submitted to the Division of Local Finance (April 8, 2016), it was estimated that a refunding of these bonds could save the City approximately \$2,353,000 in total debt service expenditures over the remaining life of the bonds. The actual savings will be determined by the interest rates obtained during the sale of the bonds.

In accordance with the City's adopted debt policy, the minimum threshold for considering a refunding transaction is when the expected net present value savings is at least 3%. The anticipated net present value savings for this proposed refunding was 6.78% at the time the refunding plan was submitted to the State. The refinancing will not be completed unless meaningful savings can be obtained.

As required under State law, this plan for refunding has been submitted to the Division of Local Finance for review and the City received the Report of the Director of the Office of State and Local Finance (See Attachment I) allowing the City to proceed with the refunding transaction.

Attachment II includes a projected debt service schedule prepared at the time the refunding plan was filed with the State. Once the bonds are sold, final schedules will be provided to the BMA. The proposed amount of the bond issue includes the funds necessary to be placed into the escrow account to be used to redeem the outstanding maturities at their first call date. In addition, the bonds include the estimated costs associated with issuing the bonds. These items are also detailed in Attachment II.

It is recommended that staff proceed with the refunding plan as outlined above.

Representatives from Raymond James & Associates, Inc. (Financial Advisor) will be available at the May 2nd work session to address any questions the BMA may have.

If additional information is needed, please advise.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION, TERMS, ISSUANCE, SALE, AND PAYMENT OF NOT TO EXCEED \$21,200,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016A, OF THE CITY OF KINGSPORT, TENNESSEE, AND PROVIDING THE DETAILS THEREOF

WHEREAS, pursuant to resolutions duly adopted by the Board of Mayor and Aldermen (the "Board") of the City of Kingsport, Tennessee (the "Municipality"), there have been authorized and issued (i) those certain General Obligation Public Improvement Bonds, Series 2009A, dated February 3, 2009, issued in the original principal amount of \$12,160,000 (the "Series 2009A Bonds"), and (ii) those certain Local Option Sales Tax Revenue and Tax Bonds, Series 2009C, dated February 3, 2009, issued in the original principal amount of \$15,180,000 (the "Series 2009C Bonds") (the Series 2009A Bonds and the Series 2009C Bonds herein collectively referred to as the "Refunded Bonds");

WHEREAS, the Municipality is authorized by Title 9, Chapter 21, Tennessee Code Annotated, as amended, to issue and sell refunding bonds for the purpose of refunding bonds previously authorized and issued in advance of the maturity or redemption date of such bonds and to pay costs incident to the issuance and sale of the refunding bonds;

WHEREAS, the refunding of the Refunded Bonds will result in costs savings to the Municipality;

WHEREAS, the plan of refunding for the Refunded Bonds and the plan of balloon indebtedness have been submitted to the State Director of Local Finance for review and a report on the plan of refunding and an approval of the plan of balloon indebtedness have been issued by such Director;

WHEREAS, it is necessary to appoint an escrow agent for the purpose of ensuring the payment of the principal of, premium, if any, and interest on the Refunded Bonds, and to provide for the execution of an escrow agreement between the Municipality and said escrow agent so as to best provide for the redemption of the Refunded Bonds;

WHEREAS, it is necessary to make provisions for the redemption in advance of the maturity of the Refunded Bonds;

WHEREAS, the Board finds that it is necessary and desirable to issue not to exceed \$21,200,000 General Obligation Refunding Bonds, Series 2016A (the "Bonds"), for the purposes of refunding the Refunded Bonds and paying costs incident to the issuance of the Bonds;

WHEREAS, it is necessary to authorize an official statement in connection with the issuance of the Bonds; and,

WHEREAS, it is now, therefore, necessary and desirable to provide for the execution, terms, issuance, sale, and payment of the Bonds:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF KINGSPORT, TENNESSEE, AS FOLLOWS:

Section 1. Authority. The Bonds herein authorized shall be issued pursuant to Title 9, Chapter 21, Tennessee Code Annotated, as amended, and other applicable provisions of law.

Section 2. Definitions. Without limiting any other definitions of terms and words in other sections of this Resolution, the following words and terms shall have the meanings indicated unless otherwise plainly apparent from the context:

“Act” shall mean Title 9, Chapter 21, Tennessee Code Annotated, as amended.

“Authorized Representative of the Municipality” means the then Mayor, the then Recorder, or the then Treasurer, of the Municipality, authorized by resolution or by law to act on behalf of and bind the Municipality.

“Board” means the Board of Mayor and Aldermen of the Municipality.

“Bond”, means individually, and “Bonds” means, collectively, the General Obligation Refunding Bonds, Series 2016A of the Municipality, authorized to be issued by this Resolution of the Board.

“Bond Counsel” means an attorney or firm of attorneys recognized as having experience in matters relating to the issuance of municipal obligations.

“Bondholder”, “Owner”, or any similar term, when used with reference to the Bonds, means any Person who shall be the registered owner of any then Outstanding Bond or Bonds.

“City Attorney” means the duly appointed City Attorney of the Municipality, or his or her successors.

“Closing Date” means the date of sale, delivery, and payment of the Bonds.

“Code” means the United States Internal Revenue Code of 1986, as amended, and the applicable regulations of the United States Department of the Treasury promulgated thereunder, as in effect on the date of issuance of the Bonds, and as hereafter amended, supplemented, or revised insofar as such amendments, supplements, or revisions shall pertain to or effect the Bonds.

“Continuing Disclosure Certificate” shall mean that certain Continuing Disclosure Certificate executed by the Municipality and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“DTC” means The Depository Trust Company, New York, New York.

“Escrow Agent” means the escrow agent selected by the Municipality to serve as escrow agent under the Escrow Agreement.

“Escrow Agreement” means that certain Escrow Agreement between the Municipality and the Escrow Agent in substantially the form attached hereto as Exhibit “B” with such changes and revisions as may be deemed necessary by the Authorized Representatives of the Municipality executing the Escrow Agreement.

“Government Obligations” means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of Federal agencies to the extent unconditionally guaranteed by the United States of America, which Bonds or other obligations shall not be subject to redemption prior to their maturity other than at the option of the registered owner thereof.

“Interest Payment Date” means each date on which interest shall be payable on any of the Bonds, according to their respective terms so long as any of the Bonds shall be Outstanding.

“Mayor” means the duly elected, qualified, and acting Mayor of the Municipality, or his or her successors.

“Outstanding,” “Bonds Outstanding,” or “Outstanding Bonds” means, as of a particular date, all Bonds issued and delivered and authenticated under this Resolution except: (1) any Bond paid or redeemed or otherwise canceled by the Municipality at or before such date; (2) any Bond for the payment of which cash, equal to the principal amount thereof with interest to date of maturity, shall have theretofore been deposited prior to maturity by the Municipality for the benefit of the Owner thereof; (3) any Bond in lieu of or in substitution for which another Bond shall have been delivered and authenticated pursuant to this Resolution, unless proof satisfactory to the Municipality is presented that any Bond, for which a Bond in lieu of or in substitution therefor shall have been delivered, is held by a bona fide purchaser, as that term is defined in Article 8 of the Uniform Commercial Code of the State, as amended, in which case both the Bond in lieu of or in substitution for which a new Bond has been delivered and such new Bond so delivered therefor shall be deemed Outstanding; and, (4) any Bond deemed paid under the provisions of this Resolution, except that any such Bond shall be considered Outstanding until the maturity thereof only for the purposes of being exchanged, transferred, or registered.

“Person” means an individual, partnership, corporation, trust, or unincorporated organization, or a governmental entity or agency or political subdivision thereof.

“Principal Payment Date” means each date on which principal shall be payable on any of the Bonds, according to their respective terms so long as any of the Bonds shall be Outstanding.

“Recorder” means the duly appointed, qualified, and acting Recorder of the Municipality, or his or her successors.

“Registration Agent” means Regions Bank, or its successor, or successors hereafter appointed in the manner provided in this Resolution.

“Resolution” means this Resolution, as supplemented and amended.

“State” means the State of Tennessee.

“Treasurer” means the duly appointed, qualified, and acting Treasurer of the Municipality, or his or her successors.

Section 3. Authorization. For the purpose of providing funds to refund the Refunded Bonds and to pay costs incident to the issuance of the Bonds, there is hereby authorized to be issued General Obligation Refunding Bonds, Series 2016A of the Municipality, in the aggregate principal amount of not to exceed Twenty-One Million Two Hundred Thousand Dollars (\$21,200,000), or such lesser aggregate amount as may be determined by the Authorized Representatives of the Municipality executing the Bonds. No Bonds may be issued under the provisions of this Resolution except in accordance herewith. The Board hereby finds that the refunding of the Refunded Bonds will result in cost savings to the Municipality.

Section 4. Form of Bonds; Execution. (a) The Bonds, or any series thereof, are issuable only as fully registered bonds, without coupons, in the denomination of \$5,000 or any integral multiple thereof. All Bonds issued under this Resolution shall be substantially in the form set forth in Exhibit “A” attached hereto, and by this reference incorporated herein as fully as though copied, with such appropriate variations, omissions, and insertions as are permitted or required by this Resolution, the blanks therein to be appropriately completed when the Bonds are prepared, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto or as otherwise desired by the Municipality. Each series of Bonds shall be numbered consecutively from one upwards.

(b) The Bonds shall be executed in such manner as may be prescribed by applicable law in the name, and on behalf, of the Municipality with the manual or facsimile signature of the Mayor and attested with the manual or facsimile signature of the Recorder, and with the official seal, or a facsimile thereof, of the Municipality impressed or imprinted thereon, and shall be approved as to form by the manual or facsimile signature of the City Attorney. The Bonds shall not be valid for any purpose unless authenticated by the manual signature of an officer of the Registration Agent on the certificate set forth on the Bonds.

(c) In the event any officer whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such manual or such facsimile signature shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery. Any Bond may bear the facsimile signature of, or may be manually signed by, such individuals who, at the actual time of the execution of such Bond, were the proper officers of the Municipality to sign such Bond, although on the respective dates of the adoption by the Municipality of this Resolution, such individuals may not have been such officers.

Section 5. Maturities, Interest Rates, Payment, and Certain Other Provisions of Bonds.
(a) The Bonds shall be issued in one or more series, and subject to the adjustments permitted under

Section 19 hereof shall be known as “General Obligation Refunding Bonds, Series 2016A,” shall be dated as of the date of issuance and delivery, and shall have such series designation or other dated date as shall be determined by the Mayor pursuant to Section 19 hereof. The Bonds shall be issued at a date, at a rate or rates of interest not to exceed the maximum rate allowed by law, and upon terms and conditions to be determined. The Bonds shall bear interest from the date thereof at a rate or rates to be hereafter determined by the Municipality when said Bonds, or any series thereof, are sold, but not exceeding the maximum rate allowed by law, such interest being payable (subject to the adjustments permitted under Section 19 hereof) semi-annually on the first day of March and September of each year, commencing September 1, 2016. Subject to the adjustments permitted pursuant to Section 19 hereof, the Bonds shall mature serially or be subject to mandatory redemption and be payable on March 1 of each year, subject to prior optional redemption, as hereinafter provided, either serially or through mandatory redemption, in the years 2017 through 2030, inclusive.

In the event that any amount payable on any Bond as interest shall at any time exceed the rate of interest lawfully chargeable thereon under applicable law, then any such excess shall, to the extent of such excess, be applied against the principal of such Bond as a prepayment thereof without penalty, and such excess shall not be considered to be interest. All rates of interest specified herein shall be computed on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each.

The principal of, and the premium, if any, and all installments of interest on, any Bond shall bear interest from and after their respective due dates at a rate of interest equal to the rate of interest payable on the principal of such Bond.

(b) Interest on the Bonds shall be payable by check or other form of draft of the Registration Agent deposited by the Registration Agent in the United States mail, first class postage prepaid, in sealed envelopes, addressed to the Owners of such Bonds, as of the applicable Interest Payment Date, at their respective addresses as shown on the registration books of the Municipality maintained by the Registration Agent as of the close of business on the fifteenth (15th) calendar day of the month next preceding the applicable Interest Payment Date (the “Regular Record Date”). The principal or redemption price, if any, of all Bonds shall be payable upon presentation and surrender of such Bonds at the principal corporate trust office of the Registration Agent. All payments of the principal of, premium, if any, and interest on, the Bonds shall be made in any coin or currency of the United States of America which, on the date of payment thereof, shall be legal tender for the payment of public and private debts.

(c) Any interest on any Bond which is payable but is not punctually paid or duly provided for on any Interest Payment Date on which interest is due (hereinafter “Defaulted Interest”) shall forthwith cease to be payable to the Owner on the relevant Regular Record Date; and, in lieu thereof, such Defaulted Interest shall be paid by check or other form of draft of the Registration Agent to the persons in whose names the Bonds are registered at the close of business on a date (the “Special Record Date”) for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Municipality shall notify the Registration Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment, and at the same time the Municipality shall deposit with the Registration Agent an

amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangement satisfactory to the Registration Agent for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this Section provided. Thereupon, not less than ten (10) calendar days after the receipt by the Registration Agent of the notice of the proposed payment, the Registration Agent shall fix a Special Record Date for the payment of such Defaulted Interest which date shall be not more than fifteen (15) nor less than ten (10) calendar days prior to the date of the proposed payment to the Owners. The Registration Agent shall promptly notify the Municipality of such Special Record Date and, in the name and at the expense of the Municipality, not less than ten (10) calendar days prior to such Special Record Date, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Owner at the address thereof as it appears in the registration books of the Municipality maintained by the Registration Agent as of the date of such notice. Nothing contained in this Section or in the Bonds shall impair any statutory or other rights in law or in equity of any Owner arising as a result of the failure of the Municipality to punctually pay or duly provide for the payment of principal of, premium, if any, and interest on, the Bonds when due.

(d) The Bonds will be made eligible for processing by DTC. The Bonds in the form of one global Bond for each maturity need not be lithographed or printed on steel engraved or printed borders. Except as otherwise provided in this Section, the Bonds shall be registered in the name of Cede & Co. as nominee of DTC. The Municipality may discontinue use of DTC as depository for the Bonds at any time upon determination by the Municipality that the use of DTC is no longer in the best interest of the beneficial owners of the Bonds. Registered ownership of the Bonds may be transferred on the registration books maintained by the Registration Agent and the Bonds may be delivered in physical form to the following:

- (i) any successor of DTC or its nominee;
- (ii) any substitute depository upon (1) the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or (2) a determination by the Municipality that DTC or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; or,
- (iii) any Person, upon (a) the resignation of DTC or its successor (or substitute depository or its successor) from its functions as depository, or (b) termination by the Municipality of the use of DTC (or substitute depository or its successor).

(e) The Registration Agent is hereby authorized to take such actions as may be necessary from time to time to qualify and maintain the Bonds for deposit with DTC, including, but not limited to, wire transfers of interest and principal payments with respect to the Bonds, utilization of electronic book entry data received from DTC in place of actual delivery of Bonds and provision of notices with respect to Bonds registered by DTC (or any of its designees identified to the Registration Agent) by overnight delivery, courier service, telegram, telecopy or other similar means of communication. The Registration Agent shall not be liable with respect to any such arrangements it may make pursuant to this subsection (e) of this Section 5.

Section 6. Redemption. (a) Subject to the adjustments permitted under Section 19 hereof, the Bonds maturing March 1, 2017 through March 1, 2022, are not subject to redemption prior to maturity. The Bonds maturing on and after March 1, 2023, are subject to redemption prior to maturity on March 1, 2022, and at any time thereafter, at the option of the Municipality, as a whole or in part, in integral multiples of \$5,000 (less than all Bonds of a single maturity to be selected by lot by the Registration Agent), at the price of par, plus accrued interest to the date fixed for redemption.

(b) Notice of intended redemption shall be given by the Registration Agent on behalf of the Municipality to the Owners of the Bonds to be redeemed by first-class mail, postage prepaid, at the addresses shown on the registration books kept by the Registration Agent. Notice of intended redemption shall be given not less than thirty (30) calendar days, nor more than sixty (60) calendar days prior to the date fixed for redemption. Each such notice of redemption shall state: (1) the redemption date; (2) the redemption price; (3) if less than all Outstanding Bonds are to be redeemed, the registered number and the CUSIP number printed on the Bonds (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed; (4) that on the redemption date, the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date provided sufficient funds are available on such redemption date to fully pay the redemption price of and the interest on the Bonds called for redemption; and, (5) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal corporate trust office of the Registration Agent. Neither failure to mail any such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the redemption of any of the Bonds for which notice was correctly given.

(c) If notice of redemption shall have been given in the manner and under the conditions provided herein and if on the date so designated for redemption the Registration Agent shall hold sufficient monies to pay the redemption price of, and interest to the redemption date on, the Bonds to be redeemed as provided in this Resolution, then: (1) the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date; (2) interest on the Bonds so called for redemption shall cease to accrue; and, (3) such Bonds shall no longer be Outstanding or secured by, or be entitled to, the benefits of this Resolution, except to receive payment of the redemption price thereof and interest thereon from monies then held by the Registration Agent.

(d) Prior to any redemption date, the Municipality shall deposit with the Registration Agent an amount of money sufficient to pay the redemption price of all of the Bonds or portions of Bonds which are to be redeemed on that date.

(e) If on the redemption date, monies for the redemption of all Bonds or portions thereof to be redeemed, together with interest thereon to the redemption date, shall not be held by the Registration Agent so as to be available therefor on such date, the Bonds or portions thereof so called for redemption shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption and shall continue to be secured by and be entitled to the benefits of this Resolution.

(f) In case any Bond is of a denomination larger than \$5,000, a portion of such Bond - \$5,000 or any integral multiple thereof - may be redeemed, but Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. In selecting Bonds for redemption, the Municipality shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. If part but not all of a Bond shall be selected for redemption, the Owner thereof or his, her, or its legal representative shall present and surrender such Bond to the Registration Agent for payment of the principal amount thereof so called for redemption and the premium, if any, on such principal amount thereof so called for redemption, and the Municipality shall execute and the Registration Agent shall authenticate and deliver to such Owner or legal representative, without charge therefor, for the unredeemed portion of the Bond surrendered, a Bond or Bonds of the same maturity, bearing the same interest rate, and of authorized denomination or denominations.

Section 7. Negotiability of Bonds. All Bonds issued under this Resolution shall be negotiable, subject to the provisions for registration and transfer contained in this Resolution and in the Bonds.

Section 8. Registration Books and Registration Agent. (a) The Municipality hereby appoints Regions Bank as registration agent and paying agent (the "Registration Agent") with respect to the Bonds and authorizes the Registration Agent so long as any of the Bonds shall remain Outstanding, to maintain at the principal corporate trust office of the Registration Agent, books for the registration and transfer of the Bonds on behalf of the Municipality. The Registration Agent shall register in such books and permit to be transferred thereon, under such reasonable regulations as it may prescribe, any Bond entitled to registration or transfer and to authenticate and deliver the Bonds either at original issuance, upon transfer, or as otherwise directed by the Municipality. The Registration Agent is authorized to make all payments of principal, interest, and redemption premium, if any, with respect to the Bonds.

(b) The Registration Agent shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by a written instrument of acceptance executed and delivered to the Recorder prior to or on the Closing Date.

Section 9. Exchange of Bonds. Bonds upon surrender thereof at the principal corporate trust office of the Registration Agent, together with an assignment of such Bonds duly executed by the Owner thereof, or his, her, or its attorney or legal representative, may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this Resolution, and bearing interest at the same rate as the Bonds surrendered for exchange.

Section 10. Transfer of Bonds. (a) Each Bond shall be transferable only on the registration books maintained by the Registration Agent at the principal corporate trust office of the Registration Agent, upon the surrender for cancellation thereof at the principal corporate trust office of the Registration Agent, together with an assignment of such Bond duly executed by the Owner thereof or his, her, or its attorney or legal representative, and upon payment of the charges hereinafter provided, and subject to such other limitations and conditions as may be provided

therein or herein. Upon the cancellation of any such Bond, the Registration Agent shall, in exchange for the surrendered Bond or Bonds, deliver in the name of the transferee or transferees a new Bond or Bonds of authorized denominations, of the same aggregate principal amount and maturity and rate of interest as such surrendered Bond or Bonds, and the transferee or transferees shall take such new Bond or Bonds subject to all of the conditions herein contained.

(b) The Municipality and the Registration Agent may deem and treat the Person in whose name any Bond shall be registered upon the registration books maintained by the Registration Agent as the absolute owner thereof, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal or redemption price of, and the interest on, such Bond and for all other purposes. All such payments so made to the registered Owner thereof shall be valid and effectual to satisfy and discharge the liability of the Municipality or the Registration Agent upon such Bond to the extent of the sum or sums so paid. Neither the Municipality nor the Registration Agent shall be affected by any notice to the contrary.

Section 11. Regulations with Respect to Exchanges and Transfers. (a) In all cases in which the privilege of exchanging or transferring Bonds is exercised, the Municipality shall execute, and the Registration Agent shall deliver, Bonds in accordance with the provisions of this Resolution. For every exchange or transfer of Bonds, whether temporary or definitive, the Municipality and the Registration Agent may make a charge, unless otherwise herein to the contrary expressly provided, sufficient to pay for any tax, fee, or other governmental charge required to be paid with respect to such exchange or transfer.

(b) Neither the Municipality nor the Registration Agent shall be obligated to exchange or transfer any Bond during the fifteen (15) calendar days next preceding an Interest Payment Date or the first mailing of any notice of redemption or with respect to any Bond, after such Bond has been called for redemption.

Section 12. Mutilated, Lost, Stolen, or Destroyed Bonds. (a) In the event any Bond is mutilated, lost, stolen, or destroyed, the Municipality may execute, and upon the request of an Authorized Representative of the Municipality and the Registration Agent shall deliver, a new Bond of like maturity, interest rate, and principal amount, and bearing the same number (but with appropriate designation indicating that such new Bond is a replacement Bond) as the mutilated, destroyed, lost, or stolen Bond, in exchange for the mutilated Bond or in substitution for the Bond so destroyed, lost, or stolen. In every case of exchange or substitution, the Bondholder shall furnish to the Municipality and the Registration Agent: (1) such security or indemnity as may be required by an Authorized Representative of the Municipality to save the Municipality and the Registration Agent harmless from all risks, however remote; and, (2) evidence to their satisfaction of the mutilation, destruction, loss, or theft of the subject Bond and the ownership thereof. Upon the issuance of any Bond upon such exchange or substitution, an Authorized Representative of the Municipality and the Registration Agent may require the Owner thereof to pay a sum sufficient to defray any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including printing costs and counsel fees, of the Municipality and the Registration Agent. In the event any Bond which has matured or is about to mature shall become mutilated or be destroyed, lost, or stolen, an Authorized Representative of the Municipality may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of the same

(without surrender thereof except in the case of a mutilated Bond) if the Owner thereof shall pay all costs and expenses, including attorneys fees, incurred by the Municipality and the Registration Agent in connection therewith, as well as a sum sufficient to defray any tax or other governmental charge that may be imposed in relation thereto and shall furnish to the Municipality and the Registration Agent such security or indemnity as an Authorized Representative of the Municipality and the Registration Agent may require to save the Municipality and the Registration Agent harmless and evidence to the satisfaction of an Authorized Representative of the Municipality and the Registration Agent, of the mutilation, destruction, loss, or theft of such Bond and of the ownership thereof.

(b) Every Bond issued pursuant to the provisions of this Section shall constitute an additional contractual obligation of the Municipality (whether or not the destroyed, lost, or stolen Bond shall be found at any time to be enforceable) and shall be entitled to all the benefits of this Resolution equally and proportionately with any and all other Bonds duly issued under this Resolution.

(c) All Bonds shall be held and owned upon the express condition that the provisions of this Section are exclusive, with respect to the replacement or payment of mutilated, destroyed, lost, or stolen Bonds, and, to the maximum extent legally permissible, shall preclude all other rights or remedies, notwithstanding any law or statute now existing or hereafter enacted to the contrary.

Section 13. Authentication. Only such of the Bonds as shall have endorsed thereon a certificate of authentication, substantially in the form set forth in Exhibit "A" hereto duly executed by the Registration Agent shall be entitled to the rights, benefits, and security of this Resolution. No Bond shall be valid or obligatory for any purpose unless, and until, such certificate of authentication shall have been duly executed by the Registration Agent. Such executed certificate of authentication by the Registration Agent upon any such Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Resolution as of the date of authentication. The certificate of authentication of the Registration Agent on any Bond shall be deemed to have been duly executed if manually signed by an authorized officer of the Registration Agent, but it shall not be necessary that the same officer sign and date the certificate of authentication on all Bonds that may be issued hereunder.

Section 14. Permitted Acts and Functions of Registration Agent. The Registration Agent may become the Owner of any Bonds, with the same rights as it would have if it were not a Registration Agent.

Section 15. Resignation or Removal of the Registration Agent and Appointment of Successors. (a) The Registration Agent may at any time resign and be discharged of the duties and obligations created by this Resolution by giving at least sixty (60) calendar days' written notice to the Recorder; provided, however, until a successor Registration Agent is appointed the Registration Agent shall continue to carry out the duties and obligations of the Registration Agent created by this Resolution. The Registration Agent may be removed at any time by resolution of the Municipality filed with such Registration Agent. Any successor Registration Agent shall be appointed by resolution of the Municipality and shall be a trust company or a bank having the

powers of a trust company, having, at the time of such appointment, a combined capital, surplus, and undivided profits aggregating at least Fifty Million Dollars (\$50,000,000), and be willing and able to accept the office of Registration Agent on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Resolution.

(b) In the event of the resignation or removal of the Registration Agent, such Registration Agent shall pay over, assign, and deliver any monies held by it as Registration Agent, and all books and records held by it as Registration Agent, to its successor, or if there be no successor then appointed, to the Recorder until such successor be appointed.

Section 16. Merger or Consolidation of Registration Agent. Any corporation or association into which the Registration Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole, or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation, or transfer to which it is a party shall be and become successor Registration Agent hereunder and shall be vested with all the trusts, powers, discretion, immunities, privileges, and other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein contained to the contrary notwithstanding.

Section 17. Source of Payment and Security. The Bonds, including the principal thereof, the premium, if any, and the interest thereon, shall be payable from funds of the Municipality legally available therefor and to the extent necessary from ad valorem taxes to be levied for such purpose on all taxable property within the corporate limits of the Municipality without limitation as to time, rate, or amount. Said Bonds shall be a direct general obligation of the Municipality, for which the punctual payment of the principal of, premium, if any, and interest on the Bonds the full faith and credit of the Municipality is hereby irrevocably pledged. To the extent the proceeds of the Refunded Bonds were used to fund projects secured by a pledge of the revenues to be derived from the one-quarter percent (0.25%) local option sales tax levied by the Municipality within the corporate limits of the Municipality within Sullivan County, Tennessee, the Bonds shall additionally be payable from, but not secured by, such local option sales tax revenues.

Section 18. Levy of Taxes. For the purpose of providing for the payment of the principal of, premium, if any, and interest on, the Bonds, to the extent necessary, there shall be levied in each year in which such Bonds shall be outstanding a direct tax on all taxable property in the Municipality, fully sufficient, to pay all such principal and interest falling due prior to the time of collection of the next succeeding tax levy. Said tax shall be assessed, collected, and paid at the time, and in the same manner, as the other taxes of said Municipality, shall be in addition to all other taxes, and shall be without limitation as to time, rate, or amount. The Board of the Municipality is required by law and shall and does hereby pledge to levy such tax. Principal, premium, if any, and interest, or any of the foregoing, falling due at any time when there shall be insufficient funds on hand from such tax levy for the payment thereof shall be paid from the General Fund or other available funds of the Municipality, but reimbursement therefor may be made from the taxes herein provided when the same shall have been collected. Such taxes levied

and collected therefor shall be deposited in General Fund of the Municipality, and used for the payment of principal and interest on the Bonds as the same shall become due.

Section 19. Sale of Bonds. (a) The Bonds shall be sold at public sale (the "Public Sale") in the manner provided by law, in one or more series, at a price of not less than ninety-nine percent (99%) of par, as a whole or in part from time to time as shall be determined by the Mayor, in consultation with Raymond James & Associates, Inc., Nashville, Tennessee, the Municipality's financial advisor (the "Financial Advisor"). The Bonds, or any series thereof, shall be sold at public sale by physical delivery of bids or by electronic bidding by means of an internet bidding service as shall be determined by the Mayor, in consultation with the Financial Advisor.

(b) If the Bonds are sold in more than one series, the Mayor is authorized to cause to be sold in each series an aggregate principal amount of Bonds less than that shown authorized in Section 3 hereof for each series, and to make corresponding adjustments to the maturity dates of each series designated in Section 5 hereof; provided, however, that the total aggregate principal amount of all series issued does not exceed the total aggregate amount of Bonds authorized to be issued hereunder.

(c) The Mayor is further authorized:

(1) to change the dated date of the Bonds or any series thereof;

(2) to specify the series designation of the Bonds, or any series thereof, to a designation;

(3) to change the first interest payment date on the Bonds, or any series thereof, to a date other than September 1, 2016, provided that such date is not later than twelve months from the dated date of such series of Bonds;

(4) to adjust the principal and interest payment dates and determined maturity or mandatory redemption amounts of the Bonds, or any series thereof, provided that (i) the total principal amount of all series of Bonds does not exceed the total amount of Bonds authorized herein, (ii) the first maturity date of the Bonds, or any series thereof, is a date not earlier than March 1, 2017 and (iii) the final maturity date of each series of Bonds shall not exceed March 1, 2030;

(5) to change the optional redemption provisions of the Bonds, provided that the premium amount to be paid on Bonds, or any series thereof, does not exceed two percent (2%) of the principal amount thereof;

(6) to sell the Bonds, or any series thereof, or any maturities thereof, as term bonds with mandatory redemption requirements as determined by the Mayor, as the Mayor shall deem most advantageous to the Municipality; and,

(7) to cause all or a portion of the Bonds to be insured by a bond insurance policy issued by a nationally recognized bond insurance company to achieve the purposes

set forth herein and to serve the best interests of the Municipality and to enter into agreements with such insurance company with respect to any series of Bonds to the extent not inconsistent with this Resolution.

(d) The Mayor of the Municipality is authorized to sell the Bonds, or any series thereof, simultaneously with any other bonds or notes authorized by resolution or resolutions of the Board. The Mayor is further authorized to sell the Bonds, or any series thereof, as a single issue of bonds with any other bonds with substantially similar terms authorized by resolution or resolutions of the Board, in one or more series, as the Mayor shall deem to be advantageous to the Municipality, and in doing so, the Mayor is authorized to change the designation of the Bonds to a designation other than "General Obligation Refunding Bonds, Series 2016A"; provided, however, that the total aggregate principal amount of combined bonds to be sold does not exceed the total aggregate principal amount of Bonds authorized by this Resolution or bonds authorized by other resolution or resolutions adopted by the Board.

(e) The Mayor is authorized to award the Bonds, or any series thereof, in each case to the bidder whose bid results in the lowest true interest cost to the Municipality, provided the rate or rates on the Bonds does not exceed the maximum rate allowed by law. The award of the Bonds by the Mayor to the lowest bidder shall be binding on the Municipality, and no further action of the Board with respect thereto shall be required. The form of the Bond attached hereto as Exhibit A, shall be conformed to reflect any changes made pursuant to this Section.

(f) The Mayor and the Recorder are authorized to cause the Bonds to be authenticated and delivered to the successful bidder and to execute, publish, and deliver all certificates and documents, including an official statement and closing certificates, as they shall deem necessary in connection with the sale and delivery of the Bonds. Notice of such Public Sale shall be given in accordance with the provisions of the Act. The Mayor and Recorder are hereby authorized to enter into a contract with the Financial Advisor, for financial advisory services in connection with the sale of the Bonds.

Section 20. Approval of Preliminary Official Statement and Official Statement. (a) The Mayor, the Recorder, and the City Manager, or any of them, working with the Financial Advisor, are hereby authorized to cause the preparation and distribution, which may include electronic distribution, of a Preliminary Official Statement in connection with the sale of the Bonds in such form and containing such information as the Mayor shall determine appropriate and consistent with the terms of this Resolution and to deem the Preliminary Official Statement final for the purpose of Securities and Exchange Commission Rule 15c(2)(12).

(b) The Board hereby authorizes an Official Statement of the Municipality substantially in the form of the Preliminary Official Statement relating to the Bonds, with such modifications thereto as the Mayor and the Recorder approve. The Mayor and Recorder are hereby authorized and directed to execute copies of said Official Statement and to deliver said Official Statement to the purchaser of such Bonds, which execution and delivery shall be conclusive evidence of the approval of any such modifications; and the Board hereby consents to the lawful use of said Official Statement and the information contained therein in connection with the public offering and sale of the Bonds by the initial purchaser of such Bonds. The Mayor and the Recorder

are authorized to deem the Official Statement final for the purpose of Securities and Exchange Commission Rule 15(c)(2)(12).

(c) The distribution of the Preliminary Official Statement and the Official Statement in final form shall be conclusive evidence that each has been deemed in final form as of its date by the Municipality except for the omission in the Preliminary Official Statement of pricing and other information.

Section 21. Disposition of Bond Proceeds and Other Funds. The proceeds of the sale of the Bonds and certain other funds shall be used and applied as follows:

(a) Accrued interest, if any, shall be paid to the official of the Municipality designated by law as the custodian of the funds thereof and used to pay interest on the Bonds on the first Interest Payment Date following delivery of the Bonds.

(b) Such amount as is necessary from the principal proceeds, and premium received, if any, from the sale of the Bonds shall be deposited with the Escrow Agent under the Escrow Agreement to be invested as set forth therein to provide for the payment of the principal of, interest on, and redemption premium, if any, in connection with the Refunded Bonds.

(c) Any amounts remaining from the principal proceeds of the sale of the Bonds shall be used for the purpose of paying the costs incurred in connection with the issuance of the Bonds.

Section 22. Escrow Agreement; Appointment of Escrow Agent. The Escrow Agreement between the Municipality and the Escrow Agent in the form attached hereto as Exhibit "B" is hereby approved, and the Mayor and the Recorder are hereby authorized and directed to execute such Escrow Agreement, in substantially such form with such changes as may be approved by the Mayor and the Recorder, their execution of such Escrow Agreement to be conclusive evidence of their approval of such changes, and to make provision for the execution of such Escrow Agreement by the appropriate officials of the Escrow Agent, as such Escrow Agent is designated by the Municipality.

Section 23. Redemption of Refunded Bonds. Upon the issuance of the Bonds, the Refunded Bonds shall be called for redemption in accordance with the provisions of the applicable resolution authorizing the issuance of the Refunded Bonds. Notices of call for redemption shall be given by the Escrow Agent to the holders of the Refunded Bonds in the manner required as set forth in the applicable resolution authorizing the issuance of the Refunding Bonds.

Section 24. Non-Arbitrage Certification. The Municipality certifies and covenants with the Owners of any series of tax-exempt Bonds issued hereunder that so long as the principal of any Bond remains unpaid, monies on deposit in any fund or account in connection with the Bonds, whether or not from any other source, will not be used in a manner which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code. The Municipality reserves the right, however, to make any investment of such monies permitted by Tennessee law and this

Resolution if, when and to the extent that said Section 148 or regulations promulgated thereunder shall be repealed or relaxed or shall be held void by final decision of a court of competent jurisdiction, but only if any investment made by virtue of such repeal, relaxation, or decision would not, in the opinion of Bond Counsel, result in making the interest on the Bonds subject to federal income taxation.

The Municipality covenants that it shall comply with Section 148(f) of the Code, unless legally exempted therefrom, and the Municipality represents that in the event it shall be required by Section 148(f) of the Code to pay "Rebatable Arbitrage," as such term is defined and used in the Code, pursuant to the Code, to the United States Government, it will make such payments as and when required by said Section 148(f) and will take such other actions as shall be necessary or permitted to prevent the interest on the Bonds from becoming subject to inclusion in the gross income of the Owners of the Bonds for purposes of federal income taxation.

Section 25. Continuing Disclosure. The Municipality hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Resolution, failure of the Municipality to comply with the Continuing Disclosure Certificate shall not be considered an event of default; however, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Municipality to comply with its obligations under this Section. For purposes of this Section, "Beneficial Owner" means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the Owner of any Bonds for federal income tax purposes.

Section 26. Amendments. After the issuance of the Bonds, no change, variation, or alteration of any kind in the provisions of this Resolution shall be made in any manner, until such time as all of the principal of and interest on the Bonds shall have been paid in full unless the consent of all of the Owners of all the Outstanding Bonds have been obtained; provided, however, that the Municipality is hereby authorized to make such amendments to this Resolution as will not impair the rights of the Bondholders. The laws of the State of Tennessee shall govern this Resolution.

Section 27. No Action to be Taken Affecting Validity of the Bonds. The Board hereby covenants and agrees that it will not take any action, that would in any manner affect the validity of the Bonds or limit the rights and remedies of the Owners from time to time of such Bonds or affect the exclusion of interest thereon from the gross income of the owners thereof for purposes of federal income taxation.

Section 28. Discharge and Satisfaction of Bonds. If the Municipality shall pay and discharge the entire indebtedness evidenced by any of the Bonds in any one or more of the following ways:

(a) By paying or causing to be paid, by deposit of sufficient funds as and when required with the Registration Agent, the principal of, premium, if any, and interest on, the Bonds, as and when the same become due and payable;

(b) By depositing or causing to be deposited with any trust company or bank whose deposits are insured by the Federal Deposit Insurance Corporation and which has trust powers (“a Trustee”; which Trustee may be the Registration Agent), in trust, at or before the date of maturity or redemption, sufficient monies or Government Obligations, the principal of and interest on which, when due and payable, will provide sufficient monies to pay or redeem the Bonds Outstanding hereunder and to pay premium, if any, and interest thereon when due until the maturity or redemption date; provided, if such Bonds are to be redeemed prior to the maturity thereof, proper notice of such redemption shall have been given or adequate provision shall have been made for the giving of such notice; or,

(c) By delivering such Bonds to the Registration Agent, for cancellation by such Registration Agent.

If the Municipality shall also pay or cause to be paid all other sums payable hereunder by the Municipality with respect to such Bonds, or make adequate provision therefor, and by resolution of the Board instruct any such Trustee to pay amounts when and as required to the Registration Agent for the payment of principal of, premium, if any, and interest on, such Bonds when due, then and in that case indebtedness evidenced by such Bonds shall be discharged and satisfied, and all covenants, agreements, and obligations of the Municipality to the owners of such Bonds shall be fully discharged and satisfied and shall thereupon cease, terminate, and become void.

If the Municipality shall pay and discharge the indebtedness evidenced by any of the Bonds in the manner provided in either clause (a) or clause (b) above, then the Owners thereof shall thereafter be entitled only to payment out of the monies or Government Obligations deposited as aforesaid.

Except as otherwise provided in this Section neither Government Obligations nor monies deposited with the Registration Agent pursuant to this Section nor principal or interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest on, said Bonds; provided that any cash received from such principal or interest payments on such Government Obligations deposited with the Registration Agent, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Municipality as received by the Registration Agent, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal of, premium, if any, and interest, to become due on said Bonds on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Municipality, as received by the Registration Agent.

Nothing contained in this Section shall be construed to alter or change the redemption provisions set forth herein. No redemption privilege shall be exercised with respect to the Bonds except at the option and election of the Municipality. The optional right of redemption shall not be exercised by the Registration Agent unless expressly so directed by an Authorized Representative of the Municipality.

Section 29. Miscellaneous Acts. The Mayor, the Recorder, the Treasurer, the City Manager, and the City Attorney, and all other appropriate officials of the Municipality are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, and deliver all such documents, instruments, and certifications, specifically including but not limited to, entering into an agreement with the Financial Advisor to provide financial advisory services for the Municipality and services related to the issuance, sale, and delivery of the Bonds, entering into an agreement with a dissemination agent to provide continuing disclosure services, and making arbitrage certifications, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may in their discretion, be necessary or desirable to implement or comply with the intent of this Resolution; or any of the documents herein authorized and approved, or for the authorization, issuance, and delivery of the Bonds and the redemption of the Refunded Bonds.

Section 30. Failure to Present Bonds. (a) In the event any Bond shall not be presented for payment when the principal becomes due at maturity and in the event monies sufficient to pay such Bond shall be held by the Registration Agent for the benefit of the Owner thereof, all liability of the Municipality to such Owner for the payment of such Bond shall forthwith cease, terminate, and be completely discharged. Thereupon, the Registration Agent shall hold such monies, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such monies for any claim under the Resolution or on, or with respect to, said Bond.

(b) If any Bond shall not be presented for payment within a period of five years following the date when such Bond becomes due, whether by maturity or otherwise, the Registration Agent shall, subject to the provisions of any applicable escheat or other similar law, pay to the Treasurer or the official of the Municipality designated by law as the custodian of such funds, any monies then held by the Registration Agent for the payment of such Bond and such Bond shall (subject to the defense of any applicable statute of limitation) thereafter constitute an unsecured obligation of the Municipality.

Section 31. Payments Due on Saturdays, Sundays, and Holidays. In any case where the date of maturity or interest on or principal of any Bond shall be a Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions similar to the Registration Agent are authorized by law to close, then the payment of the interest on, or the principal of such Bonds need not be made on such date but must be made on the next succeeding day not a Saturday, Sunday, or a legal holiday or a day upon which banking institutions similar to the Registration Agent are authorized by law to close, with the same force and effect as if made on the date of maturity and no interest shall accrue for the period after such date.

Section 32. No Recourse Under Resolution or on Bonds. All stipulations, promises, agreements, and obligations of the Municipality contained in the Initial Resolution or this Resolution shall be deemed to be the stipulations, promises, agreements, and obligations of the Municipality and not of any officer, director, or employee of the Municipality in his or her individual capacity, and no recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon or on the Initial Resolution or this Resolution against any officer, director, or employee of the Municipality or against any official or individual executing the Bonds.

Section 33. Partial Invalidity. If any one or more of the provisions of this Resolution, or of any exhibit or attachment thereto, shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, or of any exhibit or attachment thereto, but this Resolution, and the exhibits and attachments thereto, shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

Section 34. Severability. If any section, paragraph, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or enforceability of such section, paragraph, or provision shall not affect any of the remaining provisions hereof.

Section 35. Repeal of Conflicting Resolutions and Effective Date. All resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed and this Resolution shall be in immediate effect from and after its adoption, the welfare of the Municipality requiring it.

Approved and adopted this 3rd day of May, 2016.

MAYOR

ATTEST:

APPROVED AS TO FORM:

RECORDER

CITY ATTORNEY

STATE OF TENNESSEE
COUNTIES OF SULLIVAN AND HAWKINS

I, James H. Demming, hereby certify that I am the duly qualified and acting Recorder of the City of Kingsport, Tennessee (the "Municipality"), and, as such official, I further certify as follows: (1) that attached hereto is a copy of a resolution excerpted from the minutes of the meeting of the Board of Mayor and Aldermen (the "Board") of said Municipality held on May 3, 2016; (2) that I have compared said copy with the original minute record of said meeting in my official custody; (3) that said copy is a true, correct, and complete transcript from said original record insofar as said original record relates, to, among other matters, the authorization, issuance, and sale of not to exceed \$21,200,000 General Obligation Refunding Bonds, Series 2016A of said Municipality; (4) that the actions by said Board including the aforementioned, at said meeting were promptly and duly recorded by me in a book kept for such purposes; and, (5) that a quorum of the members of said Board was present and acting throughout said meeting.

WITNESS my official signature and the seal of said Municipality this 3rd day of May, 2016.

RECORDER

(SEAL)

EXHIBIT "A"
FORM OF BOND

Registered
No. _____

Registered
\$ _____

UNITED STATES OF AMERICA
STATE OF TENNESSEE
COUNTIES OF SULLIVAN AND HAWKINS
CITY OF KINGSPORT
GENERAL OBLIGATION REFUNDING BOND,
SERIES 2016A

Interest Rate:

Maturity Date:

Dated Date:

CUSIP:

Registered Owner: CEDE & CO.

Principal Amount:

THE CITY OF KINGSPORT, TENNESSEE (the "Municipality"), a lawfully organized and existing municipal corporation located in Sullivan and Hawkins Counties, Tennessee, for value received, hereby acknowledges itself indebted and promises to pay, as hereinafter provided, to the Registered Owner identified above, or registered assigns as hereinafter provided, on the Maturity Date identified above, unless this bond shall have been duly called for prior redemption and payment of the redemption price shall have been made or provided for, upon the presentation and surrender hereof at the principal corporate trust office of Regions Bank, or its successor as paying agent and registration agent (the "Registration Agent"), the Principal Amount identified above, in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and to pay interest on said Principal Amount from the date hereof, or such later date as to which interest has been paid, semiannually on March 1 and September 1 of each year (the "Interest Payment Date"), commencing September 1, 2016, to said Registered Owner hereof by check or other form of draft of the Registration Agent mailed to the Registered Owner at the address shown on the registration books of the Municipality, maintained by the Registration Agent, as of the close of business on the fifteenth (15th) calendar day of the month next preceding an Interest Payment Date (the "Regular Record Date"), in like coin or currency at the Interest Rate per annum set forth above until payment of said Principal Amount. Provided, however, that should the Municipality default in the payment of interest on such Interest Payment Date, such

defaulted interest (the "Defaulted Interest") shall be payable to the person in whose name this bond is registered at the close of business on a date (the "Special Record Date") for the payment of such Defaulted Interest established by notice mailed by the Registration Agent on behalf of the Municipality not less than ten (10) calendar days preceding such Special Record Date by first class mail, postage prepaid, to the Registered Owner hereof at the address thereof as it appears on the registration books of the Municipality maintained by the Registration Agent as of the date of such notice, which notice shall identify the proposed payment of such Defaulted Interest and the Special Record Date therefor.

In the event that any amount payable hereunder as interest shall at any time exceed the rate of interest lawfully chargeable on this bond under applicable law, any such excess shall, to the extent of such excess, be applied against the principal hereof as a prepayment thereof without penalty, and such excess shall not be considered to be interest. All rates of interest specified herein shall be computed on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each.

The principal hereof and all installments of interest hereon, shall bear interest from and after their respective due dates at the same rate of interest payable on the principal hereof.

This bond is authorized and issued pursuant to and in full compliance with, the Constitution and the statutes of the State of Tennessee, including, but not limited to, Title 9, Chapter 21, Tennessee Code Annotated, as amended. Section 9-21-117, Tennessee Code Annotated, as amended, provides that this bond and the income therefrom shall be exempt from all state, county, and municipal taxation in the State of Tennessee, except inheritance, transfer and estate taxes, and except as otherwise provided in said Code.

This bond is one of a series of bonds known as "General Obligation Refunding Bonds, Series 2016A" (the "Bonds"), issued by the Municipality in the aggregate principal amount of \$_____. The Bonds, which are issued for the purposes of (a) providing funds to refund certain outstanding maturities of (1) those certain General Obligation Public Improvement Bonds, Series 2009A, dated February 3, 2009, issued in the original principal amount of \$12,160,000 (the "Series 2009A Bonds"), and (2) those certain Local Option Sales Tax Revenue and Tax Bonds, Series 2009C, dated February 3, 2009, issued in the original principal amount of \$15,180,000 (the "Series 2009C Bonds") (the Series 2009A Bonds and the Series 2009C Bonds herein collectively referred to as the "Refunded Bonds"); and (b) paying costs incident to the issuance and sale of the Bonds, are authorized by appropriate resolutions of the Board of Mayor and Aldermen and particularly that certain Resolution of the Board of Mayor and Aldermen, adopted on May 3, 2016, entitled "Resolution Authorizing the Execution, Terms, Issuance, Sale, and Payment of Not to Exceed \$21,200,000 General Obligation Refunding Bonds, Series 2016A, of the City of Kingsport, Tennessee, and Providing the Details Thereof", as such resolution may be from time to time amended or supplemented in accordance with its terms (such resolution as so amended or supplemented, being herein called the "Resolution"), and is issued pursuant to, and in full compliance with, the Constitution and the statutes of the State of Tennessee, including, but not limited to, Title 9, Chapter

21, Tennessee Code Annotated, as amended (the “Act”). Copies of said Resolution are on file at the office of the Recorder of the Municipality, and reference is hereby made to said Resolution and the Act, for a more complete statement of the terms and conditions upon which the Bonds are issued thereunder, the rights, duties, immunities, and obligations of the Municipality, and the rights of the Registered Owner hereof.

This bond is payable from funds of the Municipality legally available therefor and to the extent necessary from ad valorem taxes to be levied on all taxable property within the corporate limits of the Municipality without limitation as to time, rate, or amount. For the prompt payment of this bond, both principal, premium, if any, and interest, as the same shall become due, the full faith, and credit of the Municipality is hereby irrevocably pledged. To the extent the proceeds of the Refunded Bonds were used to fund projects secured by a pledge of the revenues to be derived from the one-quarter percent (0.25%) local option sales tax levied by the Municipality within the corporate limits of the Municipality within Sullivan County, Tennessee, the Bonds shall additionally be payable from, but not secured by, such local option sales tax revenues.

The Municipality and the Registration Agent may deem and treat the person or entity in whose name this bond is registered as the absolute owner hereof, whether such bond shall be overdue or not, for the purpose of receiving payment of the principal of, premium, if any, and interest on, this bond and for all other purposes. All such payments so made shall be valid and effectual to satisfy and discharge the liability upon this bond to the extent of the sum or sums so paid, and neither the Municipality nor the Registration Agent shall be affected by any notice to the contrary.

The Bonds are issuable only as fully registered Bonds, without coupons, in the denomination of \$5,000, or any authorized integral multiple thereof. At the principal corporate trust office of the Registration Agent, in the manner and subject to the limitations, conditions, and charges provided in the Bond Resolution, Bonds may be exchanged for an equal aggregate principal amount of fully registered Bonds of the same maturity, of authorized denominations, and bearing interest at the same rate.

The Bonds will be made eligible for processing by DTC. The Bonds in the form of one global bond for each maturity need not be lithographed or printed on steel engraved or printed borders. Except as otherwise provided in this paragraph, the Bonds shall be registered in the name of Cede & Co. as nominee of DTC. The Municipality may discontinue use of DTC as depository for the Bonds at any time upon determination by the Municipality that the use of DTC is no longer in the best interest of the beneficial owners of the Bonds. Registered ownership of the Bonds may be transferred on the registration books maintained by the Registration Agent and the Bonds may be delivered in physical form to the following:

- (i) any successor of DTC or its nominee;
- (ii) any substitute depository upon (1) the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or (2) a

determination by the Municipality that DTC or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; or,

(iii) any Person, as defined in the Resolution, upon (a) the resignation of DTC or its successor (or substitute depository or its successor) from its functions as depository, or (b) termination by the Municipality of the use of DTC (or substitute depository or its successor).

Subject to the provisions for registration and transfer contained herein and in the Resolution, this bond shall be transferable by the Registered Owner at the principal office of the Registration Agent upon surrender and cancellation of this bond, and thereupon a new Bond of the same series, principal amount, interest and maturity will be issued to the transferee as provided in the Resolution and upon payment of the transfer charges therein prescribed. Upon any such transfer, the Municipality shall execute and the Registration Agent shall authenticate and deliver in exchange for this bond a new fully registered bond or bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the principal amount of this bond, of the same maturity and bearing interest at the same rate. For every exchange or transfer of bonds, whether temporary or definitive, the Municipality and the Registration Agent may make a charge, unless otherwise herein to the contrary expressly provided, sufficient to pay for any tax, fee, or other governmental charge required to be paid with respect to such exchange or transfer, all of which taxes, fees, or other governmental charges shall be paid by the person or entity requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Municipality and the Registration Agent, and any other person, may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment hereof, and for all other purposes, and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

The Bonds maturing March 1, 2017 through March 1, 2022 are not subject to redemption prior to maturity. The Bonds maturing on and after March 1, 2023, are subject to redemption prior to maturity on March 1, 2022, and at any time thereafter, at the option of the Municipality, as a whole or in part, in integral multiples of \$5,000 (less than all Bonds of a single maturity to be selected by lot by the Registration Agent), at the price of par plus accrued interest to the date fixed for redemption.

Notice of intended redemption shall be given by the Registration Agent on behalf of the Municipality to the Registered Owners of the Bonds to be redeemed by first-class mail, postage prepaid, at the addresses shown on the registration books kept by the Registration Agent. Notice of intended redemption shall be given not less than thirty (30) calendar days, nor more than sixty (60) calendar days prior to the date fixed for redemption.

This bond shall have all the qualities and incidents of, and shall be a negotiable instrument under, the Uniform Commercial Code of the State of Tennessee, subject only to provisions respecting registration of such bond. This bond is issued with the intent that the laws of the State of Tennessee shall govern its construction.

It is hereby certified, recited, and declared that all acts and conditions required to be done and to exist precedent to, and in the issuance of, this bond in order to make this bond a legal, valid, and binding obligation of the Municipality, have been done, and did exist in due time and form as required by the Constitution and statutes of the State of Tennessee, and that this bond and the issue of which it is a part, together with all other indebtedness of such Municipality, does not exceed any limitation prescribed by the Constitution or statutes of the State of Tennessee.

IN WITNESS WHEREOF, THE CITY OF KINGSPORT, TENNESSEE, by its Board of Mayor and Aldermen has caused this bond to be executed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the Recorder, to have its official seal, or a facsimile thereof, to be impressed or imprinted hereon, and to be approved as to form by the manual or facsimile signature of the City Attorney, all as of the Dated Date.

(SEAL)

ATTEST:

RECORDER

MAYOR

APPROVED AS TO FORM:

CITY ATTORNEY

Date of Authentication:

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds described in the provisions of the within mentioned Resolution and is one of the General Obligation Refunding Bonds, Series 2016A of the City of Kingsport, Tennessee.

REGIONS BANK,
as Registration Agent

By: _____
Authorized Officer

EXHIBIT "B"

FORM OF ESCROW AGREEMENT

ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement"), dated _____, 2016 between REGIONS BANK (the "Escrow Agent"), and the CITY OF KINGSPORT, TENNESSEE (the "Municipality").

WITNESSETH:

WHEREAS, the Municipality has issued its \$ _____ General Obligation Refunding Bonds, Series 2016A, dated the date of original issuance and delivery (the "Bonds"), for the purposes of (a) redeeming certain outstanding maturities of (1) those certain General Obligation Public Improvement Bonds, Series 2009A, dated February 3, 2009, issued in the original principal amount of \$12,160,000 (the "Series 2009A Bonds"), and (2) those certain Local Option Sales Tax Revenue and Tax Bonds, Series 2009C, dated February 3, 2009, issued in the original principal amount of \$15,180,000 (the "Series 2009C Bonds") (the Series 2009A Bonds and the Series 2009C Bonds herein collectively referred to as the "Refunded Bonds"); (b) paying on their respective due dates interest on the Refunded Bonds, (c) paying any applicable redemption premium on the Refunded Bonds, and (d) paying the costs of issuance incurred in connection with the issuance of the Bonds;

WHEREAS, pursuant to a resolution adopted by the Municipality on May 3, 2016, authorizing the issuance of the Bonds (the "Resolution"), the Escrow Agent has been appointed Escrow Agent by the Municipality for the purpose of assuring the payment of the principal of and interest on the Refunded Bonds and the Mayor and the Recorder of the Municipality have been authorized and directed to execute this Escrow Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the Municipality and the Escrow Agent have agreed and hereby agree as follows for the equal and proportionate benefit and security of the owners of the Refunded Bonds:

Section 1. The Municipality will hereafter cause to be deposited with the Escrow Agent for the account of the Municipality from the proceeds of the Bonds the sum of \$ _____, such amount together with the investment income from all such monies is herein referred to as the Escrow Fund.

Section 2. The Municipality has called for redemption on March 1, 2019 certain maturities of the Series 2009A Bonds in the aggregate principal amount of \$ _____ and certain maturities of the Series 2009C Bonds in the aggregate principal amount of \$ _____.

Notice of call for redemption with respect to such Refunded Bonds shall be given by the Escrow Agent on behalf of the Municipality to the owners of the Refunded Bonds as required in the resolutions authorizing said Refunded Bonds.

Section 3. (a) The Escrow Fund shall be immediately invested in direct obligations of the United States of America (“Investment Securities”) in the following manner:

The amount of \$_____ shall be invested in the Investment Securities described in Schedule B attached at the prices therein stated (which will result in the yield to the Municipality from such Investment Securities being _____% per annum), all as more fully described in Schedule B hereto attached, resulting in an initial cash balance in said fund from such proceeds of \$_____.

The investment income from the Investment Securities in the Escrow Fund shall be credited to such fund and shall not be reinvested; provided, however, that the Escrow Agent may reinvest any monies remaining from time to time in the Escrow Fund in Investment Securities as shall be directed in writing by the Mayor of the Municipality; provided, that as a condition precedent to such reinvestment, when and only when (i) the Escrow Agent receives an opinion of counsel of recognized experience in matters under Section 148 of the Internal Revenue Code of 1986, as amended, relating to arbitrage bonds, that such reinvestment will not cause the Refunded Bonds to be arbitrage bonds (except that an opinion of counsel shall not be required if such reinvestment is in Zero Interest State and Local Government Series Securities issued by the Borrower of the Public Debt of the U.S. Department of the Treasury), and (ii) such reinvestment will not reduce the amount of money available to pay principal of and interest and redemption premiums on the Refunded Bonds when due below the amount necessary to make such payment. Any Investment Securities shall be direct obligations of the United States of America.

(b) The Escrow Agent shall not sell or request the redemption of any Investment Security; provided, that Investment Securities in the Escrow Fund may be replaced by the Municipality as directed in writing by the Mayor of the Municipality when and only when (i) the Escrow Agent receives an opinion of counsel of recognized experience in matters under Section 148 of the Internal Revenue Code of 1986, as amended, relating to arbitrage bonds, that such replacement will not cause the Refunded Bonds or the Bonds to be arbitrage bonds, and (ii) such replacement will not reduce the amount of money available to pay principal of and interest and redemption premiums on the Refunded Bonds when due below the amount necessary to make such payment. Any replacement Investment Securities shall be direct obligations of the United States of America.

Section 4. No paying agents’ fees for the payment of principal of or interest on the Bonds or the Refunded Bonds or registrar’s fees or other charges may be paid from the escrowed money or Investment Securities prior to retirement of all Refunded Bonds and the Municipality agrees that it will pay all such fees from its other legally available funds as such payments become due prior to such retirement.

Section 5. At such time or times as there shall be insufficient funds on hand in the Escrow Fund for the payment of principal and interest falling due on the Refunded Bonds, the Escrow Agent shall promptly notify the Municipality of such deficiency.

Section 6. The Escrow Agent shall deliver to the Recorder of the Municipality a report of each transaction relating to the Escrow Fund as such transaction occurs, and on or before the first day of August of each year shall deliver to the Recorder a report of the financial condition of the Escrow Fund as of June 30 of such year and an operating statement for the Escrow Fund for the year ending June 30 of such year.

Section 7. The Escrow Agent agrees with the Municipality that the fee of the Escrow Agent throughout the term of this Escrow Agreement shall be (a) an annual administrative fee equal to \$1,500 payable on the date hereof and annually thereafter on each March 1, and (b) a wire fee equal to \$25 per wire, payable as required, and the Municipality hereby agrees to pay such fees.

Section 8. The Escrow Agent shall without further authorization or direction from the Municipality collect the principal of and interest on the Investment Securities promptly as the same shall fall due and, to the extent that Investment Securities and monies are sufficient for such purpose, shall make timely payments out of the Escrow Fund to the proper paying agent or agents or their successors for the Refunded Bonds, or monies sufficient for the payment of the principal of, premium, and interest on such Refunded Bonds as the same shall become due and payable, all as set out in the collective Exhibit "A" hereof. The payments so forwarded or transferred shall be made in sufficient time to permit the payment of such principal and interest (and premium) by such paying agent or agents without default. The Municipality represents and warrants that the Escrow Fund, if held, invested, and disposed of by the Escrow Agent in accordance with the provisions of this Escrow Agreement, will be sufficient to make the foregoing and all other payments required under this Escrow Agreement. The proper paying agents for the Refunded Bonds are shown in Exhibit "A". When the aggregate total amount required for the payment of principal of and interest (and premium) on the Refunded Bonds has been paid to the paying agent bank(s) as hereinabove provided, the Escrow Agent shall transfer monies or Investment Securities then held hereunder to the Municipality and this Escrow Agreement shall cease.

Section 9. The Escrow Agent and the Municipality recognize that the holders from time to time of the Refunded Bonds have a beneficial and vested interest in the Investment Securities and moneys to be held by the Escrow Agent as herein provided and in the provisions of this Escrow Agreement. It is therefor recited, understood and agreed that this Escrow Agreement shall not be subject to revocation or amendment until its provisions have been fully carried out.

Section 10. The Escrow Agent shall be under no obligation to inquire into or be in any way responsible for the performance or nonperformance by the Municipality or any paying agent of any of its obligations, or to protect any of the Municipality's rights under any bond proceeding or any of the Municipality's other contracts with or franchises or privileges from any state, county, municipality or other governmental agency or with any person. The Escrow Agent shall not be liable for any act done or step taken or omitted by it, or for any mistake of fact or law, or for anything which it may do or refrain from doing, except for its negligence or its willful misconduct. The Escrow Agent shall not be responsible in any manner whatsoever for the recitals or statements contained herein, or in the Refunded Bonds or the Bonds or in any proceedings taken in connection therewith,

but they are made solely by the Municipality. The Escrow Agent shall not be liable or responsible for any loss resulting from any investment made pursuant to this Escrow Agreement and in full compliance with the provisions hereof.

The Escrow Agent shall perform only such duties and responsibilities as are expressly set forth in this Escrow Agreement and no other or further duties or responsibilities shall be implied. The Escrow Agent may consult with counsel of its choice with respect to any question relating to its duties and responsibilities hereunder or otherwise in connection herewith, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or not taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel. The Escrow Agent shall be entitled to rely and shall be protected in acting in reliance upon any instructions or directions furnished to it in writing or pursuant to the provisions of this Escrow Agreement and shall be entitled to treat as genuine, and as the document it purports to be, any letter, paper, or other document furnished to it and believed by it to be genuine and to have been signed and presented by the proper party or parties. The Escrow Agent may execute any of its trusts or powers and perform any of its duties under this Escrow Agreement by or through attorneys, agents, or employees. The Escrow Agent is not liable for the accuracy of the calculations as to the sufficiency of the Investment Securities and money to pay the Refunded Bonds. If the Escrow Agent applies the Investment Securities and money as provided in this Escrow Agreement, the Escrow Agent will not be liable for any deficiencies in the amounts necessary to pay the Refunded Bonds caused by the calculations.

The Escrow Agent may at any time resign and be discharged from its duties and obligations hereunder by giving thirty (30) calendar days notice, in writing, to the Municipality of such resignation specifying when such resignation shall take effect which date shall not be less than sixty (60) calendar days from the date of such notice. The Municipality shall promptly appoint a successor escrow agent by the resignation date. If the Municipality does not appoint a successor by the resignation date, the resigning Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent, which court may thereupon, appoint a successor escrow agent. In the event the Escrow Agent resigns, the Municipality shall be responsible for any unpaid fees of the Escrow Agent through the effective date of the resignation. Any corporation, association, or other entity into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or otherwise transfer all or substantially all of its corporate trust assets and business, or any corporation, association, or other entity resulting from any such conversion, sale, merger, consolidation, or other transfer to which it is a party, ipso facto, shall be and become successor escrow agent hereunder, vested with all other matters as was its predecessor, without the execution or filing of any instrument or any further act on the part of the parties hereto, notwithstanding anything herein to the contrary.

The Municipality may remove the Escrow Agent at any time, by giving thirty (30) calendar days notice, in writing, to the Escrow Agent specifying when such removal shall take effect. The Municipality shall appoint a successor escrow agent by the removal date.

Section 11. None of the provisions contained in this Escrow Agreement shall require the Escrow Agent to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights or powers hereunder. The Escrow Agent shall be under no liability for interest on any fund or other property received by it hereunder, except as herein expressly provided.

Section 12. The Municipality agrees that it will promptly and without delay remit to the Escrow Agent, within ten (10) days after receipt of its written request, such additional sum or sums of money as may be necessary to assure the payment of the Refunded Bonds and to fully pay and discharge any obligation or obligations or charges, fees or expenses incurred by the Escrow Agent in carrying out any of the duties, terms or provisions of this Escrow Agreement that are in excess of the sums provided for under Section 7 hereof.

Section 13. The Escrow Agent shall hold the Investment Securities and all money received by it from the collection of principal of and interest on the Investment Securities, and all money received from the Municipality hereunder, in a special fund and separate trust account wholly segregated from all other funds and investments deposited with the Escrow Agent, and shall never commingle such investments with other money or investments. Title to such Investment Securities and money shall remain in the Municipality.

Section 14. If any provision of this Escrow Agreement shall be held or deemed to be invalid or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 15. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

Section 16. Any notice, request, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed, by registered or certified mail, postage prepaid or sent by telegram as follows:

If to the Municipality:

City of Kingsport
225 West Center Street
Kingsport, Tennessee 37660-4285
Attention: Recorder

To the Escrow Agent:

Regions Bank
150 Fourth Avenue North
Suite 900
Nashville, Tennessee 37219
Attention: Corporate Trust Services

The Municipality and the Escrow Agent may designate any further or different addresses to which subsequent notices, requests, communications or other papers shall be sent.

Section 17. This Escrow Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[signature page follows]

IN WITNESS WHEREOF, the Municipality has caused this Escrow Agreement to be signed in its name by the Mayor of the Municipality and attested by the Recorder and the official seal of the Municipality to be impressed hereon, and the Escrow Agent has caused this Escrow Agreement to be signed in its corporate name by its duly authorized representative, all as of the date first above written.

CITY OF KINGSPORT

(SEAL)

By: _____
MAYOR

Attest:

By: _____
RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

REGIONS BANK,
as Escrow Agent

By: _____

Title: _____

SCHEDULE A

Escrow Agreement, dated _____, 2016
City of Kingsport, Tennessee

\$12,160,000 General Obligation Public Improvement Bonds, Series 2009A,
dated February 3, 2009

<u>Payment Date</u>	<u>Interest</u>	<u>Called Principal*</u>	<u>Call Premium</u>	<u>Total Amount Due</u>
09/01/2016				
03/01/2017				
09/01/2017				
03/01/2018				
09/01/2018				
03/01/2019				

*

Paying Agent: Regions Bank

\$15,180,000 Local Option Sales Tax Revenue and Tax Bonds, Series 2009C,
dated February 3, 2009

<u>Payment Date</u>	<u>Interest</u>	<u>Called Principal*</u>	<u>Call Premium</u>	<u>Total Amount Due</u>
09/01/2016				
03/01/2017				
09/01/2017				
03/01/2018				
09/01/2018				
03/01/2019				

*

Paying Agent: Regions Bank

SCHEDULE B

Escrow Agreement, dated _____, 2016
City of Kingsport, Tennessee

Investment Securities to be acquired pursuant
to the Escrow Agreement for \$ _____

See attached schedules

Initial Cash Balance \$ _____

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION, TERMS, ISSUANCE, SALE, AND PAYMENT OF NOT TO EXCEED \$16,300,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016B, OF THE CITY OF KINGSPORT, TENNESSEE, AND PROVIDING THE DETAILS THEREOF

WHEREAS, pursuant to resolutions duly adopted by the Board of Mayor and Aldermen (the "Board") of the City of Kingsport, Tennessee (the "Municipality"), there have been authorized and issued (i) those certain General Obligation Bonds, Series 2009B, dated February 3, 2009, issued in the original principal amount of \$7,100,000 (the "Series 2009B Bonds"), and (ii) those certain General Obligation Bonds, Series 2009E, dated December 8, 2009, issued in the original principal amount of \$14,225,000 (the "Series 2009E Bonds") (the Series 2009B Bonds and the Series 2009E Bonds herein collectively referred to as the "Refunded Bonds");

WHEREAS, the Municipality is authorized by Title 9, Chapter 21, Tennessee Code Annotated, as amended, to issue and sell refunding bonds for the purpose of refunding bonds previously authorized and issued in advance of the maturity or redemption date of such bonds and to pay costs incident to the issuance and sale of the refunding bonds;

WHEREAS, the refunding of the Refunded Bonds will result in costs savings to the Municipality;

WHEREAS, the plan of refunding for the Refunded Bonds and the plan of balloon indebtedness have been submitted to the State Director of Local Finance for review and a report on the plan of refunding and an approval of the plan of balloon indebtedness have been issued by such Director;

WHEREAS, it is necessary to appoint an escrow agent for the purpose of ensuring the payment of the principal of, premium, if any, and interest on the Refunded Bonds, and to provide for the execution of an escrow agreement between the Municipality and said escrow agent so as to best provide for the redemption of the Refunded Bonds;

WHEREAS, it is necessary to make provisions for the redemption in advance of the maturity of the Refunded Bonds;

WHEREAS, the Board finds that it is necessary and desirable to issue not to exceed \$16,300,000 General Obligation Refunding Bonds, Series 2016B (the "Bonds"), for the purposes of refunding the Refunded Bonds and paying costs incident to the issuance of the Bonds;

WHEREAS, it is necessary to authorize an official statement in connection with the issuance of the Bonds; and,

WHEREAS, it is now, therefore, necessary and desirable to provide for the execution, terms, issuance, sale, and payment of the Bonds:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF KINGSPORT, TENNESSEE, AS FOLLOWS:

Section 1. Authority. The Bonds herein authorized shall be issued pursuant to Title 9, Chapter 21, Tennessee Code Annotated, as amended, and other applicable provisions of law.

Section 2. Definitions. Without limiting any other definitions of terms and words in other sections of this Resolution, the following words and terms shall have the meanings indicated unless otherwise plainly apparent from the context:

“Act” shall mean Title 9, Chapter 21, Tennessee Code Annotated, as amended.

“Authorized Representative of the Municipality” means the then Mayor, the then Recorder, or the then Treasurer, of the Municipality, authorized by resolution or by law to act on behalf of and bind the Municipality.

“Board” means the Board of Mayor and Aldermen of the Municipality.

“Bond”, means individually, and “Bonds” means, collectively, the General Obligation Refunding Bonds, Series 2016B of the Municipality, authorized to be issued by this Resolution of the Board.

“Bond Counsel” means an attorney or firm of attorneys recognized as having experience in matters relating to the issuance of municipal obligations.

“Bondholder”, “Owner”, or any similar term, when used with reference to the Bonds, means any Person who shall be the registered owner of any then Outstanding Bond or Bonds.

“City Attorney” means the duly appointed City Attorney of the Municipality, or his or her successors.

“Closing Date” means the date of sale, delivery, and payment of the Bonds.

“Code” means the United States Internal Revenue Code of 1986, as amended, and the applicable regulations of the United States Department of the Treasury promulgated thereunder, as in effect on the date of issuance of the Bonds, and as hereafter amended, supplemented, or revised insofar as such amendments, supplements, or revisions shall pertain to or effect the Bonds.

“Continuing Disclosure Certificate” shall mean that certain Continuing Disclosure Certificate executed by the Municipality and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“DTC” means The Depository Trust Company, New York, New York.

“Escrow Agent” means the escrow agent selected by the Municipality to serve as escrow agent under the Escrow Agreement.

“Escrow Agreement” means that certain Escrow Agreement between the Municipality and the Escrow Agent in substantially the form attached hereto as Exhibit “B” with such changes and revisions as may be deemed necessary by the Authorized Representatives of the Municipality executing the Escrow Agreement.

“Government Obligations” means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of Federal agencies to the extent unconditionally guaranteed by the United States of America, which Bonds or other obligations shall not be subject to redemption prior to their maturity other than at the option of the registered owner thereof.

“Interest Payment Date” means each date on which interest shall be payable on any of the Bonds, according to their respective terms so long as any of the Bonds shall be Outstanding.

“Mayor” means the duly elected, qualified, and acting Mayor of the Municipality, or his or her successors.

“Outstanding,” “Bonds Outstanding,” or “Outstanding Bonds” means, as of a particular date, all Bonds issued and delivered and authenticated under this Resolution except: (1) any Bond paid or redeemed or otherwise canceled by the Municipality at or before such date; (2) any Bond for the payment of which cash, equal to the principal amount thereof with interest to date of maturity, shall have theretofore been deposited prior to maturity by the Municipality for the benefit of the Owner thereof; (3) any Bond in lieu of or in substitution for which another Bond shall have been delivered and authenticated pursuant to this Resolution, unless proof satisfactory to the Municipality is presented that any Bond, for which a Bond in lieu of or in substitution therefor shall have been delivered, is held by a bona fide purchaser, as that term is defined in Article 8 of the Uniform Commercial Code of the State, as amended, in which case both the Bond in lieu of or in substitution for which a new Bond has been delivered and such new Bond so delivered therefor shall be deemed Outstanding; and, (4) any Bond deemed paid under the provisions of this Resolution, except that any such Bond shall be considered Outstanding until the maturity thereof only for the purposes of being exchanged, transferred, or registered.

“Person” means an individual, partnership, corporation, trust, or unincorporated organization, or a governmental entity or agency or political subdivision thereof.

“Principal Payment Date” means each date on which principal shall be payable on any of the Bonds, according to their respective terms so long as any of the Bonds shall be Outstanding.

“Recorder” means the duly appointed, qualified, and acting Recorder of the Municipality, or his or her successors.

“Registration Agent” means Regions Bank, or its successor, or successors hereafter appointed in the manner provided in this Resolution.

“Resolution” means this Resolution, as supplemented and amended.

“State” means the State of Tennessee.

“Treasurer” means the duly appointed, qualified, and acting Treasurer of the Municipality, or his or her successors.

Section 3. Authorization. For the purpose of providing funds to refund the Refunded Bonds and to pay costs incident to the issuance of the Bonds, there is hereby authorized to be issued General Obligation Refunding Bonds, Series 2016B of the Municipality, in the aggregate principal amount of not to exceed Sixteen Million Three Hundred Thousand Dollars (\$16,300,000), or such lesser aggregate amount as may be determined by the Authorized Representatives of the Municipality executing the Bonds. No Bonds may be issued under the provisions of this Resolution except in accordance herewith. The Board hereby finds that the refunding of the Refunded Bonds will result in cost savings to the Municipality.

Section 4. Form of Bonds; Execution. (a) The Bonds, or any series thereof, are issuable only as fully registered bonds, without coupons, in the denomination of \$5,000 or any integral multiple thereof. All Bonds issued under this Resolution shall be substantially in the form set forth in Exhibit “A” attached hereto, and by this reference incorporated herein as fully as though copied, with such appropriate variations, omissions, and insertions as are permitted or required by this Resolution, the blanks therein to be appropriately completed when the Bonds are prepared, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto or as otherwise desired by the Municipality. Each series of Bonds shall be numbered consecutively from one upwards.

(b) The Bonds shall be executed in such manner as may be prescribed by applicable law in the name, and on behalf, of the Municipality with the manual or facsimile signature of the Mayor and attested with the manual or facsimile signature of the Recorder, and with the official seal, or a facsimile thereof, of the Municipality impressed or imprinted thereon, and shall be approved as to form by the manual or facsimile signature of the City Attorney. The Bonds shall not be valid for any purpose unless authenticated by the manual signature of an officer of the Registration Agent on the certificate set forth on the Bonds.

(c) In the event any officer whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such manual or such facsimile signature shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery. Any Bond may bear the facsimile signature of, or may be manually signed by, such individuals who, at the actual time of the execution of such Bond, were the proper officers of the Municipality to sign such Bond, although on the respective dates of the adoption by the Municipality of this Resolution, such individuals may not have been such officers.

Section 5. Maturities, Interest Rates, Payment, and Certain Other Provisions of Bonds.

(a) The Bonds shall be issued in one or more series, and subject to the adjustments permitted under

Section 19 hereof shall be known as “General Obligation Refunding Bonds, Series 2016B,” shall be dated as of the date of issuance and delivery, and shall have such series designation or other dated date as shall be determined by the Mayor pursuant to Section 19 hereof. The Bonds shall be issued at a date, at a rate or rates of interest not to exceed the maximum rate allowed by law, and upon terms and conditions to be determined. The Bonds shall bear interest from the date thereof at a rate or rates to be hereafter determined by the Municipality when said Bonds, or any series thereof, are sold, but not exceeding the maximum rate allowed by law, such interest being payable (subject to the adjustments permitted under Section 19 hereof) semi-annually on the first day of March and September of each year, commencing September 1, 2016. Subject to the adjustments permitted pursuant to Section 19 hereof, the Bonds shall mature serially or be subject to mandatory redemption and be payable on March 1 of each year, subject to prior optional redemption, as hereinafter provided, either serially or through mandatory redemption, in the years 2017 through 2030, inclusive.

In the event that any amount payable on any Bond as interest shall at any time exceed the rate of interest lawfully chargeable thereon under applicable law, then any such excess shall, to the extent of such excess, be applied against the principal of such Bond as a prepayment thereof without penalty, and such excess shall not be considered to be interest. All rates of interest specified herein shall be computed on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each.

The principal of, and the premium, if any, and all installments of interest on, any Bond shall bear interest from and after their respective due dates at a rate of interest equal to the rate of interest payable on the principal of such Bond.

(b) Interest on the Bonds shall be payable by check or other form of draft of the Registration Agent deposited by the Registration Agent in the United States mail, first class postage prepaid, in sealed envelopes, addressed to the Owners of such Bonds, as of the applicable Interest Payment Date, at their respective addresses as shown on the registration books of the Municipality maintained by the Registration Agent as of the close of business on the fifteenth (15th) calendar day of the month next preceding the applicable Interest Payment Date (the “Regular Record Date”). The principal or redemption price, if any, of all Bonds shall be payable upon presentation and surrender of such Bonds at the principal corporate trust office of the Registration Agent. All payments of the principal of, premium, if any, and interest on, the Bonds shall be made in any coin or currency of the United States of America which, on the date of payment thereof, shall be legal tender for the payment of public and private debts.

(c) Any interest on any Bond which is payable but is not punctually paid or duly provided for on any Interest Payment Date on which interest is due (hereinafter “Defaulted Interest”) shall forthwith cease to be payable to the Owner on the relevant Regular Record Date; and, in lieu thereof, such Defaulted Interest shall be paid by check or other form of draft of the Registration Agent to the persons in whose names the Bonds are registered at the close of business on a date (the “Special Record Date”) for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Municipality shall notify the Registration Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment, and at the same time the Municipality shall deposit with the Registration Agent an

amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangement satisfactory to the Registration Agent for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this Section provided. Thereupon, not less than ten (10) calendar days after the receipt by the Registration Agent of the notice of the proposed payment, the Registration Agent shall fix a Special Record Date for the payment of such Defaulted Interest which date shall be not more than fifteen (15) nor less than ten (10) calendar days prior to the date of the proposed payment to the Owners. The Registration Agent shall promptly notify the Municipality of such Special Record Date and, in the name and at the expense of the Municipality, not less than ten (10) calendar days prior to such Special Record Date, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Owner at the address thereof as it appears in the registration books of the Municipality maintained by the Registration Agent as of the date of such notice. Nothing contained in this Section or in the Bonds shall impair any statutory or other rights in law or in equity of any Owner arising as a result of the failure of the Municipality to punctually pay or duly provide for the payment of principal of, premium, if any, and interest on, the Bonds when due.

(d) The Bonds will be made eligible for processing by DTC. The Bonds in the form of one global Bond for each maturity need not be lithographed or printed on steel engraved or printed borders. Except as otherwise provided in this Section, the Bonds shall be registered in the name of Cede & Co. as nominee of DTC. The Municipality may discontinue use of DTC as depository for the Bonds at any time upon determination by the Municipality that the use of DTC is no longer in the best interest of the beneficial owners of the Bonds. Registered ownership of the Bonds may be transferred on the registration books maintained by the Registration Agent and the Bonds may be delivered in physical form to the following:

(i) any successor of DTC or its nominee;

(ii) any substitute depository upon (1) the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or (2) a determination by the Municipality that DTC or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; or,

(iii) any Person, upon (a) the resignation of DTC or its successor (or substitute depository or its successor) from its functions as depository, or (b) termination by the Municipality of the use of DTC (or substitute depository or its successor).

(e) The Registration Agent is hereby authorized to take such actions as may be necessary from time to time to qualify and maintain the Bonds for deposit with DTC, including, but not limited to, wire transfers of interest and principal payments with respect to the Bonds, utilization of electronic book entry data received from DTC in place of actual delivery of Bonds and provision of notices with respect to Bonds registered by DTC (or any of its designees identified to the Registration Agent) by overnight delivery, courier service, telegram, telecopy or other similar means of communication. The Registration Agent shall not be liable with respect to any such arrangements it may make pursuant to this subsection (e) of this Section 5.

Section 6. Redemption. (a) Subject to the adjustments permitted under Section 19 hereof, the Bonds maturing March 1, 2017 through March 1, 2022, are not subject to redemption prior to maturity. The Bonds maturing on and after March 1, 2023, are subject to redemption prior to maturity on March 1, 2022, and at any time thereafter, at the option of the Municipality, as a whole or in part, in integral multiples of \$5,000 (less than all Bonds of a single maturity to be selected by lot by the Registration Agent), at the price of par, plus accrued interest to the date fixed for redemption.

(b) Notice of intended redemption shall be given by the Registration Agent on behalf of the Municipality to the Owners of the Bonds to be redeemed by first-class mail, postage prepaid, at the addresses shown on the registration books kept by the Registration Agent. Notice of intended redemption shall be given not less than thirty (30) calendar days, nor more than sixty (60) calendar days prior to the date fixed for redemption. Each such notice of redemption shall state: (1) the redemption date; (2) the redemption price; (3) if less than all Outstanding Bonds are to be redeemed, the registered number and the CUSIP number printed on the Bonds (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed; (4) that on the redemption date, the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date provided sufficient funds are available on such redemption date to fully pay the redemption price of and the interest on the Bonds called for redemption; and, (5) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal corporate trust office of the Registration Agent. Neither failure to mail any such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the redemption of any of the Bonds for which notice was correctly given.

(c) If notice of redemption shall have been given in the manner and under the conditions provided herein and if on the date so designated for redemption the Registration Agent shall hold sufficient monies to pay the redemption price of, and interest to the redemption date on, the Bonds to be redeemed as provided in this Resolution, then: (1) the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date; (2) interest on the Bonds so called for redemption shall cease to accrue; and, (3) such Bonds shall no longer be Outstanding or secured by, or be entitled to, the benefits of this Resolution, except to receive payment of the redemption price thereof and interest thereon from monies then held by the Registration Agent.

(d) Prior to any redemption date, the Municipality shall deposit with the Registration Agent an amount of money sufficient to pay the redemption price of all of the Bonds or portions of Bonds which are to be redeemed on that date.

(e) If on the redemption date, monies for the redemption of all Bonds or portions thereof to be redeemed, together with interest thereon to the redemption date, shall not be held by the Registration Agent so as to be available therefor on such date, the Bonds or portions thereof so called for redemption shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption and shall continue to be secured by and be entitled to the benefits of this Resolution.

(f) In case any Bond is of a denomination larger than \$5,000, a portion of such Bond - \$5,000 or any integral multiple thereof - may be redeemed, but Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. In selecting Bonds for redemption, the Municipality shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. If part but not all of a Bond shall be selected for redemption, the Owner thereof or his, her, or its legal representative shall present and surrender such Bond to the Registration Agent for payment of the principal amount thereof so called for redemption and the premium, if any, on such principal amount thereof so called for redemption, and the Municipality shall execute and the Registration Agent shall authenticate and deliver to such Owner or legal representative, without charge therefor, for the unredeemed portion of the Bond surrendered, a Bond or Bonds of the same maturity, bearing the same interest rate, and of authorized denomination or denominations.

Section 7. Negotiability of Bonds. All Bonds issued under this Resolution shall be negotiable, subject to the provisions for registration and transfer contained in this Resolution and in the Bonds.

Section 8. Registration Books and Registration Agent. (a) The Municipality hereby appoints Regions Bank as registration agent and paying agent (the "Registration Agent") with respect to the Bonds and authorizes the Registration Agent so long as any of the Bonds shall remain Outstanding, to maintain at the principal corporate trust office of the Registration Agent, books for the registration and transfer of the Bonds on behalf of the Municipality. The Registration Agent shall register in such books and permit to be transferred thereon, under such reasonable regulations as it may prescribe, any Bond entitled to registration or transfer and to authenticate and deliver the Bonds either at original issuance, upon transfer, or as otherwise directed by the Municipality. The Registration Agent is authorized to make all payments of principal, interest, and redemption premium, if any, with respect to the Bonds.

(b) The Registration Agent shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by a written instrument of acceptance executed and delivered to the Recorder prior to or on the Closing Date.

Section 9. Exchange of Bonds. Bonds upon surrender thereof at the principal corporate trust office of the Registration Agent, together with an assignment of such Bonds duly executed by the Owner thereof, or his, her, or its attorney or legal representative, may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this Resolution, and bearing interest at the same rate as the Bonds surrendered for exchange.

Section 10. Transfer of Bonds. (a) Each Bond shall be transferable only on the registration books maintained by the Registration Agent at the principal corporate trust office of the Registration Agent, upon the surrender for cancellation thereof at the principal corporate trust office of the Registration Agent, together with an assignment of such Bond duly executed by the Owner thereof or his, her, or its attorney or legal representative, and upon payment of the charges hereinafter provided, and subject to such other limitations and conditions as may be provided

therein or herein. Upon the cancellation of any such Bond, the Registration Agent shall, in exchange for the surrendered Bond or Bonds, deliver in the name of the transferee or transferees a new Bond or Bonds of authorized denominations, of the same aggregate principal amount and maturity and rate of interest as such surrendered Bond or Bonds, and the transferee or transferees shall take such new Bond or Bonds subject to all of the conditions herein contained.

(b) The Municipality and the Registration Agent may deem and treat the Person in whose name any Bond shall be registered upon the registration books maintained by the Registration Agent as the absolute owner thereof, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal or redemption price of, and the interest on, such Bond and for all other purposes. All such payments so made to the registered Owner thereof shall be valid and effectual to satisfy and discharge the liability of the Municipality or the Registration Agent upon such Bond to the extent of the sum or sums so paid. Neither the Municipality nor the Registration Agent shall be affected by any notice to the contrary.

Section 11. Regulations with Respect to Exchanges and Transfers. (a) In all cases in which the privilege of exchanging or transferring Bonds is exercised, the Municipality shall execute, and the Registration Agent shall deliver, Bonds in accordance with the provisions of this Resolution. For every exchange or transfer of Bonds, whether temporary or definitive, the Municipality and the Registration Agent may make a charge, unless otherwise herein to the contrary expressly provided, sufficient to pay for any tax, fee, or other governmental charge required to be paid with respect to such exchange or transfer.

(b) Neither the Municipality nor the Registration Agent shall be obligated to exchange or transfer any Bond during the fifteen (15) calendar days next preceding an Interest Payment Date or the first mailing of any notice of redemption or with respect to any Bond, after such Bond has been called for redemption.

Section 12. Mutilated, Lost, Stolen, or Destroyed Bonds. (a) In the event any Bond is mutilated, lost, stolen, or destroyed, the Municipality may execute, and upon the request of an Authorized Representative of the Municipality and the Registration Agent shall deliver, a new Bond of like maturity, interest rate, and principal amount, and bearing the same number (but with appropriate designation indicating that such new Bond is a replacement Bond) as the mutilated, destroyed, lost, or stolen Bond, in exchange for the mutilated Bond or in substitution for the Bond so destroyed, lost, or stolen. In every case of exchange or substitution, the Bondholder shall furnish to the Municipality and the Registration Agent: (1) such security or indemnity as may be required by an Authorized Representative of the Municipality to save the Municipality and the Registration Agent harmless from all risks, however remote; and, (2) evidence to their satisfaction of the mutilation, destruction, loss, or theft of the subject Bond and the ownership thereof. Upon the issuance of any Bond upon such exchange or substitution, an Authorized Representative of the Municipality and the Registration Agent may require the Owner thereof to pay a sum sufficient to defray any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including printing costs and counsel fees, of the Municipality and the Registration Agent. In the event any Bond which has matured or is about to mature shall become mutilated or be destroyed, lost, or stolen, an Authorized Representative of the Municipality may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of the same

(without surrender thereof except in the case of a mutilated Bond) if the Owner thereof shall pay all costs and expenses, including attorney's fees, incurred by the Municipality and the Registration Agent in connection therewith, as well as a sum sufficient to defray any tax or other governmental charge that may be imposed in relation thereto and shall furnish to the Municipality and the Registration Agent such security or indemnity as an Authorized Representative of the Municipality and the Registration Agent may require to save the Municipality and the Registration Agent harmless and evidence to the satisfaction of an Authorized Representative of the Municipality and the Registration Agent, of the mutilation, destruction, loss, or theft of such Bond and of the ownership thereof.

(b) Every Bond issued pursuant to the provisions of this Section shall constitute an additional contractual obligation of the Municipality (whether or not the destroyed, lost, or stolen Bond shall be found at any time to be enforceable) and shall be entitled to all the benefits of this Resolution equally and proportionately with any and all other Bonds duly issued under this Resolution.

(c) All Bonds shall be held and owned upon the express condition that the provisions of this Section are exclusive, with respect to the replacement or payment of mutilated, destroyed, lost, or stolen Bonds, and, to the maximum extent legally permissible, shall preclude all other rights or remedies, notwithstanding any law or statute now existing or hereafter enacted to the contrary.

Section 13. Authentication. Only such of the Bonds as shall have endorsed thereon a certificate of authentication, substantially in the form set forth in Exhibit "A" hereto duly executed by the Registration Agent shall be entitled to the rights, benefits, and security of this Resolution. No Bond shall be valid or obligatory for any purpose unless, and until, such certificate of authentication shall have been duly executed by the Registration Agent. Such executed certificate of authentication by the Registration Agent upon any such Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Resolution as of the date of authentication. The certificate of authentication of the Registration Agent on any Bond shall be deemed to have been duly executed if manually signed by an authorized officer of the Registration Agent, but it shall not be necessary that the same officer sign and date the certificate of authentication on all Bonds that may be issued hereunder.

Section 14. Permitted Acts and Functions of Registration Agent. The Registration Agent may become the Owner of any Bonds, with the same rights as it would have if it were not a Registration Agent.

Section 15. Resignation or Removal of the Registration Agent and Appointment of Successors. (a) The Registration Agent may at any time resign and be discharged of the duties and obligations created by this Resolution by giving at least sixty (60) calendar days' written notice to the Recorder; provided, however, until a successor Registration Agent is appointed the Registration Agent shall continue to carry out the duties and obligations of the Registration Agent created by this Resolution. The Registration Agent may be removed at any time by resolution of the Municipality filed with such Registration Agent. Any successor Registration Agent shall be appointed by resolution of the Municipality and shall be a trust company or a bank having the

powers of a trust company, having, at the time of such appointment, a combined capital, surplus, and undivided profits aggregating at least Fifty Million Dollars (\$50,000,000), and be willing and able to accept the office of Registration Agent on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Resolution.

(b) In the event of the resignation or removal of the Registration Agent, such Registration Agent shall pay over, assign, and deliver any monies held by it as Registration Agent, and all books and records held by it as Registration Agent, to its successor, or if there be no successor then appointed, to the Recorder until such successor be appointed.

Section 16. Merger or Consolidation of Registration Agent. Any corporation or association into which the Registration Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole, or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation, or transfer to which it is a party shall be and become successor Registration Agent hereunder and shall be vested with all the trusts, powers, discretion, immunities, privileges, and other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein contained to the contrary notwithstanding.

Section 17. Source of Payment and Security. The Bonds, including the principal thereof, the premium, if any, and the interest thereon, shall be payable from funds of the Municipality legally available therefor and to the extent necessary from ad valorem taxes to be levied for such purpose on all taxable property within the corporate limits of the Municipality without limitation as to time, rate, or amount. Said Bonds shall be a direct general obligation of the Municipality, for which the punctual payment of the principal of, premium, if any, and interest on the Bonds the full faith and credit of the Municipality is hereby irrevocably pledged.

Section 18. Levy of Taxes. For the purpose of providing for the payment of the principal of, premium, if any, and interest on, the Bonds, to the extent necessary, there shall be levied in each year in which such Bonds shall be outstanding a direct tax on all taxable property in the Municipality, fully sufficient, to pay all such principal and interest falling due prior to the time of collection of the next succeeding tax levy. Said tax shall be assessed, collected, and paid at the time, and in the same manner, as the other taxes of said Municipality, shall be in addition to all other taxes, and shall be without limitation as to time, rate, or amount. The Board of the Municipality is required by law and shall and does hereby pledge to levy such tax. Principal, premium, if any, and interest, or any of the foregoing, falling due at any time when there shall be insufficient funds on hand from such tax levy for the payment thereof shall be paid from the General Fund or other available funds of the Municipality, but reimbursement therefor may be made from the taxes herein provided when the same shall have been collected. Such taxes levied and collected therefor shall be deposited in General Fund of the Municipality, and used for the payment of principal and interest on the Bonds as the same shall become due.

Section 19. Sale of Bonds. (a) The Bonds shall be sold at public sale (the "Public Sale") in the manner provided by law, in one or more series, at a price of not less than ninety-nine percent (99%) of par, as a whole or in part from time to time as shall be determined by the Mayor, in

consultation with Raymond James & Associates, Inc., Nashville, Tennessee, the Municipality's financial advisor (the "Financial Advisor"). The Bonds, or any series thereof, shall be sold at public sale by physical delivery of bids or by electronic bidding by means of an internet bidding service as shall be determined by the Mayor, in consultation with the Financial Advisor.

(b) If the Bonds are sold in more than one series, the Mayor is authorized to cause to be sold in each series an aggregate principal amount of Bonds less than that shown authorized in Section 3 hereof for each series, and to make corresponding adjustments to the maturity dates of each series designated in Section 5 hereof; provided, however, that the total aggregate principal amount of all series issued does not exceed the total aggregate amount of Bonds authorized to be issued hereunder.

(c) The Mayor is further authorized:

(1) to change the dated date of the Bonds or any series thereof;

(2) to specify the series designation of the Bonds, or any series thereof, to a designation;

(3) to change the first interest payment date on the Bonds, or any series thereof, to a date other than September 1, 2016, provided that such date is not later than twelve months from the dated date of such series of Bonds;

(4) to adjust the principal and interest payment dates and determined maturity or mandatory redemption amounts of the Bonds, or any series thereof, provided that (i) the total principal amount of all series of Bonds does not exceed the total amount of Bonds authorized herein, (ii) the first maturity date of the Bonds, or any series thereof, is a date not earlier than March 1, 2017 and (iii) the final maturity date of each series of Bonds shall not exceed March 1, 2030;

(5) to change the optional redemption provisions of the Bonds, provided that the premium amount to be paid on Bonds, or any series thereof, does not exceed two percent (2%) of the principal amount thereof;

(6) to sell the Bonds, or any series thereof, or any maturities thereof, as term bonds with mandatory redemption requirements as determined by the Mayor, as the Mayor shall deem most advantageous to the Municipality; and,

(7) to cause all or a portion of the Bonds to be insured by a bond insurance policy issued by a nationally recognized bond insurance company to achieve the purposes set forth herein and to serve the best interests of the Municipality and to enter into agreements with such insurance company with respect to any series of Bonds to the extent not inconsistent with this Resolution.

(d) The Mayor of the Municipality is authorized to sell the Bonds, or any series thereof, simultaneously with any other bonds or notes authorized by resolution or resolutions of the Board.

The Mayor is further authorized to sell the Bonds, or any series thereof, as a single issue of bonds with any other bonds with substantially similar terms authorized by resolution or resolutions of the Board, in one or more series, as the Mayor shall deem to be advantageous to the Municipality, and in doing so, the Mayor is authorized to change the designation of the Bonds to a designation other than “General Obligation Refunding Bonds, Series 2016B”; provided, however, that the total aggregate principal amount of combined bonds to be sold does not exceed the total aggregate principal amount of Bonds authorized by this Resolution or bonds authorized by other resolution or resolutions adopted by the Board.

(e) The Mayor is authorized to award the Bonds, or any series thereof, in each case to the bidder whose bid results in the lowest true interest cost to the Municipality, provided the rate or rates on the Bonds does not exceed the maximum rate allowed by law. The award of the Bonds by the Mayor to the lowest bidder shall be binding on the Municipality, and no further action of the Board with respect thereto shall be required. The form of the Bond attached hereto as Exhibit A, shall be conformed to reflect any changes made pursuant to this Section.

(f) The Mayor and the Recorder are authorized to cause the Bonds to be authenticated and delivered to the successful bidder and to execute, publish, and deliver all certificates and documents, including an official statement and closing certificates, as they shall deem necessary in connection with the sale and delivery of the Bonds. Notice of such Public Sale shall be given in accordance with the provisions of the Act. The Mayor and Recorder are hereby authorized to enter into a contract with the Financial Advisor, for financial advisory services in connection with the sale of the Bonds.

Section 20. Approval of Preliminary Official Statement and Official Statement. (a) The Mayor, the Recorder, and the City Manager, or any of them, working with the Financial Advisor, are hereby authorized to cause the preparation and distribution, which may include electronic distribution, of a Preliminary Official Statement in connection with the sale of the Bonds in such form and containing such information as the Mayor shall determine appropriate and consistent with the terms of this Resolution and to deem the Preliminary Official Statement final for the purpose of Securities and Exchange Commission Rule 15c(2)(12).

(b) The Board hereby authorizes an Official Statement of the Municipality substantially in the form of the Preliminary Official Statement relating to the Bonds, with such modifications thereto as the Mayor and the Recorder approve. The Mayor and Recorder are hereby authorized and directed to execute copies of said Official Statement and to deliver said Official Statement to the purchaser of such Bonds, which execution and delivery shall be conclusive evidence of the approval of any such modifications; and the Board hereby consents to the lawful use of said Official Statement and the information contained therein in connection with the public offering and sale of the Bonds by the initial purchaser of such Bonds. The Mayor and the Recorder are authorized to deem the Official Statement final for the purpose of Securities and Exchange Commission Rule 15(c)(2)(12).

(c) The distribution of the Preliminary Official Statement and the Official Statement in final form shall be conclusive evidence that each has been deemed in final form as of its date by

the Municipality except for the omission in the Preliminary Official Statement of pricing and other information.

Section 21. Disposition of Bond Proceeds and Other Funds. The proceeds of the sale of the Bonds and certain other funds shall be used and applied as follows:

(a) Accrued interest, if any, shall be paid to the official of the Municipality designated by law as the custodian of the funds thereof and used to pay interest on the Bonds on the first Interest Payment Date following delivery of the Bonds.

(b) Such amount as is necessary from the principal proceeds, and premium received, if any, from the sale of the Bonds shall be deposited with the Escrow Agent under the Escrow Agreement to be invested as set forth therein to provide for the payment of the principal of, interest on, and redemption premium, if any, in connection with the Refunded Bonds.

(c) Any amounts remaining from the principal proceeds of the sale of the Bonds shall be used for the purpose of paying the costs incurred in connection with the issuance of the Bonds.

Section 22. Escrow Agreement; Appointment of Escrow Agent. The Escrow Agreement between the Municipality and the Escrow Agent in the form attached hereto as Exhibit "B" is hereby approved, and the Mayor and the Recorder are hereby authorized and directed to execute such Escrow Agreement, in substantially such form with such changes as may be approved by the Mayor and the Recorder, their execution of such Escrow Agreement to be conclusive evidence of their approval of such changes, and to make provision for the execution of such Escrow Agreement by the appropriate officials of the Escrow Agent, as such Escrow Agent is designated by the Municipality.

Section 23. Redemption of Refunded Bonds. Upon the issuance of the Bonds, the Refunded Bonds shall be called for redemption in accordance with the provisions of the applicable resolution authorizing the issuance of the Refunded Bonds. Notices of call for redemption shall be given by the Escrow Agent to the holders of the Refunded Bonds in the manner required as set forth in the applicable resolution authorizing the issuance of the Refunding Bonds.

Section 24. Non-Arbitrage Certification. The Municipality certifies and covenants with the Owners of any series of tax-exempt Bonds issued hereunder that so long as the principal of any Bond remains unpaid, monies on deposit in any fund or account in connection with the Bonds, whether or not from any other source, will not be used in a manner which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code. The Municipality reserves the right, however, to make any investment of such monies permitted by Tennessee law and this Resolution if, when and to the extent that said Section 148 or regulations promulgated thereunder shall be repealed or relaxed or shall be held void by final decision of a court of competent jurisdiction, but only if any investment made by virtue of such repeal, relaxation, or decision would not, in the opinion of Bond Counsel, result in making the interest on the Bonds subject to federal income taxation.

The Municipality covenants that it shall comply with Section 148(f) of the Code, unless legally exempted therefrom, and the Municipality represents that in the event it shall be required by Section 148(f) of the Code to pay "Rebatable Arbitrage," as such term is defined and used in the Code, pursuant to the Code, to the United States Government, it will make such payments as and when required by said Section 148(f) and will take such other actions as shall be necessary or permitted to prevent the interest on the Bonds from becoming subject to inclusion in the gross income of the Owners of the Bonds for purposes of federal income taxation.

Section 25. Continuing Disclosure. The Municipality hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Resolution, failure of the Municipality to comply with the Continuing Disclosure Certificate shall not be considered an event of default; however, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Municipality to comply with its obligations under this Section. For purposes of this Section, "Beneficial Owner" means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the Owner of any Bonds for federal income tax purposes.

Section 26. Amendments. After the issuance of the Bonds, no change, variation, or alteration of any kind in the provisions of this Resolution shall be made in any manner, until such time as all of the principal of and interest on the Bonds shall have been paid in full unless the consent of all of the Owners of all the Outstanding Bonds have been obtained; provided, however, that the Municipality is hereby authorized to make such amendments to this Resolution as will not impair the rights of the Bondholders. The laws of the State of Tennessee shall govern this Resolution.

Section 27. No Action to be Taken Affecting Validity of the Bonds. The Board hereby covenants and agrees that it will not take any action, that would in any manner affect the validity of the Bonds or limit the rights and remedies of the Owners from time to time of such Bonds or affect the exclusion of interest thereon from the gross income of the owners thereof for purposes of federal income taxation.

Section 28. Discharge and Satisfaction of Bonds. If the Municipality shall pay and discharge the entire indebtedness evidenced by any of the Bonds in any one or more of the following ways:

(a) By paying or causing to be paid, by deposit of sufficient funds as and when required with the Registration Agent, the principal of, premium, if any, and interest on, the Bonds, as and when the same become due and payable;

(b) By depositing or causing to be deposited with any trust company or bank whose deposits are insured by the Federal Deposit Insurance Corporation and which has trust powers ("a Trustee"; which Trustee may be the Registration Agent), in trust, at or before the date of maturity

or redemption, sufficient monies or Government Obligations, the principal of and interest on which, when due and payable, will provide sufficient monies to pay or redeem the Bonds Outstanding hereunder and to pay premium, if any, and interest thereon when due until the maturity or redemption date; provided, if such Bonds are to be redeemed prior to the maturity thereof, proper notice of such redemption shall have been given or adequate provision shall have been made for the giving of such notice; or,

(c) By delivering such Bonds to the Registration Agent, for cancellation by such Registration Agent.

If the Municipality shall also pay or cause to be paid all other sums payable hereunder by the Municipality with respect to such Bonds, or make adequate provision therefor, and by resolution of the Board instruct any such Trustee to pay amounts when and as required to the Registration Agent for the payment of principal of, premium, if any, and interest on, such Bonds when due, then and in that case indebtedness evidenced by such Bonds shall be discharged and satisfied, and all covenants, agreements, and obligations of the Municipality to the owners of such Bonds shall be fully discharged and satisfied and shall thereupon cease, terminate, and become void.

If the Municipality shall pay and discharge the indebtedness evidenced by any of the Bonds in the manner provided in either clause (a) or clause (b) above, then the Owners thereof shall thereafter be entitled only to payment out of the monies or Government Obligations deposited as aforesaid.

Except as otherwise provided in this Section neither Government Obligations nor monies deposited with the Registration Agent pursuant to this Section nor principal or interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest on, said Bonds; provided that any cash received from such principal or interest payments on such Government Obligations deposited with the Registration Agent, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Municipality as received by the Registration Agent, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal of, premium, if any, and interest, to become due on said Bonds on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Municipality, as received by the Registration Agent.

Nothing contained in this Section shall be construed to alter or change the redemption provisions set forth herein. No redemption privilege shall be exercised with respect to the Bonds except at the option and election of the Municipality. The optional right of redemption shall not be exercised by the Registration Agent unless expressly so directed by an Authorized Representative of the Municipality.

Section 29. Miscellaneous Acts. The Mayor, the Recorder, the Treasurer, the City Manager, and the City Attorney, and all other appropriate officials of the Municipality are hereby

authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, and deliver all such documents, instruments, and certifications, specifically including but not limited to, entering into an agreement with the Financial Advisor to provide financial advisory services for the Municipality and services related to the issuance, sale, and delivery of the Bonds, entering into an agreement with a dissemination agent to provide continuing disclosure services, and making arbitrage certifications, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may in their discretion, be necessary or desirable to implement or comply with the intent of this Resolution; or any of the documents herein authorized and approved, or for the authorization, issuance, and delivery of the Bonds and the redemption of the Refunded Bonds. The Municipality hereby appoints and authorizes the Mayor or the City Manager to conduct a public hearing in accordance with and pursuant to the terms and provisions of Section 147(f) of the Code in connection with the issuance of the Bonds.

Section 30. Failure to Present Bonds. (a) In the event any Bond shall not be presented for payment when the principal becomes due at maturity and in the event monies sufficient to pay such Bond shall be held by the Registration Agent for the benefit of the Owner thereof, all liability of the Municipality to such Owner for the payment of such Bond shall forthwith cease, terminate, and be completely discharged. Thereupon, the Registration Agent shall hold such monies, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such monies for any claim under the Resolution or on, or with respect to, said Bond.

(b) If any Bond shall not be presented for payment within a period of five years following the date when such Bond becomes due, whether by maturity or otherwise, the Registration Agent shall, subject to the provisions of any applicable escheat or other similar law, pay to the Treasurer or the official of the Municipality designated by law as the custodian of such funds, any monies then held by the Registration Agent for the payment of such Bond and such Bond shall (subject to the defense of any applicable statute of limitation) thereafter constitute an unsecured obligation of the Municipality.

Section 31. Payments Due on Saturdays, Sundays, and Holidays. In any case where the date of maturity or interest on or principal of any Bond shall be a Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions similar to the Registration Agent are authorized by law to close, then the payment of the interest on, or the principal of such Bonds need not be made on such date but must be made on the next succeeding day not a Saturday, Sunday, or a legal holiday or a day upon which banking institutions similar to the Registration Agent are authorized by law to close, with the same force and effect as if made on the date of maturity and no interest shall accrue for the period after such date.

Section 32. No Recourse Under Resolution or on Bonds. All stipulations, promises, agreements, and obligations of the Municipality contained in the Initial Resolution or this Resolution shall be deemed to be the stipulations, promises, agreements, and obligations of the Municipality and not of any officer, director, or employee of the Municipality in his or her individual capacity, and no recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon or on the Initial Resolution or this Resolution against

any officer, director, or employee of the Municipality or against any official or individual executing the Bonds.

Section 33. Partial Invalidity. If any one or more of the provisions of this Resolution, or of any exhibit or attachment thereto, shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, or of any exhibit or attachment thereto, but this Resolution, and the exhibits and attachments thereto, shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

Section 34. Severability. If any section, paragraph, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or enforceability of such section, paragraph, or provision shall not affect any of the remaining provisions hereof.

Section 35. Repeal of Conflicting Resolutions and Effective Date. All resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed and this Resolution shall be in immediate effect from and after its adoption, the welfare of the Municipality requiring it.

Approved and adopted this 3rd day of May, 2016.

MAYOR

ATTEST:

APPROVED AS TO FORM:

RECORDER

CITY ATTORNEY

STATE OF TENNESSEE
COUNTIES OF SULLIVAN AND HAWKINS

I, James H. Demming, hereby certify that I am the duly qualified and acting Recorder of the City of Kingsport, Tennessee (the "Municipality"), and, as such official, I further certify as follows: (1) that attached hereto is a copy of a resolution excerpted from the minutes of the meeting of the Board of Mayor and Aldermen (the "Board") of said Municipality held on May 3, 2016; (2) that I have compared said copy with the original minute record of said meeting in my official custody; (3) that said copy is a true, correct, and complete transcript from said original record insofar as said original record relates, to, among other matters, the authorization, issuance, and sale of not to exceed \$16,300,000 General Obligation Refunding Bonds, Series 2016B of said Municipality; (4) that the actions by said Board including the aforementioned, at said meeting were promptly and duly recorded by me in a book kept for such purposes; and, (5) that a quorum of the members of said Board was present and acting throughout said meeting.

WITNESS my official signature and the seal of said Municipality this 3rd day of May, 2016.

RECORDER

(SEAL)

EXHIBIT "A"
FORM OF BOND

Registered
No. _____

Registered
\$ _____

UNITED STATES OF AMERICA
STATE OF TENNESSEE
COUNTIES OF SULLIVAN AND HAWKINS
CITY OF KINGSPORT
GENERAL OBLIGATION REFUNDING BOND,
SERIES 2016B

Interest Rate: Maturity Date: Dated Date: CUSIP:

Registered Owner: CEDE & CO.

Principal Amount:

THE CITY OF KINGSPORT, TENNESSEE (the "Municipality"), a lawfully organized and existing municipal corporation located in Sullivan and Hawkins Counties, Tennessee, for value received, hereby acknowledges itself indebted and promises to pay, as hereinafter provided, to the Registered Owner identified above, or registered assigns as hereinafter provided, on the Maturity Date identified above, unless this bond shall have been duly called for prior redemption and payment of the redemption price shall have been made or provided for, upon the presentation and surrender hereof at the principal corporate trust office of Regions Bank, or its successor as paying agent and registration agent (the "Registration Agent"), the Principal Amount identified above, in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and to pay interest on said Principal Amount from the date hereof, or such later date as to which interest has been paid, semiannually on March 1 and September 1 of each year (the "Interest Payment Date"), commencing September 1, 2016, to said Registered Owner hereof by check or other form of draft of the Registration Agent mailed to the Registered Owner at the address shown on the registration books of the Municipality, maintained by the Registration Agent, as of the close of business on the fifteenth (15th) calendar day of the month next preceding an Interest Payment Date (the "Regular Record Date"), in like coin or currency at the Interest Rate per annum set forth above until payment of said Principal Amount. Provided, however, that should the Municipality default in the payment of interest on such Interest Payment Date, such

defaulted interest (the “Defaulted Interest”) shall be payable to the person in whose name this bond is registered at the close of business on a date (the “Special Record Date”) for the payment of such Defaulted Interest established by notice mailed by the Registration Agent on behalf of the Municipality not less than ten (10) calendar days preceding such Special Record Date by first class mail, postage prepaid, to the Registered Owner hereof at the address thereof as it appears on the registration books of the Municipality maintained by the Registration Agent as of the date of such notice, which notice shall identify the proposed payment of such Defaulted Interest and the Special Record Date therefor.

In the event that any amount payable hereunder as interest shall at any time exceed the rate of interest lawfully chargeable on this bond under applicable law, any such excess shall, to the extent of such excess, be applied against the principal hereof as a prepayment thereof without penalty, and such excess shall not be considered to be interest. All rates of interest specified herein shall be computed on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each.

The principal hereof and all installments of interest hereon, shall bear interest from and after their respective due dates at the same rate of interest payable on the principal hereof.

This bond is authorized and issued pursuant to and in full compliance with, the Constitution and the statutes of the State of Tennessee, including, but not limited to, Title 9, Chapter 21, Tennessee Code Annotated, as amended. Section 9-21-117, Tennessee Code Annotated, as amended, provides that this bond and the income therefrom shall be exempt from all state, county, and municipal taxation in the State of Tennessee, except inheritance, transfer and estate taxes, and except as otherwise provided in said Code.

This bond is one of a series of bonds known as “General Obligation Refunding Bonds, Series 2016B” (the “Bonds”), issued by the Municipality in the aggregate principal amount of \$_____. The Bonds, which are issued for the purposes of (a) providing funds to refund certain outstanding maturities of (1) those certain General Obligation Bonds, Series 2009B, dated February 3, 2009, issued in the original principal amount of \$7,100,000 (the “Series 2009B Bonds”), and (2) those certain General Obligation Bonds, Series 2009E, dated December 8, 2009, issued in the original principal amount of \$14,225,000 (the “Series 2009E Bonds”) (the Series 2009B Bonds and the Series 2009E Bonds herein collectively referred to as the “Refunded Bonds”); and (b) paying costs incident to the issuance and sale of the Bonds, are authorized by appropriate resolutions of the Board of Mayor and Aldermen and particularly that certain Resolution of the Board of Mayor and Aldermen, adopted on May 3, 2016, entitled “Resolution Authorizing the Execution, Terms, Issuance, Sale, and Payment of Not to Exceed \$16,300,000 General Obligation Refunding Bonds, Series 2016B, of the City of Kingsport, Tennessee, and Providing the Details Thereof”, as such resolution may be from time to time amended or supplemented in accordance with its terms (such resolution as so amended or supplemented, being herein called the “Resolution”), and is issued pursuant to, and in full compliance with, the Constitution and the statutes of the State of Tennessee, including, but not limited to, Title 9, Chapter 21, Tennessee Code Annotated, as amended (the “Act”).

Copies of said Resolution are on file at the office of the Recorder of the Municipality, and reference is hereby made to said Resolution and the Act, for a more complete statement of the terms and conditions upon which the Bonds are issued thereunder, the rights, duties, immunities, and obligations of the Municipality, and the rights of the Registered Owner hereof.

This bond is payable from funds of the Municipality legally available therefor and to the extent necessary from ad valorem taxes to be levied on all taxable property within the corporate limits of the Municipality without limitation as to time, rate, or amount. For the prompt payment of this bond, both principal, premium, if any, and interest, as the same shall become due, the full faith, and credit of the Municipality is hereby irrevocably pledged.

The Municipality and the Registration Agent may deem and treat the person or entity in whose name this bond is registered as the absolute owner hereof, whether such bond shall be overdue or not, for the purpose of receiving payment of the principal of, premium, if any, and interest on, this bond and for all other purposes. All such payments so made shall be valid and effectual to satisfy and discharge the liability upon this bond to the extent of the sum or sums so paid, and neither the Municipality nor the Registration Agent shall be affected by any notice to the contrary.

The Bonds are issuable only as fully registered Bonds, without coupons, in the denomination of \$5,000, or any authorized integral multiple thereof. At the principal corporate trust office of the Registration Agent, in the manner and subject to the limitations, conditions, and charges provided in the Bond Resolution, Bonds may be exchanged for an equal aggregate principal amount of fully registered Bonds of the same maturity, of authorized denominations, and bearing interest at the same rate.

The Bonds will be made eligible for processing by DTC. The Bonds in the form of one global bond for each maturity need not be lithographed or printed on steel engraved or printed borders. Except as otherwise provided in this paragraph, the Bonds shall be registered in the name of Cede & Co. as nominee of DTC. The Municipality may discontinue use of DTC as depository for the Bonds at any time upon determination by the Municipality that the use of DTC is no longer in the best interest of the beneficial owners of the Bonds. Registered ownership of the Bonds may be transferred on the registration books maintained by the Registration Agent and the Bonds may be delivered in physical form to the following:

- (i) any successor of DTC or its nominee;
- (ii) any substitute depository upon (1) the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or (2) a determination by the Municipality that DTC or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; or,

(iii) any Person, as defined in the Resolution, upon (a) the resignation of DTC or its successor (or substitute depository or its successor) from its functions as depository, or (b) termination by the Municipality of the use of DTC (or substitute depository or its successor).

Subject to the provisions for registration and transfer contained herein and in the Resolution, this bond shall be transferable by the Registered Owner at the principal office of the Registration Agent upon surrender and cancellation of this bond, and thereupon a new Bond of the same series, principal amount, interest and maturity will be issued to the transferee as provided in the Resolution and upon payment of the transfer charges therein prescribed. Upon any such transfer, the Municipality shall execute and the Registration Agent shall authenticate and deliver in exchange for this bond a new fully registered bond or bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the principal amount of this bond, of the same maturity and bearing interest at the same rate. For every exchange or transfer of bonds, whether temporary or definitive, the Municipality and the Registration Agent may make a charge, unless otherwise herein to the contrary expressly provided, sufficient to pay for any tax, fee, or other governmental charge required to be paid with respect to such exchange or transfer, all of which taxes, fees, or other governmental charges shall be paid by the person or entity requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Municipality and the Registration Agent, and any other person, may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment hereof, and for all other purposes, and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

The Bonds maturing March 1, 2017 through March 1, 2022 are not subject to redemption prior to maturity. The Bonds maturing on and after March 1, 2023, are subject to redemption prior to maturity on March 1, 2022, and at any time thereafter, at the option of the Municipality, as a whole or in part, in integral multiples of \$5,000 (less than all Bonds of a single maturity to be selected by lot by the Registration Agent), at the price of par plus accrued interest to the date fixed for redemption.

Notice of intended redemption shall be given by the Registration Agent on behalf of the Municipality to the Registered Owners of the Bonds to be redeemed by first-class mail, postage prepaid, at the addresses shown on the registration books kept by the Registration Agent. Notice of intended redemption shall be given not less than thirty (30) calendar days, nor more than sixty (60) calendar days prior to the date fixed for redemption.

This bond shall have all the qualities and incidents of, and shall be a negotiable instrument under, the Uniform Commercial Code of the State of Tennessee, subject only to provisions respecting registration of such bond. This bond is issued with the intent that the laws of the State of Tennessee shall govern its construction.

It is hereby certified, recited, and declared that all acts and conditions required to be done and to exist precedent to, and in the issuance of, this bond in order to make this bond a legal, valid, and binding obligation of the Municipality, have been done, and did exist in due time and form as required

by the Constitution and statutes of the State of Tennessee, and that this bond and the issue of which it is a part, together with all other indebtedness of such Municipality, does not exceed any limitation prescribed by the Constitution or statutes of the State of Tennessee.

IN WITNESS WHEREOF, THE CITY OF KINGSPORT, TENNESSEE, by its Board of Mayor and Aldermen has caused this bond to be executed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the Recorder, to have its official seal, or a facsimile thereof, to be impressed or imprinted hereon, and to be approved as to form by the manual or facsimile signature of the City Attorney, all as of the Dated Date.

MAYOR

(SEAL)

ATTEST:

APPROVED AS TO FORM:

RECORDER

CITY ATTORNEY

Date of Authentication:

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds described in the provisions of the within mentioned Resolution and is one of the General Obligation Refunding Bonds, Series 2016B of the City of Kingsport, Tennessee.

REGIONS BANK,
as Registration Agent

By: _____
Authorized Officer

FORM OF ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within-registered Bond and do(es) hereby irrevocably constitute and appoint, attorney, to transfer the same on the registration books of the Registration Agent, with full power of substitution in the premises.

Dated: _____

SIGNATURE GUARANTEED:

SIGNATURE:

NOTICE: Signature(s) must be guaranteed by a member firm of a Medallion Program acceptable to the Registration Agent.

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT "B"

FORM OF ESCROW AGREEMENT

ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement"), dated _____, 2016 between REGIONS BANK (the "Escrow Agent"), and the CITY OF KINGSPORT, TENNESSEE (the "Municipality").

WITNESSETH:

WHEREAS, the Municipality has issued its \$_____ General Obligation Refunding Bonds, Series 2016B, dated the date of original issuance and delivery (the "Bonds"), for the purposes of (a) redeeming certain outstanding maturities of (1) those certain General Obligation Bonds, Series 2009B, dated February 3, 2009, issued in the original principal amount of \$7,100,000 (the "Series 2009B Bonds"), and (2) those certain General Obligation Bonds, Series 2009E, dated December 8, 2009, issued in the original principal amount of \$14,225,000 (the "Series 2009E Bonds") (the Series 2009B Bonds and the Series 2009E Bonds herein collectively referred to as the "Refunded Bonds"); (b) paying on their respective due dates interest on the Refunded Bonds, (c) paying any applicable redemption premium on the Refunded Bonds, and (d) paying the costs of issuance incurred in connection with the issuance of the Bonds;

WHEREAS, pursuant to a resolution adopted by the Municipality on May 3, 2016, authorizing the issuance of the Bonds (the "Resolution"), the Escrow Agent has been appointed Escrow Agent by the Municipality for the purpose of assuring the payment of the principal of and interest on the Refunded Bonds and the Mayor and the Recorder of the Municipality have been authorized and directed to execute this Escrow Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the Municipality and the Escrow Agent have agreed and hereby agree as follows for the equal and proportionate benefit and security of the owners of the Refunded Bonds:

Section 1. The Municipality will hereafter cause to be deposited with the Escrow Agent for the account of the Municipality from the proceeds of the Bonds the sum of \$_____, such amount together with the investment income from all such monies is herein referred to as the Escrow Fund.

Section 2. The Municipality has called for redemption (a) on March 1, 2019 certain maturities of the Series 2009B Bonds in the aggregate principal amount of \$_____, and (b) on March 1, 2020 certain maturities of the Series 2009E Bonds in the aggregate principal amount of \$_____.

Notice of call for redemption with respect to such Refunded Bonds shall be given by the Escrow Agent on behalf of the Municipality to the owners of the Refunded Bonds as required in the resolutions authorizing said Refunded Bonds.

Section 3. (a) The Escrow Fund shall be immediately invested in direct obligations of the United States of America (“Investment Securities”) in the following manner:

The amount of \$ _____ shall be invested in the Investment Securities described in Schedule B attached at the prices therein stated (which will result in the yield to the Municipality from such Investment Securities being _____% per annum), all as more fully described in Schedule B hereto attached, resulting in an initial cash balance in said fund from such proceeds of \$ _____.

The investment income from the Investment Securities in the Escrow Fund shall be credited to such fund and shall not be reinvested; provided, however, that the Escrow Agent may reinvest any monies remaining from time to time in the Escrow Fund in Investment Securities as shall be directed in writing by the Mayor of the Municipality; provided, that as a condition precedent to such reinvestment, when and only when (i) the Escrow Agent receives an opinion of counsel of recognized experience in matters under Section 148 of the Internal Revenue Code of 1986, as amended, relating to arbitrage bonds, that such reinvestment will not cause the Refunded Bonds to be arbitrage bonds (except that an opinion of counsel shall not be required if such reinvestment is in Zero Interest State and Local Government Series Securities issued by the Borrower of the Public Debt of the U.S. Department of the Treasury), and (ii) such reinvestment will not reduce the amount of money available to pay principal of and interest and redemption premiums on the Refunded Bonds when due below the amount necessary to make such payment. Any Investment Securities shall be direct obligations of the United States of America.

(b) The Escrow Agent shall not sell or request the redemption of any Investment Security; provided, that Investment Securities in the Escrow Fund may be replaced by the Municipality as directed in writing by the Mayor of the Municipality when and only when (i) the Escrow Agent receives an opinion of counsel of recognized experience in matters under Section 148 of the Internal Revenue Code of 1986, as amended, relating to arbitrage bonds, that such replacement will not cause the Refunded Bonds or the Bonds to be arbitrage bonds, and (ii) such replacement will not reduce the amount of money available to pay principal of and interest and redemption premiums on the Refunded Bonds when due below the amount necessary to make such payment. Any replacement Investment Securities shall be direct obligations of the United States of America.

Section 4. No paying agents’ fees for the payment of principal of or interest on the Bonds or the Refunded Bonds or registrar’s fees or other charges may be paid from the escrowed money or Investment Securities prior to retirement of all Refunded Bonds and the Municipality agrees that it will pay all such fees from its other legally available funds as such payments become due prior to such retirement.

Section 5. At such time or times as there shall be insufficient funds on hand in the Escrow Fund for the payment of principal and interest falling due on the Refunded Bonds, the Escrow Agent shall promptly notify the Municipality of such deficiency.

Section 6. The Escrow Agent shall deliver to the Recorder of the Municipality a report of each transaction relating to the Escrow Fund as such transaction occurs, and on or before the first day of August of each year shall deliver to the Recorder a report of the financial condition of the Escrow Fund as of June 30 of such year and an operating statement for the Escrow Fund for the year ending June 30 of such year.

Section 7. The Escrow Agent agrees with the Municipality that the fee of the Escrow Agent throughout the term of this Escrow Agreement shall be (a) an annual administrative fee equal to \$1,500 payable on the date hereof and annually thereafter on each March 1, and (b) a wire fee equal to \$25 per wire, payable as required, and the Municipality hereby agrees to pay such fees.

Section 8. The Escrow Agent shall without further authorization or direction from the Municipality collect the principal of and interest on the Investment Securities promptly as the same shall fall due and, to the extent that Investment Securities and monies are sufficient for such purpose, shall make timely payments out of the Escrow Fund to the proper paying agent or agents or their successors for the Refunded Bonds, or monies sufficient for the payment of the principal of, premium, and interest on such Refunded Bonds as the same shall become due and payable, all as set out in the collective Exhibit "A" hereof. The payments so forwarded or transferred shall be made in sufficient time to permit the payment of such principal and interest (and premium) by such paying agent or agents without default. The Municipality represents and warrants that the Escrow Fund, if held, invested, and disposed of by the Escrow Agent in accordance with the provisions of this Escrow Agreement, will be sufficient to make the foregoing and all other payments required under this Escrow Agreement. The proper paying agents for the Refunded Bonds are shown in Exhibit "A". When the aggregate total amount required for the payment of principal of and interest (and premium) on the Refunded Bonds has been paid to the paying agent bank(s) as hereinabove provided, the Escrow Agent shall transfer monies or Investment Securities then held hereunder to the Municipality and this Escrow Agreement shall cease.

Section 9. The Escrow Agent and the Municipality recognize that the holders from time to time of the Refunded Bonds have a beneficial and vested interest in the Investment Securities and moneys to be held by the Escrow Agent as herein provided and in the provisions of this Escrow Agreement. It is therefor recited, understood and agreed that this Escrow Agreement shall not be subject to revocation or amendment until its provisions have been fully carried out.

Section 10. The Escrow Agent shall be under no obligation to inquire into or be in any way responsible for the performance or nonperformance by the Municipality or any paying agent of any of its obligations, or to protect any of the Municipality's rights under any bond proceeding or any of the Municipality's other contracts with or franchises or privileges from any state, county, municipality or other governmental agency or with any person. The Escrow Agent shall not be liable for any act done or step taken or omitted by it, or for any mistake of fact or law, or for anything which it may do or refrain from doing, except for its negligence or its willful misconduct. The Escrow Agent shall not be responsible in any manner whatsoever for the recitals or statements contained

herein, or in the Refunded Bonds or the Bonds or in any proceedings taken in connection therewith, but they are made solely by the Municipality. The Escrow Agent shall not be liable or responsible for any loss resulting from any investment made pursuant to this Escrow Agreement and in full compliance with the provisions hereof.

The Escrow Agent shall perform only such duties and responsibilities as are expressly set forth in this Escrow Agreement and no other or further duties or responsibilities shall be implied. The Escrow Agent may consult with counsel of its choice with respect to any question relating to its duties and responsibilities hereunder or otherwise in connection herewith, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or not taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel. The Escrow Agent shall be entitled to rely and shall be protected in acting in reliance upon any instructions or directions furnished to it in writing or pursuant to the provisions of this Escrow Agreement and shall be entitled to treat as genuine, and as the document it purports to be, any letter, paper, or other document furnished to it and believed by it to be genuine and to have been signed and presented by the proper party or parties. The Escrow Agent may execute any of its trusts or powers and perform any of its duties under this Escrow Agreement by or through attorneys, agents, or employees. The Escrow Agent is not liable for the accuracy of the calculations as to the sufficiency of the Investment Securities and money to pay the Refunded Bonds. If the Escrow Agent applies the Investment Securities and money as provided in this Escrow Agreement, the Escrow Agent will not be liable for any deficiencies in the amounts necessary to pay the Refunded Bonds caused by the calculations.

The Escrow Agent may at any time resign and be discharged from its duties and obligations hereunder by giving thirty (30) calendar days notice, in writing, to the Municipality of such resignation specifying when such resignation shall take effect which date shall not be less than sixty (60) calendar days from the date of such notice. The Municipality shall promptly appoint a successor escrow agent by the resignation date. If the Municipality does not appoint a successor by the resignation date, the resigning Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent, which court may thereupon, appoint a successor escrow agent. In the event the Escrow Agent resigns, the Municipality shall be responsible for any unpaid fees of the Escrow Agent through the effective date of the resignation. Any corporation, association, or other entity into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or otherwise transfer all or substantially all of its corporate trust assets and business, or any corporation, association, or other entity resulting from any such conversion, sale, merger, consolidation, or other transfer to which it is a party, ipso facto, shall be and become successor escrow agent hereunder, vested with all other matters as was its predecessor, without the execution or filing of any instrument or any further act on the part of the parties hereto, notwithstanding anything herein to the contrary.

The Municipality may remove the Escrow Agent at any time, by giving thirty (30) calendar days notice, in writing, to the Escrow Agent specifying when such removal shall take effect. The Municipality shall appoint a successor escrow agent by the removal date.

Section 11. None of the provisions contained in this Escrow Agreement shall require the Escrow Agent to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights or powers hereunder. The Escrow Agent shall be under no liability for interest on any fund or other property received by it hereunder, except as herein expressly provided.

Section 12. The Municipality agrees that it will promptly and without delay remit to the Escrow Agent, within ten (10) days after receipt of its written request, such additional sum or sums of money as may be necessary to assure the payment of the Refunded Bonds and to fully pay and discharge any obligation or obligations or charges, fees or expenses incurred by the Escrow Agent in carrying out any of the duties, terms or provisions of this Escrow Agreement that are in excess of the sums provided for under Section 7 hereof.

Section 13. The Escrow Agent shall hold the Investment Securities and all money received by it from the collection of principal of and interest on the Investment Securities, and all money received from the Municipality hereunder, in a special fund and separate trust account wholly segregated from all other funds and investments deposited with the Escrow Agent, and shall never commingle such investments with other money or investments. Title to such Investment Securities and money shall remain in the Municipality.

Section 14. If any provision of this Escrow Agreement shall be held or deemed to be invalid or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 15. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

Section 16. Any notice, request, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed, by registered or certified mail, postage prepaid or sent by telegram as follows:

If to the Municipality:

City of Kingsport
225 West Center Street
Kingsport, Tennessee 37660-4285
Attention: Recorder

To the Escrow Agent:

Regions Bank
150 Fourth Avenue North
Suite 900
Nashville, Tennessee 37219
Attention: Corporate Trust Services

The Municipality and the Escrow Agent may designate any further or different addresses to which subsequent notices, requests, communications or other papers shall be sent.

Section 17. This Escrow Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[signature page follows]

SCHEDULE A

\$7,100,000 General Obligation Bonds, Series 2009B,
dated February 3, 2009

<u>Payment Date</u>	<u>Interest</u>	<u>Called Principal*</u>	<u>Call Premium</u>	<u>Total Amount Due</u>
09/01/2016				
03/01/2017				
09/01/2017				
03/01/2018				
09/01/2018				
03/01/2019				

*

Paying Agent: Regions Bank

\$14,225,000 General Obligation Bonds, Series 2009E,
dated December 8, 2009

<u>Payment Date</u>	<u>Interest</u>	<u>Called Principal*</u>	<u>Call Premium</u>	<u>Total Amount Due</u>
09/01/2016				
03/01/2017				
09/01/2017				
03/01/2018				
09/01/2018				
03/01/2019				
09/01/2019				
03/01/2020				

*

Paying Agent: Regions Bank

SCHEDULE B

Escrow Agreement, dated _____, 2016
City of Kingsport, Tennessee

Investment Securities to be acquired pursuant
to the Escrow Agreement for \$ _____

See attached schedules

Initial Cash Balance \$ _____



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF STATE AND LOCAL FINANCE
SUITE 1600 JAMES K. POLK STATE OFFICE BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
PHONE (615) 401-7872
FAX (615) 741-5986**

April 14, 2016

Honorable John Clark, Mayor
City of Kingsport
225 West Center Street
Kingsport, TN 37660

Dear Mayor Clark:

Please provide a copy of this report to each member of the Governing Body at the public meeting during which the report is reviewed and the proposed refunding bond resolution is presented. Additionally, this letter, report, and plan of refunding (the "Plan"), are to be posted on the City of Kingsport's (the "City's") website.

This letter acknowledges receipt on April 11, 2016, of the City's request to review its Plan for the issuance of a maximum of \$34,000,000 General Obligation Refunding Bonds, Series 2016 (the "Refunding Bonds") to advance refund:

- \$7,430,000 General Obligation Public Improvement Bonds, Series 2009A;
- \$4,335,000 General Obligation Bonds, Series 2009B;
- \$9,310,000 Local Option Sales Tax Revenue and Tax Bonds, Series 2009C; and
- \$9,040,000 General Obligation Bonds, Series 2009E.

These are collectively (the "Refunded Bonds"). The total amount of refunded principal is \$30,115,000.

Pursuant to the provisions of Tennessee Code Annotated Title 9 Chapter 21, a plan must be submitted to our Office for review. The information presented in the Plan includes the assertions of the City and may not reflect either current market conditions or market conditions at the time of sale.

CITY'S PROPOSED REFUNDING OBJECTIVE

The City indicated its purpose for the refunding is for present value debt service savings.

BALLOON INDEBTEDNESS

The City determined the structure of the Refunding Bonds presented in the Plan is balloon indebtedness and therefore, submitted a separate request for approval of a plan of balloon indebtedness in conjunction

with its request for the review of the Plan. Approval of the Director of the Office of State and Local Finance is required prior to the City adopting the resolution authorizing the issuance of balloon indebtedness.

The City's plan of balloon indebtedness was approved in a separate letter dated April 14, 2016.

COMPLIANCE WITH THE CITY'S DEBT MANAGEMENT POLICY

The City provided a copy of its debt management policy, and within forty-five (45) days of issuance of the debt approved in this letter, is required to submit a Report on Debt Obligation that indicates that this debt complies with its debt policy. If the City amends its policy, please submit the amended policy to this office.

FINANCIAL PROFESSIONALS

The City has indicated that Raymond James is its municipal advisor. Municipal advisors have a fiduciary responsibility to the City. Underwriters have no fiduciary responsibility to the City. They represent the interests of their firm and are not required to act in the City's best interest without regard to their own or other interests. The Plan was prepared by the City with the assistance of its municipal advisor.

REPORT OF THE REVIEW OF A PLAN OF REFUNDING

The enclosed report does not constitute approval or disapproval for the proposed plan or a determination that a refunding is advantageous or necessary nor that any of the outstanding obligations should be called for redemption on the first or any subsequent available redemption date or remain outstanding until their respective dates of maturity. This letter and the enclosed report do not address the compliance with federal tax regulations and are not to be relied upon for that purpose. The City should discuss these issues with a bond counsel.

This report is effective for a period of one hundred and twenty (120) days. If the refunding has not been completed during this time, a supplemental plan of refunding must be submitted to this Office. At that time we will issue a report thereon pursuant to the statutes. In lieu of submitting a supplemental plan, a statement may be submitted to our Office after the 120-day period has elapsed stating that the information contained in the current plan of refunding remains valid. Such statement must be submitted by either the Chief Executive Officer or the Chief Financial Officer of the local government. We will acknowledge receipt of such statement and will issue our letter confirming that this refunding report remains valid for an additional 120-day period. However, with regard to the report currently being issued by this Office, during the initial 120-day period or any subsequent 120-day period no refunding reports will be issued relating to the debt obligations indicated herein as being refunded unless the Chief Executive Officer or the Chief Financial Officer notifies our Office that the plan of refunding which has been submitted is no longer valid.

We recognize that the information provided in the plan submitted to our Office is based on preliminary analysis and estimates, and that actual results will be determined by market conditions at the time of sale of the debt obligations. However, if it is determined prior to the issuance of these obligations that the actual results will be significantly different from the information provided in the plan which has been

submitted, and the local government determines to proceed with the issue, our Office should subsequently be notified by either the Chief Executive Officer or the Chief Financial Officer of the local government regarding these differences, and that the local government was aware of the differences and determined to proceed with the issuance of the debt obligations. Notification to our Office will be necessary only if there is an increase or decrease of greater than fifteen percent (15%) in any of the following: (1) the principal amount of the debt obligations issued; (2) the costs of issuance; (3) the cumulative savings or loss with regard to any refunding proposal. We consider this notification necessary to ensure that this Office and officials of the local government are aware of any significant changes that occur with regard to the issuance of the proposed indebtedness.

REPORT ON DEBT OBLIGATION

We are enclosing State Form CT-0253, Report on Debt Obligation. Pursuant to T.C.A. § 9-21-151, this form is to be completed and filed with the governing body of the City no later than forty-five (45) days after the issuance of this debt, with a copy (including attachments, if any) filed with the Director of the Office of State and Local Finance by email to StateandLocalFinance.PublicDebtForm@cot.tn.gov or by mail to the address on this letterhead. No public entity may enter into additional debt if it has failed to file the Report on Debt Obligation. A fillable PDF of Form CT-0253 can be found at <http://www.comptroller.tn.gov/sl/pubdebt.asp>.

If you should have any questions regarding this information, or we may be of further assistance, please feel free to call.

Sincerely,



Sandra Thompson
Director of the Office of State & Local Finance

Cc: Mr. Jim Arnette, Director of Local Government Audit, COT
Mr. James Demming, City of Kingsport
Mr. Rick Dulaney, Raymond James
Ms. Cindy Barnett, Adams and Reese, LLP

Enclosures: Report of the Director of the Office of State & Local Finance
Report on Debt Obligation

**REPORT OF THE DIRECTOR OF THE OFFICE OF STATE AND LOCAL FINANCE
CONCERNING THE PROPOSED ISSUANCE
BY THE CITY OF KINGSPORT, TENNESSEE OF
GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016**

The City of Kingsport (the "City") submitted a plan of refunding (the "Plan"), as required by T.C.A. § 9-21-903 regarding an issuance of a maximum of \$34,000,000 General Obligation Refunding Bonds, Series 2016 (the "Refunding Bonds") to advance refund:

- \$7,430,000 General Obligation Public Improvement Bonds, Series 2009A;
- \$4,335,000 General Obligation Bonds, Series 2009B;
- \$9,310,000 Local Option Sales Tax Revenue and Tax Bonds, Series 2009C; and
- \$9,040,000 General Obligation Bonds, Series 2009E.

These are collectively (the "Refunded Bonds"). The total amount of refunded principal is \$30,115,000.

This report must be presented to the governing body prior to the adoption of a refunding bond resolution. An evaluation of the preparation, support, and underlying assumptions of the Plan has not been performed by this Office. This letter and report provide no assurances of the reasonableness of the underlying assumptions. The Refunding Bonds may be issued with a structure different to that of the Plan. The City provided a copy of its debt management policy.

BALLOON INDEBTEDNESS

The City determined the structure of the Refunding Bonds presented in the Plan is balloon indebtedness and therefore, submitted a separate request for approval of a plan of balloon indebtedness in conjunction with its request for the review of the Plan. Approval of the Director of the Office of State and Local Finance is required prior to the City adopting the resolution authorizing the issuance of balloon indebtedness.

The City's plan of balloon indebtedness was approved in a separate letter dated April 14, 2016.

CITY'S PROPOSED REFUNDING OBJECTIVE

The City indicated its purpose for the refunding is for present value debt service savings.

REFUNDING ANALYSIS

- The results of the refunding are based on the assumption that \$28,595,000 Refunding Bonds will be sold by competitive sale and priced at a premium of \$5,398,478.
- The net present value savings are projected to be \$2,042,022, or 6.78% of the refunded principal of \$30,115,000.
- The final maturity of the Refunding Bonds does not extend beyond the final maturity of the Refunded Bonds.
- Estimated cost of issuance of the Refunding Bonds is \$398,558 or \$13.94 per \$1,000 of the par amount. See Table 1 for individual costs of issuance.

Table 1
Costs of Issuance of the Refunding Bonds

	Amount	Price per \$1,000 bond
Underwriter (Competitive Sale)	\$ 243,057.50	\$ 8.50
Municipal Advisor (Raymond James)	47,500.00	1.66
Bond Counsel (Adams and Reese)	45,000.00	1.58
Rating Agencies Fees	51,000.00	1.78
Other Costs	12,000.00	0.42
Total Cost of Issuance	\$ 398,557.50	\$ 13.94

The City has indicated Raymond James is its municipal advisor. Municipal advisors have a fiduciary responsibility to the City. Underwriters have no fiduciary responsibility to the City. They represent the interests of their firm and are not required to act in the City's best interest without regard to their own or other interests. The Plan was prepared by the City with the assistance of its municipal advisor.

This report of the Office of State and Local Finance does not constitute approval or disapproval by the Office for the Plan or a determination that a refunding is advantageous or necessary nor that any of the refunded obligations should be called for redemption on the first or any subsequent available redemption date or remain outstanding until their respective dates of maturity. This report is based on information as presented in the Plan by the City. The assumptions included in the City's Plan may not reflect either current market conditions or market conditions at the time of sale.

If all of the Refunded Bonds are not refunded as a part of the Refunding Bonds, and the City wishes to refund them in a subsequent bond issue, then a new plan will have to be submitted to this Office for review.



Sandra Thompson
Director of the Office of State and Local Finance
Date: April 14, 2016



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF STATE AND LOCAL FINANCE
SUITE 1600 JAMES K. POLK STATE OFFICE BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
PHONE (615) 401-7872
FAX (615) 741-5986**

April 14, 2016

Honorable John Clark, Mayor
City of Kingsport
225 West Center Street
Kingsport, TN 37660

Dear Mayor Clark:

The City of Kingsport (the "County") presented a plan of balloon indebtedness (the "Plan") on April 11, 2016, to issue a maximum of \$34,000,000 General Obligation Refunding Bonds, Series 2016 to advance refund:

- \$7,430,000 General Obligation Public Improvement Bonds, Series 2009A;
- \$4,335,000 General Obligation Bonds, Series 2009B;
- \$9,310,000 Local Option Sales Tax Revenue and Tax Bonds, Series 2009C; and
- \$9,040,000 General Obligation Bonds, Series 2009E.

Balloon Indebtedness

The City indicated the purpose of the advance refunding is to create net aggregate annual and net present value savings to strengthen the overall financial position of the City, which is in the public's interest.

Approval

The comptroller of the treasury or the comptroller's designee shall evaluate each plan of balloon indebtedness based on the plan's particular circumstances and shall approve the plan only if a determination is made that the repayment structure is in the public's interest. Based on the review of the Plan in accordance with statute, the Plan is approved.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Thompson".

Sandra Thompson
Director of State & Local Finance

Cc: Mr. Jim Arnette, Director of Local Government Audit, COT
Mr. James Demming, City of Kingsport
Mr. Rick Dulaney, Raymond James
Ms. Cindy Barnett, Adams and Reese, LLP

Preliminary

\$28,595,000

City of Kingsport, Tennessee

General Obligation Refunding Bonds, Series 2016

(Refunding Series 2009 A,B,C & E Bonds)

Savings Report

Date	Principal	Coupon	Interest	Total P+I	Refunded D/S	Savings
06/30/2016	-	-	-	-	-	-
06/30/2017	-	-	990,375.00	990,375.00	1,317,662.52	327,287.52
06/30/2018	-	-	1,320,500.00	1,320,500.00	1,317,662.52	(2,837.48)
06/30/2019	-	-	1,320,500.00	1,320,500.00	1,317,662.52	(2,837.48)
06/30/2020	1,585,000.00	5.000%	1,320,500.00	2,905,500.00	3,047,662.52	142,162.52
06/30/2021	2,370,000.00	5.000%	1,241,250.00	3,611,250.00	3,813,462.52	202,212.52
06/30/2022	2,485,000.00	5.000%	1,122,750.00	3,607,750.00	3,810,862.52	203,112.52
06/30/2023	2,605,000.00	5.000%	998,500.00	3,603,500.00	3,808,212.52	204,712.52
06/30/2024	2,740,000.00	5.000%	868,250.00	3,608,250.00	3,814,018.78	205,768.78
06/30/2025	2,870,000.00	5.000%	731,250.00	3,601,250.00	3,809,543.78	208,293.78
06/30/2026	3,015,000.00	5.000%	587,750.00	3,602,750.00	3,808,693.78	205,943.78
06/30/2027	3,165,000.00	4.000%	437,000.00	3,602,000.00	3,809,418.76	207,418.76
06/30/2028	3,285,000.00	4.000%	310,100.00	3,595,100.00	3,804,012.50	208,612.50
06/30/2029	3,430,000.00	4.000%	179,000.00	3,609,000.00	3,815,400.00	206,400.00
06/30/2030	1,045,000.00	4.000%	41,800.00	1,086,800.00	1,123,375.00	36,575.00
Total	\$28,595,000.00	-	\$11,469,825.00	\$40,064,825.00	\$42,417,650.24	\$2,352,825.24

PV Analysis Summary (Net to Net)

Gross PV Debt Service Savings	2,040,640.31
Net PV Cashflow Savings @ 1.995% (Bond Yield)	2,040,640.31
Contingency or Rounding Amount	1,381.53
Net Present Value Benefit	\$2,042,021.84
Net PV Benefit / \$30,115,000 Refunded Principal	6.781%
Net PV Benefit / \$28,595,000 Refunding Principal	7.141%
Bond Year Dollars	\$255,541.25
Average Coupon	4.4884436%
Average Life	8.937 Years

REF-2009AB&CE-1-4-16 | Issue Summary | 4/7/2016 | 3:40 PM

RAYMOND JAMES

Preliminary

\$28,595,000

City of Kingsport, Tennessee

General Obligation Refunding Bonds, Series 2016

(Refunding Series 2009 A,B,C & E Bonds)

Sources & Uses

Dated 06/01/2016 | Delivered 06/01/2016

Sources Of Funds

Par Amount of Bonds	\$28,595,000.00
Reoffering Premium	5,398,477.85
Total Sources	\$33,993,477.85

Uses Of Funds

Deposit to Net Cash Escrow Fund	33,593,538.82
Total Underwriter's Discount (0.850%)	243,057.50
Costs of Issuance	155,500.00
Rounding Amount	1,381.53
Total Uses	\$33,993,477.85

Preliminary

\$28,595,000

City of Kingsport, Tennessee

General Obligation Refunding Bonds, Series 2016

(Refunding Series 2009 A,B,C & E Bonds)

Detail Costs Of Issuance

Dated 05/01/2016 | Delivered 05/01/2016

COSTS OF ISSUANCE DETAIL

Financial Advisor	\$47,500.00
Bond Counsel	\$45,000.00
Verification Agent	\$7,500.00
Rating Agency Fee (S&P)	\$25,000.00
Rating Agency Fee (Moody's)	\$26,000.00
POS/Official Statement	\$1,500.00
Registrar Paying & Escrow Agent	\$2,500.00
Miscellaneous	\$500.00
TOTAL	\$155,500.00



AGENDA ACTION FORM

Engage the Firm of Brown, Edwards, and Company, LLP to Audit the Financial Statements of the City of Kingsport for the Fiscal Year Ending June 30, 2017 with Expected Annual Renewals for Fiscal Years 2018, 2019, 2020, and 2021

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

Action Form No.: AF-107-2016
Work Session: May 2, 2016
First Reading: N/A

Final Adoption: May 3, 2016
Staff Work By: Lisa Winkle
Presentation By: James Demming

Recommendation:

Request Board of Mayor and Aldermen to approve a resolution authorizing the Mayor to execute a contract in a form approved by the Comptroller of the Treasury, State of Tennessee, to engage the firm of Brown, Edwards and Company, LLP to audit the financial statements of the City of Kingsport including governmental activities, business-type activities, each major fund, and aggregate remaining funds. The contract will also include audits of the Industrial Development Board of the City of Kingsport and Kingsport City School Activity Funds for the fiscal year ended June 30, 2017 with expected annual renewals for fiscal years 2018, 2019, 2020, and 2021.

Executive Summary:

City staff have worked well with the staff from Brown Edwards and wish to extend the audit contract with them. A five year proposal was received from Brown Edwards to provide audit services for fiscal years 2017 through 2021. Their 5 year contract price of \$756,000 is \$91,100 less than the closest bid for audit services for the fiscal years 2012 through 2016. The annual increase in audit fees is less than 3% per year. A list of considerations for the audit contract, a copy of the proposal from Brown Edwards, and a comparison of audit fees are attached for your review.

Attachments:

- 1. Resolution
- 2. Considerations for Audit Contract
- 3. Brown Edwards Proposal
- 4. Comparison of Audit Fees

Funding source appropriate and funds are available: js

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

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN, EDWARDS, AND COMPANY, LLP FOR AUDIT SERVICES FOR FISCAL YEAR ENDING JUNE 30, 2017, 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 has worked with Brown, Edwards and Company, LLP for the auditing services in the city for the previous four years; and

WHEREAS, Brown, Edwards and Company has in the past audited the financial statements of the city, including governmental activities, business-type activities, each major fund, and aggregate remaining funds; and

WHEREAS, the city would like to extend the contract with Brown, Edwards and Company, LLP for the fiscal year ending June 30, 2017, and yearly renewal options for 2018, 2019, 2020 and 2021; and

WHEREAS, the extended contract will also include audits of the Industrial Development Board of the City of Kingsport and Kingsport City School Activity Funds.

WHEREAS, the total cost for the five years is \$756,000.00; and

WHEREAS, the cost of the annual services is available from 2021 auditing account in various funds in the annual budget.

Now therefore,

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

SECTION I. That an agreement with Brown, Edwards and Company, LLP, extending the auditing services through June 30, 2017, with the option to renew for an additional 4 years, 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, and in a form approved by the Comptroller of the Treasury, State of Tennessee, the agreement with Brown, Edwards and Company, LLP 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 3rd day of May, 2016.

JOHN CLARK, MAYOR

ATTEST:

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

J. MICHAEL BILLINGSLEY, CITY ATTORNEY



CONSIDERATIONS FOR AUDIT CONTRACT

- Fiscal Year Ended June 30, 2016 will be the final year of the 5 year contract for audit services with Brown Edwards.
- The state requires that an audit contract be filed with them by October 31st for the following June 30th year end.
- Unless we request an extension, we need to have a contract to audit filed with the state by October 31, 2016 for the June 30, 2017 audit.
- Finance has been happy with Brown Edwards and worked well with their staff.
- Brown Edwards has provided knowledgeable professional staff on site to perform the audits.
- There has been very minimum staff turnover for us to deal with.
- Brown Edwards joined the Kingsport Chamber of Commerce last fall.
- Brown Edwards recently bought out Dent K Burke and now has a local Kingsport office.
- Brown Edwards won the 5 year audit contract for 2012 – 2016 with a total 5 year bid that was \$188,200 less than the closest bid.
- Brown Edwards has never billed us any additional fees even though there have been several new GASB pronouncements that affected our audit and several new funds added.
- Brown Edwards has presented us with a proposal to continue to provide audit services for the City of Kingsport including School Activity Funds and Industrial Development Board.
- Their proposal has the following options:
 - 1 year (FY2017) for \$149,500
 - 3 year (FY2017 – FY2019) for \$453,300
 - 5 year (FY2017 – FY2021) for \$756,000
- Brown Edwards bid for the 5 years from 2017 through 2021 is still \$91,100 less than the closest 5 year 2012 through 2016 bid received in August 2011.

- Finance recommends the City award an additional 5 year audit services contract to Brown Edwards.

BROWN EDWARDS**FINANCIAL AND COMPLIANCE AUDIT SERVICES PRICE PROPOSAL**

March 11, 2016

Honorable Mayor and Board of Aldermen
 City of Kingsport, Tennessee
 Kingsport, Tennessee 37660

We are submitting this Financial and Compliance Audit Services Price Proposal for professional auditing services for the City of Kingsport, including the Industrial Development Board, and the City of Kingsport Internal School Funds for the year ended June 30, 2017, the three years ended June 30, 2019 and, the five years ended June 30, 2021. The total all-inclusive maximum prices quoted below have been apportioned as follows:

<u>Year Ending June 30, 2017</u>	1 year	3 year	5 year
City of Kingsport	\$125,000	\$123,000	\$120,000
City of Kingsport Internal School Funds	24,500	23,500	23,000
Grand Total	\$149,500	\$146,500	\$143,000

<u>Year Ending June 30, 2018</u>			
City of Kingsport		\$127,000	\$123,500
City of Kingsport Internal School Funds		24,100	23,600
Grand Total		\$151,100	\$147,100

<u>Year Ending June 30, 2019</u>			
City of Kingsport		\$131,000	\$127,000
City of Kingsport Internal School Funds		24,700	24,200
Grand Total		\$155,700	\$151,200

<u>Year Ending June 30, 2020</u>			
City of Kingsport			\$130,500
City of Kingsport Internal School Funds			24,800
Grand Total			\$155,300

<u>Year Ending June 30, 2021</u>			
City of Kingsport			\$134,000
City of Kingsport Internal School Funds			25,400
Grand Total			\$159,400

----- *Your Success is Our Focus* -----

City of Kingsport, Tennessee
March 11, 2016
Page 2

It is understood that the above prices are maximum prices, and that the entities listed above will pay less if the actual hours incurred and actual reimbursable costs are less than those prices.

It is also understood that if there are any additional services requested by the City, that an addendum to the contract will be prepared and the services will be performed at the same rates set forth in the schedule of fees and expenses included in this proposal. Progress billings will be submitted monthly and schedules of hours of work completed on each of the four entities above will be attached to the billings.

We hereby certify that the individual signing this proposal is entitled to represent the firm, empowered to submit the bid, and authorized to sign a contract with the City of Kingsport, Tennessee.

We appreciate the opportunity to submit this proposal. If you have any questions or need additional information, please contact us at (276) 466-5248.

Very truly yours,

BROWN, EDWARDS & COMPANY, LLP

A handwritten signature in cursive script that reads "Richard L. Linnen".

Richard L. Linnen, Partner

CITY OF KINGSPORT
COMPARISON OF AUDIT FEES

	<u>FISCAL YEAR</u>	<u>BROWN EDWARDS</u>	<u>RODEFER MOSS</u>	<u>BLACKBURN CHILDRESS</u>
	2007			\$ 146,580
	2008			\$ 144,645
	2009			\$ 164,415
	2010			\$ 167,135
	2011			<u>\$ 174,000</u>
TOTAL 5 YEARS PAID TO BCS BEFORE BIDS				<u><u>\$ 796,775</u></u>
5 YEAR BIDS RECEIVED AUGUST 2011 AWARDED TO BROWN EDWARDS	2012	\$ 124,300	\$ 159,500	\$ 163,595
	2013	\$ 128,100	\$ 164,300	\$ 167,685
	2014	\$ 131,900	\$ 169,300	\$ 171,885
	2015	\$ 135,500	\$ 174,400	\$ 176,185
	2016	<u>\$ 139,100</u>	<u>\$ 179,600</u>	<u>\$ 180,595</u>
5 YEAR TOTALS PER BIDS		<u>\$ 658,900</u>	<u>\$ 847,100</u>	<u>\$ 859,945</u>
PROPOSED CONTRACT EXTENSION RECEIVED FROM BROWN EDWARDS	2017	\$ 143,000		
	2018	\$ 147,100		
	2019	\$ 151,200		
	2020	\$ 155,300		
	2021	<u>\$ 159,400</u>		
TOTAL PROPOSED 5 YEAR CONTRACT		<u><u>\$ 756,000</u></u>		



AGENDA ACTION FORM

Approving a Payment in Lieu of Tax Agreement for KEDB

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

Action Form No.: AF-112-2016
 Work Session: N/A
 First Reading: N/A

Final Adoption: May 3, 2016
 Staff Work By: Jeff Fleming
 Presentation By: Jeff Fleming

Recommendation:

Approve the Resolution.

Executive Summary:

KEDB has the opportunity to lease its property, generally known as the glass plant, consisting of 34.4 acres, more or less, in Kingsport. A prospect would agree to renovate and restore the building and improvements for utilization as a manufacturing facility, and would lease the property from KEDB for a term of twenty years, with a right of purchase the property anytime during the term of the lease.

The attached resolution authorizes KEDB to negotiate a PILOT agreement. The general terms of the PILOT for the lessee of the property would include during the first five (5) years of the lease no real estate taxes or any amount in lieu of real estate taxes would be owed or paid. Beginning as of the first day of the sixth year of the term of the lease until the end of the term, an amount in lieu of real estate taxes equal to the full amount of real estate taxes assessed against the property by the city and Sullivan County, based on the applicable tax rates and assessed value for each year during the remainder of the lease. The lessee would pay it as additional rent, and would be responsible for payment of all personal property taxes assessed on its personal property, including machinery and equipment during the entire term of the lease.

The payments to the city will be part of the general fund, until otherwise appropriated by the board.

Attachments:

- Resolution

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KINGSPORT, TENNESSEE TO NEGOTIATE AND ACCEPT PAYMENTS IN LIEU OF AD VALOREM TAX WITH RESPECT TO A PROJECT IN KINGSPORT, SULLIVAN COUNTY, TENNESSEE AT THE GLASS PLANT SITE AND FINDING THAT SUCH PAYMENTS ARE DEEMED TO BE IN FURTHERANCE OF THE BOARD'S PUBLIC PURPOSES AS DEFINED IN TENNESSEE CODE ANNOTATED SECTION 7-53-305

WHEREAS, the Board of Mayor and Aldermen of the City of Kingsport, Tennessee (the "Governing Body") has met pursuant to proper notice in a public meeting; and

WHEREAS, The Industrial Development Board of the City of Kingsport, Tennessee (the "Board") is an industrial development corporation duly organized and existing under the provisions of Title 53 of Chapter 7, Tennessee Code Annotated; and

WHEREAS, the Board owns a certain tract of land located in the City of Kingsport, 11th Civil District of Sullivan County, Tennessee, containing 34.40 acres ("Property") and generally known as the Glass Plant; and

WHEREAS, a prospect would be leasing the property from the Board and intends to renovate and restore the building and improvements for utilization as a manufacturing facility ("Project"); and

WHEREAS, the utilization and occupation of the Property will develop trade and commerce in and adjacent to the City of Kingsport, Tennessee, and Sullivan County, Tennessee, will contribute to the general welfare and will alleviate conditions of unemployment in furtherance of the purpose for which the Board was created; and

WHEREAS, Tennessee Code Annotated section 7-53-305(b) authorizes the Governing Board to delegate to the Board the authority to negotiate and accept from the lessees of the Board payments in lieu of ad valorem taxes upon the finding that such payments are deemed to be in furtherance of the public purposes of the Board as defined in that code section; and

WHEREAS, the Governing Body finds that such payments in lieu of ad valorem taxes are deemed to be in furtherance of the public purposes of the Board as defined in Tennessee Code Annotated section 7-53-305(b) in that among other things the Project will enhance employment opportunities in the city and will generate additional tax revenues for the city.

Now therefore,

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

SECTION I. That the Governing Body does hereby find that the negotiation by the Board for payments in lieu of ad valorem taxes consistent with this resolution is deemed to be in furtherance of the Board's public purposes as defined in Tennessee Code Annotated Section 7-53-305.

SECTION II. That the Board's agreement shall be as substantially set forth in the draft of a payment-in-lieu-of-tax agreement and any such payments paid in lieu of city ad valorem taxes shall be made to the City of Kingsport for use in the general fund, said draft of the Board's agreement being generally as follows:

PAYMENT IN LIEU OF TAX AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of the _____ day of May, 2016, by and between THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KINGSPORT, TENNESSEE, a Tennessee public non-profit corporation ("KEDB") and _____ (the "Tenant").

WITNESSETH:

WHEREAS, KEDB is an industrial development corporation duly organized and existing under the provisions of Title 53 of Chapter 7, Tennessee Code Annotated; and

WHEREAS, Tenant desires to lease from KEDB a certain tract of land located in the City of Kingsport, 11th Civil District of Sullivan County, Tennessee, containing 34.40 acres, more or less, together with all improvements, located thereon or appurtenant thereto, all beneficial easements pertaining thereto and all stationary utility fixtures, lines, pipes, tanks, etc., presently installed and now operated or operable, as more particularly described in Exhibit "A" to this Agreement, which Exhibit is attached hereto and specifically incorporated herein by reference (the "Land"). The building and improvements located on the Land are collectively referred to as the "Building". The Land and Building are collectively referred to as the "Property"; and

WHEREAS, Tenant intends to renovate and restore the Building and improvements for utilization as a manufacturing facility; and

WHEREAS, the utilization and occupation of the Property will develop trade and commerce in and adjacent to the City of Kingsport, Tennessee, and Sullivan County, Tennessee, will contribute to the general welfare and will alleviate conditions of unemployment in furtherance of the purpose for which KEDB was created; and

WHEREAS, Tenant has requested and KEDB by resolution attached hereto as Exhibit "B" and incorporated herein by reference has duly adopted and agreed, pursuant to T.C.A. §7-53-305, to enter into a Payment in Lieu of Taxes ("PILOT") Agreement whereby KEDB will lease the Property to Tenant under an arrangement whereby Tenant will not be required to make payments of ad valorem taxes for a specified number of years; and

WHEREAS, the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, has pursuant to Tenn. Code Ann. §7-53-305(b), adopted a resolution which is attached hereto as Exhibit "C" and incorporated herein by reference delegating to KEDB the authority to not require payments of ad valorem taxes with respect to the Property for a specified number of years; and

WHEREAS the rent payable under the Lease by Tenant is equal to or greater than the fair market rent of the Property such that Tenant's leasehold interest in the Property should not be subject to assessment under T. C. A. §65-5-502 .

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and legal sufficiency of which is hereby expressly acknowledged, KEDB and Tenant, intending to be legally bound, enter into this Agreement.

1. KEDB hereby agrees that at such time as Tenant is prepared to take possession of the Property and commence necessary renovations thereto for its business purposes it shall lease the Property to Tenant for a term of twenty (20) years, (the "Term") beginning as of the Commencement Date as defined in the lease between KEDB and Tenant (the "Lease"). The form of the Lease is attached hereto as Exhibit "D" and incorporated herein by reference. The Lease shall also grant to Tenant the right to purchase the Property which is subject to the Lease at any time during the Term of the Lease. Upon the closing of the purchase of the Property pursuant to the provisions of the Lease, the Lease shall terminate and KEDB shall convey the Property to Tenant by general warranty deed free and clear of any liens, encumbrances or exceptions to the title, with the exception to such matters as may have existed both prior to and subsequent to KEDB's acquisition of title which were not created by KEDB. Upon conveyance of the Property to Tenant, this Agreement shall terminate and all applicable real estate taxes will be fully assessable against the Property from and after the date title to the Property is transferred to Tenant.

2. Since Landlord is the owner of record of the Property and under Tennessee law, property owned by an industrial development board is not subject to real estate tax, the Property is exempt from city and county real estate taxes. During the first five (5) years of the Term, Tenant shall pay no real estate taxes and no amounts in lieu of real estate taxes. Beginning as of the first day of the sixth year of the Term until the end of the Term (the "Taxable Period"), Tenant shall pay as Additional Rent an amount in lieu of real estate taxes equal to the full amount of real estate taxes assessed against the

Property by the City of Kingsport and Sullivan County based on the applicable tax rates and assessed value for each year during the remainder of the Taxable Period. Tenant shall be responsible for payment of all personal property taxes assessed on its personal property, including machinery and equipment during the entire Term. KEDB acknowledges and confirms that the rent payable under the Lease by Tenant is equal to or greater than the fair market rent of the Property such that Tenant's leasehold interest in the Property should not be subject to assessment under T.C.A. §67-5-502. Tenant shall make payment of the real estate taxes which it is obligated to pay beginning with the sixth year of the Term on an annual basis to the appropriate taxing authorities thirty (30) days prior to the date they become delinquent (November 1 for the City of Kingsport and February 1 for Sullivan County). Annual real estate taxes shall be prorated for the first and last year of the Taxable Period based on the number of months the Lease is in effect during the applicable year.

3. This Payment in Lieu of Tax Agreement, together with the Lease constitutes the entire agreement between the parties with regard to the subject matter and all prior agreements and representations are integrated herein and superseded hereby.

IN WITNESS WHEREOF, the parties have executed this instrument in multiple originals as of the date first above written..

SECTION III. That, if there is a change in the substantive terms of the draft agreement the Board shall submit such final agreement to the Governing Body for approval, but the Board's agreement concerning payments in lieu of ad valorem taxes may contain administrative provisions not inconsistent with this resolution, as the Board deems appropriate, which will not require further approval by the Governing Body.

SECTION IV. All other resolutions and orders, or parts thereof, in conflict with the provisions of this resolution are, and to the extent of such conflict, hereby repealed and this resolution shall be in immediate effect from and after its adoption.

ADOPTED this the 3rd day of May, 2016.

JOHN CLARK
Mayor

ATTEST:

JAMES H. DEMMING
City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY
City Attorney



AGENDA ACTION FORM

Reappointment to 2016 Sullivan County Board of Equalization

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

Action Form No.: AF-109-2016
Work Session: May 2, 2016
First Reading: N/A

Final Adoption: May 3, 2016
Staff Work By: R. McBryar
Presentation By: Mayor Clark

Recommendation:

Approve reappointment to the 2016 Sullivan County Board of Equalization.

Executive Summary:

Mr. Millard Burton has served several years on the Sullivan County Board of Equalization. He is eligible for reappointment and has agreed to serve another year.

Attachments:

- 1. Memo

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



RON HILLMAN
SULLIVAN COUNTY OFFICE OF PROPERTY ASSESSMENTS

3411 HIGHWAY 126, SUITE 103
BLOUNTVILLE, TN 37617

PHONE NUMBER
423-323-6455
FAX NUMBER
279-2808



TO: Mr. John Clark, Mayor City of Kingsport

FROM: Mr. Ron Hillman, Property Assessor

RE: Appointment of Members to the 2016 Sullivan County Board
of Equalization

DATE: March 15, 2016

Enclosed is a copy of TCA 67-1-401 that refers to the appointment of a member to the Sullivan County Board of Equalization.

Since the board will begin their sessions in June 2016, and their training seminar is held in May, you may want to include this appointment on an upcoming docket.

Please feel free to contact our office if you have any questions pertaining to this appointment or if we may be of help to you in any way.

Source:

Tennessee Code/TITLE 67 TAXES AND LICENSES /CHAPTER 1 GENERAL PROVISIONS /PART 4 COUNTY BOARDS OF EQUALIZATION /67-1-401. Composition of boards.

67-1-401. Composition of boards.

(a) The county legislative body of each county shall, at the April session of each even year, from the different sections of the county, elect, for a term of two (2) years, five (5) freeholders and taxpayers who shall constitute a county board of equalization.

(1) In any county having a population greater than eight hundred thousand (800,000) according to the 1990 federal census or any subsequent federal census, the county board of equalization shall be appointed for a term of two (2) years, consisting of nine (9) freeholders and taxpayers, of which three (3) members shall be appointed by the county commission or governing board, three (3) members shall be appointed by the city council or governing board of the largest municipality, and one (1) member each shall be appointed by the city councils or governing boards of each of the three (3) largest remaining cities having a population greater than ten thousand (10,000). The county legislative body shall administer the board of equalization, but each legislative body shall pay its appointed representatives in accordance with the resolution as adopted by the county legislative body. Each legislative body appointing members to the board shall pay its prorated share of the funding for the board. Any municipality which has an appointment to the board and which has a population of less than fifty thousand (50,000) may elect not to appoint a representative.

(2) In cities of a population of sixty thousand (60,000) or over according to the federal census of 1970 or any subsequent federal census, two (2) members of the board shall be appointed by the city council or existing governing board of such taxing district.

(3) In counties having one (1) or more cities with a population of not less than ten thousand (10,000) nor more than sixty thousand (60,000), one (1) member of the board shall be appointed by the city council or governing body of each of the two (2) largest cities with a population in excess of ten thousand (10,000), within the county.

(4) In counties which have no city having a population of ten thousand (10,000) or more, one (1) member of the board shall be appointed by the city council or governing board of the largest city or town in the counties.

(5) (A) In a county with a metropolitan form of government, the charter for the metropolitan government may provide for the creation of a metropolitan board of equalization consisting of either five (5) or seven (7) members. Appointments to such board shall include members selected from minorities, as well as members of the sex which historically have been under-represented on the board of equalization. The provisions of this subdivision (a)(5)(A) shall not apply to such counties having a population of less than ten thousand (10,000) according to the 1980 federal census or any subsequent federal census.

(B) If a county with a metropolitan form of government having a population of not less than four hundred seventy thousand (470,000) nor more than five hundred thousand (500,000) according to the 1980 federal census or any subsequent federal census creates a board of equalization consisting of seven (7) members, at least two (2) of the members of the board shall be appointed consistent with the provisions of subdivision (a)(5)(A).

b) If the county legislative body fails to elect, the county mayor shall appoint the members of the board and shall also fill such vacancies as the vacancies occur.

c) Magistrates or state, municipal or county legislative or executive officials or employees shall all be ineligible for positions on a county board of equalization, but this prohibition does not apply to persons who receive only compensation in lieu of expenses or a per diem payment for services. No member of any county board of equalization shall represent any taxpayer in an assessment appeal. The provisions of this subsection (c) do not apply to municipal

officials or employees whose city, located in a county with a population of eight hundred thousand (800,000) or more according to the 1990 federal census or any subsequent federal census, is not eligible to appoint a member to the board.

(2) (A) Notwithstanding other provisions of this subsection (c), except in counties having a population of more than eighty-five thousand (85,000) but less than eighty-six thousand (86,000) according to the 1990 federal census or any subsequent federal census, state employees may be appointed to the county board of equalization if their employment responsibilities do not include property assessments, except that in counties having a population of more than eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, state employees shall not be appointed to the county board of equalization.

(B) No state employee serving on the county board of equalization shall be compensated by the state for time served on the county board except that an otherwise eligible employee may use accumulated annual leave to serve on the county board with approval of the employee's supervisor.

[Acts 1973, ch. 226, § 2; impl. am. Acts 1978, ch. 934, §§ 7, 16, 36; Acts 1982, ch. 832, § 1; T.C.A., § 67-251; Acts 1985, ch. 115, § 1; 1988, ch. 793, § 1; 1991, ch. 419, § 1; 1992, ch. 866, § 1; 1997, ch. 119, § 1; 2000, ch. 957, §§ 1, 2; 2003, ch. 90, § 2; 2003, ch. 363, § 1.]



AGENDA ACTION FORM

Contract for Maintenance Activities Performed on Designated State Highways and for Mowing and Litter on J.B. Dennis

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

Action Form No.: AF-99-2016
Work Session: May 2, 2016
First Reading: N/A

Final Adoption: May 3, 2016
Staff Work By: Ronnie Hammonds
Presentation By: Ryan McReynolds

Recommendation:

Approve a resolution authorizing the Mayor or his designee to sign an agreement for FY 2017 between the City and the Tennessee Department of Transportation for reimbursement of maintenance activities performed on state highway routes located inside Kingsport's city limits.

Executive Summary:

Each year the City of Kingsport enters into an agreement with the State for reimbursement of maintenance performed on state routes. These routes are Stone Drive, Center Street, Fort Henry Drive, Lynn Garden Drive, Industry Drive, Wilcox Drive, Memorial Boulevard and limited portions of John B. Dennis Highway. Maintenance activities include: shoulder work, snow removal, spot patching, ditch work, crack sealing, painting and striping, sweeping, mowing and litter control. Tracked on a monthly basis, these activities are performed by Traffic Engineering, Street Maintenance and Right-of-Way Maintenance. Reimbursement is requested monthly based on the terms of the contract. Most costs are reimbursed at \$0.15 per square yard. Reimbursement is limited to 12 litter control cycles and 6 mowing cycles annually. The limiting amount of the contract is \$258,685.65 for FY 2017. Total roadway surface equals 1,592,301 square yards. Mowing acreage totals 42.35 at \$45 per acre, and litter control covers 14.01 miles at \$50 per mile. Mowing and litter control for John B. Dennis included 43.9 acres of mowing and 4.74 miles of litter control for a total contract amount of \$20,385.

Attachments:

- 1. Resolution
- 2. Contracts

Funding source appropriate and funds are available: js

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR FISCAL YEAR 2017 WITH THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR REIMBURSEMENT OF MAINTENANCE ACTIVITIES PERFORMED ON DESIGNATED STATE HIGHWAY ROUTES LOCATED IN THE KINGSPORT CITY LIMITS; EXECUTE A CONTRACT WITH THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR MOWING AND LITTER ON JOHN B. DENNIS; AND EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENTS

WHEREAS, the city desires to enter into a contract for fiscal year 2017 with the State of Tennessee Department of Transportation for reimbursement of maintenance activities performed on designated state highway routes located in the Kingsport city limits;

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

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

WHEREAS, the maximum amount of the contract is \$258,685.65 for fiscal year 2017; and

WHEREAS, the contract for mowing and litter control for John B. Dennis includes 43.90 acres of mowing and 4.74 miles of litter control for a total contract amount of \$20,385.00.

Now therefore,

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

SECTION I. That an agreement with the State of Tennessee Department of Transportation for reimbursement of maintenance activities performed on designated state highway routes located in the Kingsport city limits is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the agreement with State of Tennessee Department of Transportation for reimbursement of maintenance activities performed on designated state highway routes located in the Kingsport city limits and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution, said agreement being as follows:

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

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and city of Kingsport, hereinafter referred to as the "Contractor," is for the

provision of the routine maintenance of state routes, as further defined in the "SCOPE OF SERVICES"
"

Contractor Edison Registration ID # 0000001562 Contract #: CMA 1683

A. SCOPE OF SERVICES:

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

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

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

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

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

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

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

B. TERM OF CONTRACT:

This Contract shall be effective on July 1, 2016 ("Effective Date"), and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed two hundred fifty-eight thousand six hundred eighty-five dollars and sixty-five cents (\$258,685.65). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

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

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

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

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

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

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

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

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

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

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

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

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

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto . A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

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

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

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

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

other contract the Contractor has with the State of Tennessee, may be made by ACH; and
b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State

as requested.

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

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

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

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

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

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

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

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

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

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

E. SPECIAL TERMS AND CONDITIONS:

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

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

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

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

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

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

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

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

[Acknowledgements and Exhibits Deleted for Inclusion in this Resolution]

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

SECTION IV. That an agreement with State of Tennessee Department of Transportation for mowing and litter on John B. Dennis is approved.

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

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

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

Contractor Edison Registration ID # 0000001562 Contract #: CMA 1684

A. SCOPE OF SERVICES:

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

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

highways is routed.

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

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

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

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

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

B. TERM OF CONTRACT:

This Contract shall be effective on July 1, 2016 ("Effective Date"), and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

C.1 Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed twenty thousand three hundred eighty-five dollars and zero cents (\$20,385.00). The payment rates in section C 3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

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

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

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

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

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

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often

than monthly, with all necessary supporting documentation, to:

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

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

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

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

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

C.6 Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

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

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

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

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

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

D. STANDARD TERMS AND CONDITIONS:

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

D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by

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

D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

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

D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

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D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. SPECIAL TERMS AND CONDITIONS:

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

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

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

The Contractor:

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

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

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

an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

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

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

[Acknowledgements Deleted for Inclusion in this Resolution]

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

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

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

ADOPTED this the 3rd day of May, 2016.

ATTEST:

JOHN CLARK, Mayor

JAMES H. DEMMING, City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

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

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

Contractor Edison Registration ID # 0000001562
Contract #: CMA 1683

A. SCOPE OF SERVICES:

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

B. TERM OF CONTRACT:

This Contract shall be effective on July 1, 2016 ("Effective Date"), and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date

C. PAYMENT TERMS AND CONDITIONS:

C.1 **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed two hundred fifty-eight thousand six hundred eighty-five dollars and sixty-five cents (\$258,685.65). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

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

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

- a The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
- b The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

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

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

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

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

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

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

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

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

C.6 Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

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

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

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

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1 Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury)
- D.2 Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7 Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8 Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

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

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

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

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

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

E. SPECIAL TERMS AND CONDITIONS:

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

- E.2 Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

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

The Contractor:

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

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

- E.3. Subject to Funds Availability The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4 MUTCD. In accordance with Tenn. Code Ann. 54-5-108, the Contractor shall conform to and act in accordance with the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by rules of the State. Particularly, the Contractor shall sign work-zones associated with this Contract in accordance with the aforesaid MUTCD.

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

IN WITNESS WHEREOF,

CITY OF KINGSPORT:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

APPROVED AS TO FORM AND LEGALITY

CONTRACTOR ATTORNEY SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR ATTORNEY SIGNATORY (above)

STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION:

JOHN SCHROER, COMMISSIONER

DATE

APPROVED AS TO FORM AND LEGALITY

JOHN REINBOLD, GENERAL COUNSEL

DATE

GUIDELINES COVERING MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

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

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

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

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

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

NOTE:

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

ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE OF STATE HIGHWAYS THROUGH MUNICIPALITIES

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

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

Roadway Surface Inventory Worksheet													
Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(mi.)	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR001	West Stone Drive	BEGIN	Kaywood Avenue	1G	No	39.84	40.9	1.06	5596.8	102	16	5210	58220
SR001	West Stone Drive	CHANGE	Netherland Inn Rd	1G	No	40.9	41.3	0.4	2112	97	22	2976	19787
SR001	West Stone Drive	CHANGE	Hawkins/Sullivan County Line	1G	No	0	1.33	1.33	7022.4	98	20	9823	66643
SR001	West Stone Drive	CHANGE	Afton Street	1F	No	1.33	1.65	0.32	1689.6	86	16	2667	13478
SR001	East Stone Drive	CHANGE	End of I-26 W Ramp towards Kingsport	1D	No	1.97	7.42	5.45	28776	102	11	2020	324108
SR001	East Stone Drive	CHANGE	Beechnut Drive	1G	No	6.46	8.44	1.98	10454.4	99	27	11992	103006
SR001	East Stone Drive	END	Ollis Bowers Hill	1G	No	8.44	11.56	3.12	16473.6	98	30	51678	127701
SR036	Kingsport Highway	BEGIN	Regency Drive	1C	No	2.271	2.703	0.432	2280.96	24	0	0	6083
SR036	Kingsport Highway	CHANGE	I-81 Ramps	1C	No	2.703	3	0.297	1568.16	75	20	344	12724
SR036	Kingsport Highway	CHANGE	Colonial Heights	1C	No	3	4.37	1.37	7233.6	70	18	2080	54181
SR036	Fort Henry Drive	CHANGE	Overhead CSX Railroad	1G	No	4.37	5.36	0.99	5227.2	74	32	6902	36077
SR036	Fort Henry Drive	CHANGE	Kenridge Street	1D	No	5.36	6.47	1.11	5860.8	76	9	500	48991
SR036	Fort Henry Drive	CHANGE	SR 93	1D	No	6.47	7.819	1.349	7122.72	65	13	1294	50148
SR036	Fort Henry Drive	CHANGE	Indian Ct	1F	No	7.819	8.38	0.561	2962.08	66	19	4227	17495
SR036	West Center Street	CHANGE	Prospect Drive	1D	No	8.38	10.54	2.16	11404.8	60	0	0	76032
SR036	West Center Street	END	90 Degree Right Turn	1D	No	10.54	13.56	3.02	15945.6	44	9	1157	76799
SR093	Sullivan Gardens	BEGIN	Sullivan Gardens Drive	1D	No	4.48	5.01	0.53	2798.4	82	0	0	25497
SR093	Sullivan Gardens	CHANGE	Galemont Drive	1D	No	5.01	6.2	1.19	6283.2	65	21	1330	44049
SR093	John B. Dennis	CHANGE	End Crossover	1D	No	6.2	7.15	0.95	5016	98	22	5082	49537
SR093	John B. Dennis	END	Brookside Drive	1G	No	11.92	13.71	1.79	9451.2	98	16	13958	88955
SR126	South Wilcox Drive	BEGIN	SR 93	1F	No	0	0.445	0.445	2349.6	67	11	2284	15207
SR126	South Wilcox Drive	SHIFT	90 Degree Right Turn	1D	No	0.445	1.006	0.561	2962.08	78	0	0	25671
SR126	South Wilcox Drive	CHANGE	Haga Road	1D	No	1.006	1.23	0.224	1182.72	62	0	0	8148
SR126	South Wilcox Drive	CHANGE	Ward Place	1D	No	1.23	1.9	0.67	3537.6	78	0	0	30659

SR126	South Wilcox Drive	CHANGE	Overhead CSX Railroad	1D	No	1.9	2.18	0.28	1478.4	75	0	0	12320	
SR126	South Wilcox Drive	CHANGE	Industry Drive	1F	No	2.18	2.52	0.34	1795.2	66	0	0	13165	
SR126	North Wilcox Drive	CHANGE	Lincoln Street	1F	No	2.52	3.11	0.59	3115.2	44	21	4848	10382	
SR126	Memorial Blvd	CHANGE	East Center Street	1F	No	3.11	3.32	0.21	1108.8	88	13	938	9904	
SR126	Memorial Blvd	CHANGE	Kenmore Drive	1F	No	3.32	4.41	1.09	5755.2	60	15	3375	34993	
SR126	Memorial Blvd	CHANGE	Light at End of Control Access	1A	No	4.41	4.55	0.14	739.2	85	26	678	6303	
SR126	Memorial Blvd	CHANGE	Stratford Road	1A	No	4.55	4.895	0.345	1821.6	38	12	226	7465	
SR 126	Memorial Blvd	END	Old Stage Rd	1A	No	4.895	5.81	0.915	4831.2	36	0	0	19325	
SR346	West Carter Valley Rd	BEGIN	Mcconnell Rd.	1A	No	0.7	1.92	1.22	6441.6	22	0	0	15746	
SR347	Poplar Grove Rd	BEGIN	Oak Forest Pl	1A	No	8.5	10.62	2.12	11193.6	20	0	0	24875	
SR355	Industrial Drive	BEGIN	SR 126	1B	No	0	2.1	2.1	11088	36	0	0	44352	
SR355	Industrial Drive	CHANGE	Ft. Robinson Drive	1C	No	2.1	2.35	0.25	1320	60	11	1002	7798	
SR355	Industrial Drive	END	Lynn Garden Drive	1C	No	2.35	2.58	0.23	1214.4	48	0	0	6477	
								Total Length (mi.)	41.139				Total Roadway Surface:	1592301

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

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

Approved Mowing Reimbursement Per Acre: \$ 45.00
Calculated Maximum Reimbursement (Mowing): \$ 11,434.50

Mowing Inventory Worksheet								
Route Number	Roadway Type	Begin Termini (LM)	End Termini(LM)	Median Area (acres)	Controlled Access Area (acres)	Segment Total Area (acres)	Number of Mowing Cycles	Contract Segment Total Area (acres)
SR001	1G	39.84 / 6.83	41.3 / 11.44	21.74		21.74	6	130.4
SR036	1G	4.37 / 7.75	5.36 / 8.38	3.01		3.01	6	18.1
SR093	1G	6.08	7.16	4.07		4.07	6	24.4
SR093	1G	11.9	13.8	10.9		10.9	6	65.4
SR126	1F	0.0 / 2.09	0.26 / 4.47	2.55		2.55	6	15.3
SR355	1F	2.047	2.211	0.08		0.08	6	0.48
Total Contract Area (acres):								254

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

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

Approved Litter Reimbursement Per Mile: \$ 50.00
Calculated Maximum Reimbursement (Litter): \$ 8,406.00

Litter Inventory Worksheet											
Route Number	Roadway Type	Beginning Termini (LM)	Ending Termini (LM)	Segment Length (mi.)	Litter Pass Miles Per Segment	Segment Total Litter (mi.)	Price per Litter Mile	Number of Litter Cycles	Contract Segment Total Litter (mi.)	Contract Segment Total Litter (\$)	
SR001	1G	39.84 / 6.83	2.31 / 11.44	6.81	1	6.81	\$ 50.00	12	81.72	4086	
SR036	1G	4.37 / 7.75	5.36 / 8.38	1.33	1	1.33	\$ 50.00	12	15.96	798	
SR093	1G	6.08	7.19	1.11	1	2.56	\$ 50.00	12	30.72	1536	
SR093	1G	11.9	13.8	1.9	1	1.9	\$ 50.00	12	22.8	1140	
SR126	1F	0.0 / 2.09	0.26 / 4.47	1.31	1	1.31	\$ 50.00	12	15.72	786	
SR355	1F	2.047	2.211	0.1	1	0.1	\$ 50.00	12	1.2	60	
Total Contract Litter (mi.):									168.12	\$ 8,406.00	

CITY MAINTENANCE
ROADWAY TYPICAL SECTIONS

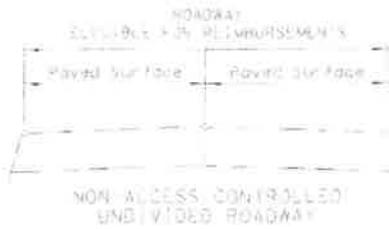


FIGURE 1A

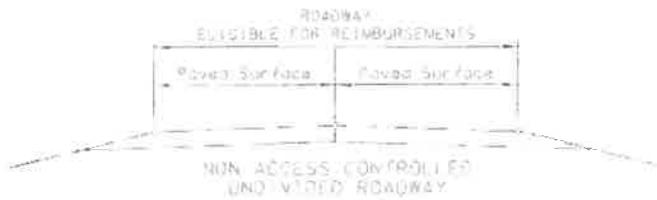


FIGURE 1B



FIGURE 1C

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

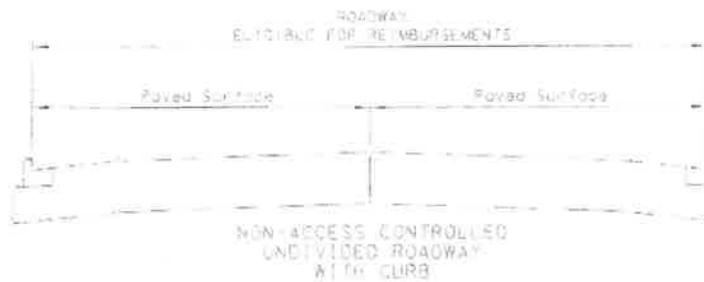


FIGURE 1D

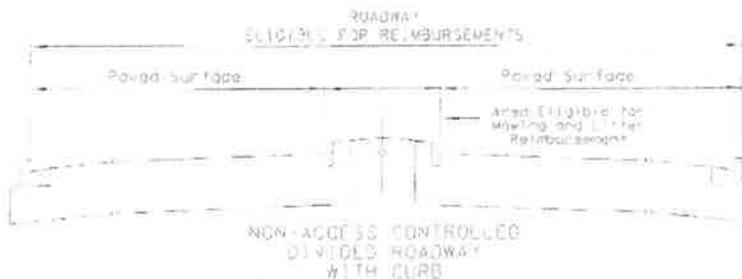


FIGURE 1E

CITY MAINTENANCE
ROADWAY TYPICAL SECTIONS



FIGURE 11
DIVIDED ROADWAY WITH CURB



FIGURE 12
DIVIDED ROADWAY WITH 100% CURB

NOTE:
IF FIGURE 12 CURB FOR ACCESS CURB HEIGHT INDICATES
THE PAVED SURFACE WITH MEDIAN PAVED SECTION IS...

CITY MAINTENANCE
ROADWAY TYPICAL SECTIONS



FIGURE 2A



FIGURE 2B

"EXHIBIT B"
CITY OF KINGSPORT
MAXIMUM ALLOWABLE EQUIPMENT RATES
2016-2017 FISCAL YEAR

ITEM NO.	DESCRIPTION OF EQUIPMENT	RATE	UNIT
1	SEDAN, POLICE OR FULL SIZE	\$12.90	HR
2	TRUCK, PICKUP	\$12.30	HR
3	TRUCK, ¾ TO 1 TON LIGHT DUTY	\$12.90	HR
4	TRUCK, ¾ TO 1 TON 4X4	\$13.50	HR
5	TRUCK, UTILITY/SERVICE BODY	\$15.00	HR
6	TRUCK, DUMP UP TO 15,000 GVWR	\$35.40	HR
7	TRUCK, DUMP OVER 15,000 UP TO 20,000 GVWR	\$43.20	HR
8	TRUCK, DUMP OVER 20,000 UP TO 40,000 GVWR	\$75.30	HR
9	TRUCK, DUMP TANDEM AXLE OVER 40,000 GVWR	\$117.90	HR
10	TRUCK, STAKE OR FLATBED UP TO 10,000 GVWR	\$36.30	HR
11	TRUCK, STAKE OR FLATBED OVER 10,000 UP TO 20,000 GVWR	\$47.10	HR
12	TRUCK, STAKE OR FLATBED OVER 20,000	\$72.00	HR
13	TRUCK, FLATBED OVER 32,500 GVWR	\$91.80	HR
14	TRUCK, TRACTOR SINGLE AXLE	\$71.10	HR
15	TRUCK, TRACTOR TANDEM AXLE	\$74.40	HR
16	TRUCK, SEWER/CULVERT/CATCH BASIN/ CLEANER (VAC-ALL)	\$130.86	HR
17	SWEeper, TRUCK MOUNTED	\$164.40	HR
18	SWEeper, SELF-PROPELLED	\$86.64	HR
19	TRUCK, W/STREET FLUSHER	\$130.86	HR
20	TRUCK, CRANE	\$50.89	HR
21	TRUCK, EXCAVATOR	\$130.39	HR
22	TRUCK, REFUSE COLLECTION	\$54.60	HR
23	TRACTOR, W/SWEeper	\$52.28	HR
24	TRACTOR, W/DITCHER	\$100.90	HR
25	TRACTOR, WHEEL	\$79.79	HR
26	CHIPPER, BRUSH	\$56.43	HR
27	TRAILER, TILT	\$6.59	HR
28	TRAILER, PLATFORM OR GENERAL	\$23.02	HR
29	TRAILER, LOW BOY TANDEM	\$16.45	HR
30	JOINT & CRACK SEALING MACHINE	\$45.00	HR
31	ASPHALT RECLAIMER/RECYCLER MACHINE	\$189.26	HR
32	PAVER, ASPHALT SELF-PROPELLED	\$117.94	HR
33	PAVER, ASPHALT PULL TYPE	\$12.00	HR
34	DISTRIBUTOR, ASPHALT, PULL TYPE	\$40.78	HR

"EXHIBIT B"
CITY OF KINGSPORT
MAXIMUM ALLOWABLE EQUIPMENT RATES
2016-2017 FISCAL YEAR

ITEM NO.	DESCRIPTION OF EQUIPMENT	RATE	UNIT
35	CHIP SPREADER MACHINE	\$86.50	HR
36	EXCAVATOR, TRACK TYPE (TRACKHOE)	\$130.39	HR
37	DRAGLINES AND CRANES	\$94.42	HR
38	TRACTOR, CRAWLER (DOZER)	\$131.53	HR
39	MOTOR GRADER	\$86.11	HR
40	BACKHOE	\$59.75	HR
41	LOADER, FT END RUBBER TIERED (ARTICULATED) UP TO 1 CU. YD.	\$64.45	HR
42	LOADER, FT END RUBBER TIERED (ARTICULATED) OVER 1 UP TO 1.5 CY	\$55.22	HR
43	LOADER, FT END RUBBER TIERED (ARTICULATED) OVER 1.5 CU. YD.	\$89.92	HR
44	LOADER, FRONT END TRACK TYPE	\$72.96	HR
45	LOADER, SKID-STEER	\$82.21	HR
46	PROFILER, MILLING MACHINE	\$412.79	HR
47	ROLLER, WALK BEHIND	\$6.92	HR
48	ROLLER, STEEL WHEEL, 1 TO 5 TONS	\$135.19	HR
49	ROLLER, STEEL WHEEL, OVER 5 TONS	\$41.28	HR
50	GENERATOR, PORTABLE	\$41.10	HR
51	AIR COMPRESSOR, PORTABLE OR PULL TYPE	\$50.14	HR
52	WELDER, PORTABLE OR PULL TYPE	\$9.00	HR
53	CONCRETE MIXER, PORTABLE OR PULL TYPE	\$46.92	HR
54	CURBING MACHINE	\$110.33	HR
55	PAINT MACHINE, WALK BEHIND	\$57.44	HR
56	PAINT MACHINE, TRUCK MOUNTED (LARGE)	\$139.32	HR
57	THERMOPLASTIC MARKING MACHINE, WALK BEHIND	\$32.87	HR
58	TRAFFIC LINE REMOVER (WATER BLASTER)	\$80.23	HR
59	ARROW BOARD, TRAILER OR TRUCK MOUNTED	\$3.04	HR
60	MESSAGE SIGN, TRAILER MOUNTED	\$3.04	HR
61	LIGHT TOWER, TRAILER MOUNTED	\$25.75	HR
62	TRUCK MOUNTED ATTENUATOR	\$42.75	HR

"EXHIBIT B"

CITY OF KINGSPORT

MAXIMUM ALLOWABLE LABOR RATES

(To be supplied by the City at this time)

Beginning July 1, 2016 and ending June 30, 2017

Job Title Classification	Low Rate	High Rate
Maintenance Helper	\$10.41	\$14.79
Traffic Maintenance Technician	\$13.00	\$18.46
Refuse/Dump Truck Driver	\$12.07	\$17.15
Equipment Operator	\$13.00	\$18.46
Traffic Control Technician	\$14.00	\$19.89
Heavy Equipment Operator	\$14.00	\$19.89
Maintenance Worker	\$11.21	\$15.92
Crew Leader	\$15.45	\$21.95
Foreman	\$17.06	\$24.23
Streets Supervisor	\$18.37	\$26.09

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

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

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

Contractor Edison Registration ID # 0000001562
Contract #: CMA 1684

A. SCOPE OF SERVICES:

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

B. TERM OF CONTRACT:

This Contract shall be effective on July 1, 2016 ("Effective Date"), and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date

C. PAYMENT TERMS AND CONDITIONS:

C.1 **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed twenty thousand three hundred eighty-five dollars and zero cents (\$20,385.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

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

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

- a The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
- b The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

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

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

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

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

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

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

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

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

C.6 Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

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

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

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

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

D.1 Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and

regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

- D.2 Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury)
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4 Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6 Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7 Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8 Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9 Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance

with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*

- D.10 Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11 Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create a employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

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

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

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

E. SPECIAL TERMS AND CONDITIONS:

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

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

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

The Contractor:

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

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

E.3 Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

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

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

IN WITNESS WHEREOF,

CITY OF KINGSPORT:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

APPROVED AS TO FORM AND LEGALITY

CONTRACTOR ATTORNEY SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR ATTORNEY SIGNATORY (above)

STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION:

JOHN SCHROER, COMMISSIONER

DATE

APPROVED AS TO FORM AND LEGALITY

JOHN REINBOLD, GENERAL COUNSEL

DATE

GUIDELINES COVERING MAINTENANCE
OF STATE HIGHWAYS THROUGH A CITY

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

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

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

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

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

INVENTORY OF ELIGIBLE MACHINE MOWING FOR THE MAINTENANCE
OF STATE HIGHWAYS THROUGH A COUNTY

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

Approved Mowing Reimbursement Per Acre:	\$ 45.00
Calculated Maximum Reimbursement (Mowing):	\$ 11,853.00

Mowing Inventory Worksheet								
Route Number	Roadway Type	Begin Termini (LM)	End Termini(LM)	Median Area (acres)	Controlled Access Area (acres)	Segment Total Area (acres)	Number of Mowing Cycles	Contract Segment Total Area (acres)
SR93	2A	7.16	11.9			43.9	6	263.4
Total Contract Area (acres):								263

INVENTORY OF ELIGIBLE LITTER REMOVAL FOR THE MAINTENANCE
OF STATE HIGHWAYS THROUGH A COUNTY

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

Approved Litter Reimbursement Per Mile: \$ 50.00
Calculated Maximum Reimbursement (Litter): \$ 8,532.00

Litter Inventory Worksheet										
Route Number	Roadway Type	Beginning Termini (LM)	Ending Termini (LM)	Segment Length (mi.)	Litter Pass Miles Per Segment	Segment Total Litter (mi.)	Price per Litter Mile	Number of Litter Cycles	Contract Segment Total Litter (mi.)	Contract Segment Total Litter (\$)
SR93	2A	7.16	11.9	4.74	3	14.22	\$ 50.00	12	170.64	8532
Total Contract Litter (mi.)									170.64	\$ 8,532.00



AGENDA ACTION FORM

Application and Contract with VDOT for Transit Planning

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

Action Form No.: AF-74-2016
Work Session: May 2, 2016
First Reading: N/A

Final Adoption: May 3, 2016
Staff Work By: Bill Albright
Presentation By: Bill Albright

Recommendation:

Approve the Resolution.

Executive Summary:

Each Federal Fiscal Year, the City of Kingsport, on behalf of the Kingsport MTPO, applies for and receives an allocation of Section 5303 Planning funds from the Federal Transit Administration via the Virginia Department of Rail and Public Transportation (DRPT). The Kingsport MTPO's jurisdiction covers part of Virginia as well as Tennessee and receives separate FTA funding through each state government. Consequently, this is a separate application and contract through Virginia's DRPT based on population in the Virginia portion of the urbanized area. These funds are used by the Kingsport MTPO for transportation planning activities. For FY 2017 the total grant funding is \$4,332, which is proportioned as follows: FTA 80% or \$3,466, Va DRPT 10% match or \$433, and City of Kingsport match 10% or \$433. Appropriation and a project budget for these funds have already been secured through the City's FY 2017 budget process. The action approves submittal of the application and acceptance of the contract and Section 5303 funds.

FTA requires the FY16 Certifications and Assurances be executed by the City of Kingsport, which sets out the requirements for the Section 5303 Planning funds.

Attachments:

- 1. Resolution
- 2. Certifications of Assurances

Funding source appropriate and funds are available:

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE ELECTRONIC APPLICATION AND CONTRACT BETWEEN THE CITY OF KINGSPORT AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO RECEIVE FEDERAL HIGHWAY ADMINISTRATION PLANNING FUNDS FOR USE BY THE KINGSPORT AREA METROPOLITAN TRANSPORTATION PLANNING ORGANIZATION FOR THE FISCAL YEAR 2017; AUTHORIZING THE MAYOR TO EXECUTE THE FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES, AND ANY OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE LETTER OF AUTHORIZATION

WHEREAS, the Federal Highway Administration provides planning funds for use by the Metropolitan Planning Organization (MPO) available through the Virginia Department of Transportation (VDOT) in the amount of \$4,332.00 for fiscal year 2017; and

WHEREAS, matching funds in the amount of \$433.00 are required, which are accounted for during the annual budget process and will come from the approved FY2017 budget for the MPO, project account number MPOV14.

WHEREAS, the Federal Transit Authority requires the Certifications and Assurances be executed to receive the Section 5303 Planning Funds;

Now therefore,

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

SECTION I. That the online application and contract with the Virginia Department of Transportation to receive Federal Highway Administration Planning Funds in the amount of \$4,332.00 and requiring \$433.00 in matching funds for use by the Kingsport Area Metropolitan Transportation Planning Organization for the fiscal year 2017, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized to execute, in a form approved by the city attorney and subject to the requirements of Article X, Chapter 10 of the Charter of the City of Kingsport, the online application and contract with the Virginia Department of Transportation to receive Federal Highway Administration Planning Funds in the amount of \$4,332.00 and requiring \$433.00 in matching funds for use by the Kingsport Area Metropolitan Transportation Planning Organization for the fiscal year 2017 and any other documents necessary and proper to effectuate the purpose of the letter of Authorization.

SECTION III. That the Federal Transit Administration Fiscal Year 2016 Certifications and Assurances, is approved.

SECTION IV. 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, Chapter 10 of the Charter of the City of Kingsport, a Federal Transit Administration Fiscal Year 2016 Certifications and Assurances and any other documents

necessary and proper to effectuate the purpose of the same, said Certifications and Assurances being as follows

SECTION V. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the document 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 VI. 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 VII. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 3rd day of May, 2016.

JOHN CLARK, MAYOR

ATTEST:

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

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Instructions to Complete 2016 FTA Certifications and Assurances

If DRPT is applying for federal FTA funds on your behalf (FTA 5303, FTA 5304, FTA 5310, FTA 5311, FTA 5339) for FY17, you must have the appropriate parties in your organization complete and sign pages 50-51 of the 2016 FTA Certifications and Assurances, and return to your DRPT project manager.

Special instructions for page 50 – It is DRPT's preference that Grantees comply with all 23 provisions. If you cannot comply with all 23 provisions, please discuss with your project manager before returning the form to us.

Scanned copies of fully signed document can be emailed to marie.berry@drpt.virginia.gov or your project manager.

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

PREFACE

Except as the Federal Transit Administration (FTA or We) determines otherwise in writing, before FTA may award federal assistance for public transportation in the form of a federal grant, cooperative agreement, loan, line of credit, or loan guarantee, certain pre-award Certifications and Assurances are required. The Applicant must authorize a representative (Authorized Representative) to select and sign its Certifications and Assurances and bind the Applicant's compliance. You, as your Applicant's Authorized Representative, must select and sign all Certifications and Assurances that your Applicant must provide to support each application it submits to FTA for federal assistance during federal fiscal year (FY) 2016.

We request that you read each Certification and Assurance and select those that will apply to any application for which your Applicant might seek federal assistance from FTA during FY 2016. As provided by federal laws, regulations, and requirements, only if you select adequate Certifications and Assurances on your Applicant's behalf may FTA award federal assistance.

We have consolidated our Certifications and Assurances into twenty-three (23) Categories. At a minimum, you must select the Assurances in Category 01. If your Applicant requests more than \$100,000 in federal assistance, you must select the "Lobbying" Certification in Category 02, except if your Applicant is an Indian tribe, Indian organization, or an Indian tribal organization. Depending on the nature of your Applicant and the Award it seeks, you may also need to select one or more Certifications and Assurances in Categories 03 through 23. Instead of selecting individual Categories of Certifications and Assurances, however, you may make a single selection that will encompass all twenty-three (23) Categories of Certifications and Assurances that apply to our various programs.

FTA, your Applicant, and you, as your Applicant's Authorized Representative, understand and agree that not every provision of these twenty-three (23) Categories of Certifications and Assurances will apply to every Applicant or every Award or Project included in an Award, even if you make a single selection encompassing all twenty-three (23) Categories. Nor will every provision of each Certification or Assurance within a single Category apply if that provision does not apply to your Applicant or the Award it seeks. The type of Applicant and its application will determine which Certifications and Assurances apply.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected that apply to its Award, itself, any Subrecipient, or any other Third Party Participant in its Award, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including,

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant as necessary to assure your Applicant's compliance with the applicable Certifications and Assurances selected on its behalf.

Except as FTA determines otherwise in writing, if your Applicant is a team, consortium, joint venture, or partnership, it understands and agrees that you must identify the activities that each member will perform and the extent to which each member will be responsible for compliance with the Certifications and Assurances selected on its behalf. You also must identify each member's role in the Award, whether as a Recipient, Subrecipient, Third Party Contractor, or other Third Party Participant.

It is important that your Applicant and you also understand that these Certifications and Assurances are pre-award requirements, generally imposed by federal law or regulation, and do not include all federal requirements that may apply to it or its Award. We expect you to submit your Applicant's FY 2016 Certifications and Assurances and its applications for federal assistance in FTA's electronic award and management system, currently the Transit Award Management System (TrAMS). You must be registered in TrAMS to submit to FTA your Applicant's FY 2016 Certifications and Assurances. TrAMS contains fields for selecting among the twenty-three (23) Categories of Certifications and Assurances and a designated field for selecting all twenty-three (23) Categories of Certifications and Assurances. If FTA agrees that you are unable to submit your Applicant's FY 2016 Certifications and Assurances electronically, you must submit the Signature Pages at the end of this document, as FTA directs, marked to show the Categories of Certifications and Assurances that you are submitting.

Be aware that these Certifications and Assurances have been prepared in light of:

- *The Fixing America's Surface Transportation (FAST) Act, Public Law No. 114-94, December 4, 2015,*
- *The Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law No. 112-141, July 6, 2012, as amended by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Public Law No. 114-41, July 31, 2015 and other authorizing legislation to be enacted,*
- *FTA's authorizing legislation in effect in FY 2012 or a previous fiscal year, except as superseded by the FAST Act cross-cutting requirements that apply, and*
- *Appropriations Acts or Continuing Resolutions funding the U.S. Department of Transportation during Fiscal Year 2016.*

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

CATEGORY 01. REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT.

Before FTA may provide federal assistance for your Applicant's Award, you must select the Certifications and Assurances in Category 01 in addition to any other Certifications and Assurances that you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 01 that does not apply will not be enforced.

01.A. Certification and Assurance of Authority of the Applicant and Its Authorized Representative.

You certify and affirm that in signing these Certifications, Assurances, and Agreements, both you, as your Applicant's Authorized Representative, and your Applicant's attorney who is authorized to represent your Applicant in legal matters, may undertake the following activities on your Applicant's behalf, in compliance with applicable state, local, or Indian tribal laws, regulations, and requirements and its by-laws or internal rules:

1. Execute and file its application for federal assistance,
2. Execute and file its Certifications, Assurances, Charter Service Agreement, and School Bus Agreement, as applicable, binding its compliance,
3. Execute its Grant Agreement, Cooperative Agreement, Loan, Loan Guarantee, or Line of Credit, for which the Applicant is seeking federal assistance from FTA,
4. Comply with applicable federal laws, regulations, and requirements, and
5. Follow applicable federal guidance.

01.B. Standard Assurances.

On behalf of your Applicant, you assure that it understands and agrees to the following:

1. It will comply with all applicable federal laws, regulations, and requirements in implementing its Award.
2. It is under a continuing obligation to comply with the terms and conditions of its Grant Agreement or Cooperative Agreement with FTA for each Award, including the FTA Master Agreement and other documents incorporated by reference and made part of its Grant Agreement or Cooperative Agreement, or latest amendment thereto.
3. It recognizes that federal laws, regulations, and requirements may be amended from time to time and those amendments may affect the implementation of its Award.
4. It understands that Presidential executive orders and federal guidance, including federal policies and program guidance, may be issued concerning matters affecting it or its Award.

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

5. It agrees that the most recent federal laws, regulations, requirements, and guidance will apply to its Award, except as FTA determines otherwise in writing.
6. Except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the federal assistance for those programs was appropriated or made available.

01.C. Intergovernmental Review Assurance.

(This assurance in this Category 01.C does not apply to an Indian tribe, an Indian organization, or an Indian tribal organization that applies for federal assistance made available under 49 U.S.C. § 5311(c)(1), which authorizes FTA's Tribal Transit Programs.)

As required by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, on behalf of your Applicant, you assure that it has submitted or will submit each application for federal assistance to the appropriate state and local agencies for intergovernmental review.

01.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws, regulations, and requirements so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA assisted program or activity (particularly in the level and quality of transportation services and transportation-related benefits) on the basis of race, color, national origin, religion, sex, disability, or age including:
 - a. Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination on the basis of race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity),
 - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d,
 - c. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, *et seq.*,
 - d. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*,
 - e. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
 - f. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
 - g. Any other applicable federal statutes that may be signed into law, federal regulations that may be issued, or federal requirements that may be imposed.
2. It will comply with federal guidance implementing federal nondiscrimination laws, regulations, or requirements, except as FTA determines otherwise in writing.

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3. As required by 49 CFR § 21.7:
 - a. It will comply with 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 in the manner that:
 - (1) It implements its Award,
 - (2) It undertakes property acquisitions, and
 - (3) It operates all parts of its facilities, as well as its facilities operated in connection with its Award.
 - b. This assurance applies to its Award and to all parts of its facilities, as well as its facilities used to implement its Award.
 - c. It will promptly take the necessary actions to carry out this assurance, including the following:
 - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA, and
 - (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request.
 - d. If it transfers U.S. DOT or FTA assisted real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
 - (1) While the property is used for the purpose that the federal assistance is extended, or
 - (2) While the property is used for another purpose involving the provision of similar services or benefits.
 - e. The United States has a right to seek judicial enforcement of any matter arising under:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, or
 - (3) This assurance.
 - f. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, and
 - (3) Federal transit law, 49 U.S.C. § 5332.
 - g. It will comply with applicable federal guidance issued to implement federal nondiscrimination requirements, except as FTA determines otherwise in writing.
 - h. It will extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
 - (1) Subrecipient,
 - (2) Transferee,
 - (3) Third Party Contractor or Subcontractor at any tier,
 - (4) Successor in Interest,
 - (5) Lessee, or

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

- (6) Other Participant in its Award, except FTA and the Applicant (and later, the Recipient).
- i. It will include adequate provisions to extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each third party agreement, including each:
 - (1) Subagreement at any tier,
 - (2) Property transfer agreement,
 - (3) Third party contract or subcontract at any tier,
 - (4) Lease, or
 - (5) Participation agreement.
- j. The assurances you have made on your Applicant's behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
 - (1) Federal assistance is provided for its Award,
 - (2) Its property acquired or improved with federal assistance is used for a purpose for which the federal assistance is extended, or for a purpose involving similar services or benefits,
 - (3) It retains ownership or possession of its property acquired or improved with federal assistance provided for its Award, or
 - (4) FTA may otherwise determine in writing.
- 4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR § 27.9, and consistent with 49 U.S.C. § 5332, you assure that:
 - a. It will comply with the following prohibitions against discrimination on the basis of disability listed below in subsection 4.b of this Category 01.D Assurance, of which compliance is a condition of approval or extension of any FTA assistance awarded to:
 - (1) Construct any facility,
 - (2) Obtain any rolling stock or other equipment,
 - (3) Undertake studies,
 - (4) Conduct research, or
 - (5) Participate in any benefit or obtain any benefit from any FTA administered program.
 - b. In any program or activity receiving or benefiting from federal assistance that U.S. DOT administers, no qualified individual with a disability will, because of his or her disability, be:
 - (1) Excluded from participation,
 - (2) Denied benefits, or
 - (3) Otherwise subjected to discrimination.

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01.E. Suspension and Debarment Certification.

On behalf of your Applicant, you certify that:

1. It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180.
2. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
 - a. Are eligible to participate in covered transactions of any federal department or agency and are not presently:
 - (1) Debarred,
 - (2) Suspended,
 - (3) Proposed for debarment,
 - (4) Declared ineligible,
 - (5) Voluntarily excluded, or
 - (6) Disqualified.
 - b. Within a three-year period preceding its latest application or proposal, its management has not been convicted of or had a civil judgment rendered against any of them for:
 - (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction, or contract under a public transaction,
 - (2) Violation of any federal or state antitrust statute, or
 - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property.
 - c. It is 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 listed in the preceding subsection 2.b of this Certification.
 - d. It has not had one or more public transactions (federal, state, or local) terminated for cause or default within a three-year period preceding this Certification.
 - e. If, at a later time, it receives any information that contradicts the preceding statements of subsections 2.a – 2.d of this Category 01.E Certification, it will promptly provide that information to FTA.
 - f. It will treat each lower tier contract or subcontract under its Award as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
 - (1) Equals or exceeds \$25,000,
 - (2) Is for audit services, or
 - (3) Requires the consent of a federal official.

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- g. It will require that each covered lower tier contractor and subcontractor:
 - (1) Comply and facilitate compliance with the federal requirements of 2 CFR parts 180 and 1200, and
 - (2) Assure that each lower tier participant in its Award is not presently declared by any federal department or agency to be:
 - (a) Debarred from participation in any federally assisted Award,
 - (b) Suspended from participation in any federally assisted Award,
 - (c) Proposed for debarment from participation in any federally assisted Award,
 - (d) Declared ineligible to participate in any federally assisted Award,
 - (e) Voluntarily excluded from participation in any federally assisted Award, or
 - (f) Disqualified from participation in any federally assisted Award.
- 5. It will provide a written explanation if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Category 01.E Certification.

01.F. U.S. OMB Assurances in SF-424B and SF-424D.

The assurances in this Category 01.F are consistent with the U.S. OMB assurances required in the U.S. OMB SF-424B and SF-424D, and updated as necessary to reflect changes in federal laws, regulations, and requirements.

- 1. *Administrative Activities.* On behalf of your Applicant, you assure that:
 - a. For any application it submits for federal assistance, it has adequate resources to plan, manage, and complete properly the tasks to implement its Award, including:
 - (1) The legal authority to apply for federal assistance,
 - (2) The institutional capability,
 - (3) The managerial capability, and
 - (4) The financial capability (including funds sufficient to pay the non-federal share of the cost of incurred under its Award).
 - b. As required, it will give access and the right to examine materials related to its Award to the following entities or individuals, including, but not limited to:
 - (1) FTA,
 - (2) The Comptroller General of the United States, and
 - (3) The State, through an appropriate authorized representative.
 - c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance.
 - d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:
 - (1) A personal or organizational conflict of interest or personal gain, or

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

- (2) An appearance of a personal or organizational conflict of interest or personal gain.
2. *Specifics of the Award.* On behalf of your Applicant, you assure that:
 - a. It will begin and complete work within the period of performance that applies following receipt of an FTA Award.
 - b. For FTA assisted construction Awards:
 - (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
 - (2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms to the approved plans and specifications,
 - (3) It will include a covenant to assure nondiscrimination during the useful life of the real property financed under its Award in its title to that real property,
 - (4) To the extent FTA requires, it will record the federal interest in the title to FTA assisted real property or interests in real property, and
 - (5) It will not alter the site of the FTA assisted construction or facilities without permission or instructions from FTA by:
 - (a) Disposing of the underlying real property or other interest in the site and facilities,
 - (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
 - (c) Changing the terms of the underlying real property title or other interest in the site and facilities.
 - c. It will furnish progress reports and other information as FTA or the state may require.
3. *Statutory and Regulatory requirements.* On behalf of your Applicant, you assure that:
 - a. It will comply with all federal laws, regulations, and requirements relating to nondiscrimination that apply, including, but not limited to:
 - (1) The prohibitions against discrimination on the basis of race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. § 2000d.
 - (2) The prohibitions against discrimination on the basis of sex, as provided in:
 - (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 – 1683, and 1685 – 1687, and
 - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.
 - (3) The prohibitions against discrimination on the basis of age in federally assisted programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 – 6107.
 - (4) The prohibitions against discrimination on the basis of disability in federally assisted programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794.

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- (5) The prohibitions against discrimination on the basis of disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*
 - (6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. § 3601 *et seq.*
 - (7) The prohibitions against discrimination on the basis of drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 *et seq.*
 - (8) The prohibitions against discrimination on the basis of alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. § 4541 *et seq.*
 - (9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. § 290dd – 290dd-2.
 - (10) The nondiscrimination provisions of any other statute(s) that may apply to its Award.
- b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. § 4601 *et seq.*, and 49 U.S.C. § 5323(b), regardless of whether federal assistance has been provided for any real property acquired or improved for purposes of its Award:
- (1) It will provide for fair and equitable treatment of any displaced persons or any persons whose property is acquired or improved as a result of federally assisted programs.
 - (2) It has the necessary legal authority under state and local laws, regulations, and requirements to comply with:
 - (a) The Uniform Relocation Act. 42 U.S.C. § 4601 *et seq.*, as specified by 42 U.S.C. §§ 4630 and 4655, and
 - (b) U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, specifically 49 CFR § 24.4.
 - (3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:
 - (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24.
 - (b) As provided by 42 U.S.C. §§ 4622, 4623, and 4624, and 49 CFR part 24, if its Award results in displacement, it will provide fair and reasonable relocation payments and assistance to:
 - 1 Displaced families or individuals, and
 - 2 Displaced corporations, associations, or partnerships.

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- (c) As provided by 42 U.S.C. § 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such:
 - 1 Displaced families and individuals, and
 - 2 Displaced corporations, associations, or partnerships.
 - (d) As provided by 42 U.S.C. § 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals.
 - (e) It will:
 - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
 - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin.
 - (f) It will be guided by the real property acquisition policies of 42 U.S.C. §§ 4651 and 4652.
 - (g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. §§ 4653 and 4654, understanding that FTA will provide federal assistance for its eligible costs of providing payments for those expenses, as required by 42 U.S.C. § 4631.
 - (h) It will execute the necessary implementing amendments to FTA assisted third party contracts and subagreements.
 - (i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances.
 - (j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, related to its Award that involves relocation or land acquisition.
 - (k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions.
- c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. § 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures.
 - d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by federal assistance of:
 - (1) The National Research Act, as amended, 42 U.S.C. § 289 *et seq.*, and
 - (2) U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11.
 - e. It will, to the extent applicable, comply with the labor standards and protections for federally assisted Awards of:
 - (1) The Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147,

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

- (2) Sections 1 and 2 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874, and 40 U.S.C. § 3145, respectively, and
 - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3701 *et seq.*
- f. It will comply with any applicable environmental standards prescribed to implement federal laws and executive orders, including, but not limited to:
- (1) Complying with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 – 4335 and following Executive Order No. 11514, as amended, 42 U.S.C. § 4321 note.
 - (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. § 7606 note.
 - (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. § 4321 note.
 - (4) Following the evaluation of flood hazards in the floodplains provisions of Executive Order No. 11988, May 24, 1977, 42 U.S.C. § 4321 note, and Executive Order No. 13690 “Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, January 30, 2015.
 - (5) Complying with the assurance of consistency with the approved state management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 – 1465.
 - (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1970, as amended, 42 U.S.C. §§ 7401 – 7671q.
 - (7) Complying with protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f – 300j-6.
 - (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 – 1544.
 - (9) Complying with the environmental protections for federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation Award, as required by 49 U.S.C. § 303 (also known as “Section 4f”).
 - (10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 – 1287.
 - (11) Complying with and facilitating compliance with:
 - (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 300108,

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- (b) The Archaeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 *et seq.*, and
 - (c) Executive Order No. 11593 (identification and protection of historic properties), 54 U.S.C. § 300101.
- g. To the extent applicable, it will comply with the following federal requirements for the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported with federal assistance:
 - (1) The Animal Welfare Act, as amended, 7 U.S.C. § 2131 *et seq.*, and
 - (2) U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR subchapter A, parts 1, 2, 3, and 4.
- h. To the extent applicable, it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically 49 CFR § 41.117(d), before accepting delivery of any FTA assisted buildings.
- i. It will comply with and assure that each of its Subrecipients located in special flood hazard areas will comply with section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. § 4012a(a), by:
 - (1) Participating in the federal flood insurance program, and
 - (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- j. It will comply with:
 - (1) The Hatch Act, 5 U.S.C. §§ 1501 – 1508, 7324 – 7326, which limits the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with federal assistance, including a federal loan, grant agreement, or cooperative agreement, and
 - (2) 49 U.S.C. § 5323(l)(2) and 23 U.S.C. § 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving federal assistance appropriated or made available under 49 U.S.C. chapter 53 and 23 U.S.C. § 142(a)(2) to whom the Hatch Act does not otherwise apply.
- k. It will perform the financial and compliance audits as required by the:
 - (1) Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.*,
 - (2) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 200, and
 - (3) Most recent applicable U.S. OMB Compliance Supplement, 2 CFR part 200, appendix XI (previously known as the U.S. OMB Circular A-133 Compliance Supplement).

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- l. It will comply with all other federal laws, regulations, and requirements that apply.
- m. It will follow federal guidance governing it and its Award, except as FTA has expressly approved otherwise in writing.

CATEGORY 02. LOBBYING.

Before FTA may provide federal assistance for a grant or cooperative agreement exceeding \$100,000 or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, unless your Applicant is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 31 U.S.C. § 1352, you must select the Lobbying Certifications in Category 02 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 02 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

1. As required by 31 U.S.C. § 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," specifically 49 CFR 20.110:
 - a. The lobbying restrictions of this Certification apply to its requests:
 - (1) For \$100,000 or more in federal assistance for a grant or cooperative agreement, and
 - (2) For \$150,000 or more in federal assistance for a loan, line of credit, loan guarantee, or loan insurance, and
 - b. Your Certification on its behalf applies to the lobbying activities of:
 - (1) It,
 - (2) Its Principals, and
 - (3) Its Subrecipients at the first tier.
2. To the best of your knowledge and belief:
 - a. No federal appropriated funds have been or will be paid by your Applicant or on its behalf to any person to influence or attempt to influence:
 - (1) An officer or employee of any federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
 - b. It will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with the instructions on that form, if any funds

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other than federal appropriated funds have been or will be paid to any person to influence or attempt to influence:

- (1) An officer or employee of any federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
- c. It will include the language of this Certification in its Award documents under a federal grant, cooperative agreement, loan, line of credit, or loan insurance including, but not limited to:
- (1) Each third party contract,
 - (2) Each third party subcontract,
 - (3) Each subagreement, and
 - (4) Each third party agreement.
3. It understands that:
- a. This Certification is a material representation of fact that the Federal Government relies on, and
 - b. It must submit this Certification before the Federal Government may award federal assistance for a transaction covered by 31 U.S.C. § 1352, including a:
 - (1) Federal grant or cooperative agreement, or
 - (2) Federal loan, line of credit, loan guarantee, or loan insurance.
4. It understands that any person who does not file a required Certification will incur a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CATEGORY 03. PROCUREMENT AND PROCUREMENT SYSTEMS.

We request that you select the Procurement and Procurement Systems Certification in Category 03 on behalf of your Applicant, especially if your Applicant is a state, local, or Indian tribal government with a certified procurement system, as provided in 2 CFR § 200.324(c)(2), incorporated by reference in 2 CFR part 1201 or former 49 CFR 18.36(g)(3)(ii).

Any provision of the Certification in Category 03 that does not apply will not be enforced.

On behalf of your Applicant, you certify that its procurements and its procurement system will comply with all federal laws, regulations, and requirements in accordance with applicable federal guidance, except as FTA has approved otherwise in writing.

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CATEGORY 04. PRIVATE SECTOR PROTECTIONS.

Before FTA may provide federal assistance for an Award that involves the acquisition of public transportation property or the operation of public transportation facilities or equipment, you must select the Private Property Protections Assurances in Category 04.A and enter into the Agreements in Category 04.B and Category 04.C on behalf of your Applicant in addition to other Certifications you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Assurances and Agreements in Category 04 that does not apply will not be enforced.

04.A. Private Property Protections.

If your Applicant is a state, local government, or Indian tribal government and seeks federal assistance from FTA to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator, the Private Property Protections Assurances in Category 04.A apply to your Applicant, except as FTA determines otherwise in writing.

To facilitate FTA's ability to make the findings required by 49 U.S.C. § 5323(a)(1), on behalf of your Applicant, you assure that:

1. It has or will have:
 - a. Determined that the federal assistance it has requested is essential to carrying out its Program of Projects as required by 49 U.S.C. §§ 5303, 5304, and 5306,
 - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
 - c. Paid just compensation under state or local laws to the company for any franchise or property acquired.
2. It has completed the actions described in the preceding section 1 of this Category 04.A Certification before:
 - a. It acquires the property or an interest in the property of a private provider of public transportation, or
 - b. It operates public transportation equipment or facilities:
 - (1) In competition with transportation service provided by an existing public transportation operator, or
 - (2) In addition to transportation service provided by an existing public transportation operator.

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04.B. Charter Service Agreement.

If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the Charter Service Agreement in Category 04.B applies to your Applicant, except as FTA determines otherwise in writing.

To comply with 49 U.S.C. § 5323(d) and (g) and FTA regulations, “Charter Service,” 49 CFR part 604, specifically 49 CFR § 604.4, on behalf of your Applicant, you are entering into the following Charter Service Agreement:

1. FTA’s “Charter Service” regulations apply as follows:
 - a. FTA’s Charter Service regulations restrict transportation by charter service using facilities and equipment acquired or improved under its Award from FTA financed with federal assistance derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. §§ 133 or 142, or
 - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - b. FTA’s charter service restrictions extend to:
 - (1) Your Applicant, when it becomes a Recipient of federal assistance appropriated or made available for:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. §§ 133 or 142, or
 - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - (2) Any Third Party Participant that receives federal assistance derived from:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. §§ 133 or 142, or
 - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - c. A Third Party Participant includes any:
 - (1) Subrecipient at any tier,
 - (2) Lessee,
 - (3) Third Party Contractor or Subcontractor at any tier, and
 - (4) Other Third Party Participant in its Award.
 - d. You and your Applicant agree that neither it nor any governmental authority or publicly owned operator that receives federal public transportation assistance appropriated or made available for its Award will engage in charter service operations, except as permitted under:
 - (1) Federal transit laws, specifically 49 U.S.C. § 5323(d) and (g),
 - (2) FTA regulations, “Charter Service,” 49 CFR part 604, to the extent consistent with 49 U.S.C. § 5323(d) and (g),
 - (3) Any other federal Charter Service regulations, or

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- (4) Federal guidance, except as FTA determines otherwise in writing.
- e. You and your Applicant agree that the latest Charter Service Agreement selected in its latest annual Certifications and Assurances is incorporated by reference in and made part of the Underlying Agreement accompanying its Award of federal assistance from FTA.
- f. You and your Applicant agree that:
 - (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives federal assistance from FTA appropriated or made available for its Award that has engaged in a pattern of violations of FTA's Charter Service regulations by:
 - (a) Conducting charter operations prohibited by federal transit laws and FTA's Charter Service regulations, or
 - (b) Otherwise violating its Charter Service Agreement selected in its latest annual Certifications and Assurances, and
 - (2) These corrective measures and remedies may include:
 - (a) Barring it or any Third Party Participant operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA,
 - (b) Withholding an amount of federal assistance as provided by Appendix D to FTA's Charter Service regulations, or
 - (c) Any other appropriate remedy that may apply.
- 2. In addition to the exceptions to the restrictions in FTA's Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
 - a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. §§ 5307 or 5311 to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under former 49 U.S.C. §§ 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that federal assistance from FTA for those program purposes only.
 - b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. § 5310 to be used for New Freedom activities that would have been eligible for assistance under former 49 U.S.C. § 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that federal assistance from FTA for those program purposes only.
 - c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Recipient provides a private intercity or charter transportation operator reasonable access to that Recipient's federally assisted public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes, as provided in 49 U.S.C. § 5323(r).

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04.C. School Bus Agreement.

If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the School Bus Agreement in Category 04.C applies to your Applicant, except as FTA determines otherwise in writing.

To comply with 49 U.S.C. § 5323(f) and (g) and FTA regulations, “School Bus Operations,” 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g), on behalf of your Applicant, you are entering into the following School Bus Agreement:

1. FTA’s “School Bus Operations” regulations restrict school bus operations using facilities and equipment acquired or improved with federal assistance derived from:
 - a. Federal transit laws, 49 U.S.C. chapter 53,
 - b. 23 U.S.C. §§ 133 or 142, or
 - c. Any other Act that provides federal public transportation assistance, unless otherwise excepted.
2. FTA’s school bus operations restrictions extend to:
 - a. Your Applicant, when it becomes a Recipient of federal assistance appropriated or made available for:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. §§ 133 or 142, or
 - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - b. Any Third Party Participant that receives federal assistance derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. §§ 133 or 142, or
 - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
3. A Third Party Participant includes any:
 - a. Subrecipient at any tier,
 - b. Lessee,
 - c. Third Party Contractor or Subcontractor at any tier, and
 - d. Other Third Party Participant in its Award.
4. You and your Applicant agree and will obtain the agreement of any Third Party Participant involved in your Applicant’s Award that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:
 - a. Federal transit laws, specifically 49 U.S.C. § 5323(f) and (g),
 - b. FTA regulations, “School Bus Operations,” 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g),
 - c. Any other federal School Bus regulations, or
 - d. Federal guidance, except as FTA determines otherwise in writing.

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5. You and your Applicant agree that the latest School Bus Agreement selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference in and made part of the Underlying Agreement accompanying its Award of federal assistance.
6. You and your Applicant agree that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
 - a. Bar your Applicant or Third Party Participant from receiving further federal assistance for public transportation, or
 - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

CATEGORY 05. ROLLING STOCK REVIEWS AND BUS TESTING.

Before FTA may provide federal assistance for an Award to acquire rolling stock for use in revenue service or to acquire a new bus model, you must select the Rolling Stock Reviews and Bus Testing Certifications in Category 05 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 05 that does not apply will not be enforced.

05.A. Rolling Stock Reviews.

If your Applicant seeks federal assistance from FTA to acquire rolling stock for use in revenue service, the Rolling Stock Reviews Certifications in Category 05.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that when procuring rolling stock for use in revenue service:

1. It will comply with:
 - a. Federal transit laws, specifically 49 U.S.C. § 5323(m), and
 - b. FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, and
2. As provided in 49 CFR § 663.7:
 - a. It will conduct or cause to be conducted the required pre-award and post-delivery reviews of that rolling stock, and
 - b. It will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

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05.B. Bus Testing.

If your Applicant seeks federal assistance from FTA to acquire a new bus model, the Bus Testing Certifications in Category 05.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. FTA's bus testing requirements apply to all acquisitions of new buses and new bus models that require bus testing as defined in FTA's Bus Testing regulations, and it will comply with:
 - a. 49 U.S.C. § 5318, and
 - b. FTA regulations, "Bus Testing," 49 CFR part 665, to the extent these regulations are consistent with 49 U.S.C. § 5318.
2. As required by 49 CFR § 665.7, when acquiring the first bus of any new bus model or a bus model with a major change in components or configuration:
 - a. It will not spend any federal assistance appropriated under 49 U.S.C. chapter 53 to acquire that new bus or new bus model until:
 - (1) That new bus or new bus model has been tested at FTA's bus testing facility, and
 - (2) It has received a copy of the test report prepared for that new bus or new bus model, and
 - b. It will not authorize final acceptance of that new bus or new bus model until:
 - (1) That new bus or new bus model has been tested at FTA's bus testing facility, and
 - (2) It has received a copy of the test report prepared for that new bus or new bus model.
3. It will ensure that the new bus or new bus model that is tested has met the performance standards consistent with those regulations, including the:
 - a. Performance standards for:
 - (1) Maintainability,
 - (2) Reliability,
 - (3) Performance (including braking performance),
 - (4) Structural integrity,
 - (5) Fuel economy,
 - (6) Emissions, and
 - (7) Noise, and
 - b. Minimum safety performance standards established under 49 U.S.C. § 5329.
4. After FTA regulations authorized by 49 U.S.C. § 5318(e)(2) are in effect, it will ensure that the new bus or new bus model that is tested has received a passing aggregate test score under the "Pass/Fail" standard established by regulation.

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CATEGORY 06. DEMAND RESPONSIVE SERVICE.

Before FTA may provide federal assistance for an Award to a public entity that operates demand responsive service to acquire a non-rail vehicle that is not accessible, you must select the Demand Responsive Service Certifications in Category 06 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 06 that does not apply will not be enforced.

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR part 37, specifically 49 CFR § 37.77(d), on behalf of your Applicant, you certify that:

1. Your Applicant offers public transportation services equivalent in level and quality of service to:
 - a. Individuals with disabilities, including individuals who use wheelchairs, and
 - b. Individuals without disabilities.
2. Viewed in its entirety, its service for individuals with disabilities is:
 - a. Provided in the most integrated setting feasible, and
 - b. Equivalent to the service it offers individuals without disabilities with respect to:
 - (1) Response time,
 - (2) Fares,
 - (3) Geographic service area,
 - (4) Hours and days of service,
 - (5) Restrictions on priorities based on trip purpose,
 - (6) Availability of information and reservation capability, and
 - (7) Constraints on capacity or service availability.

CATEGORY 07. INTELLIGENT TRANSPORTATION SYSTEMS.

Before FTA may provide federal assistance for an Award in support of an Intelligent Transportation System (ITS), you must select the Intelligent Transportation Systems Assurances in Category 07 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Assurances in Category 07 that does not apply will not be enforced.

On behalf of your Applicant, you and your Applicant:

1. Understand that, as used in this Assurance, the term Intelligent Transportation System is defined to include technologies or systems of technologies that provide or

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significantly contribute to the provision of one or more Intelligent Transportation System (ITS) user services as defined in the “National ITS Architecture.”

2. Assure that, as provided in 23 U.S.C. § 517(d), any Award that includes an ITS or related activity financed with appropriations made available from the Highway Trust Fund, including amounts made available to deploy ITS facilities or equipment, will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. § 517(a) or (c), unless it obtains a waiver as provided in 23 U.S.C. § 517(d)(2).

CATEGORY 08. INTEREST AND FINANCING COSTS AND ACQUISITION OF CAPITAL ASSETS BY LEASE.

Before FTA may award federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support the interest, financing, or leasing costs of any Award financed under the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, any program to which the requirements of 49 U.S.C. § 5307 apply, or any other program as FTA may specify, you must select the Certifications in Category 08 in addition to other Certifications and Assurances you must select on your Applicant’s behalf, except as FTA may determine otherwise in writing.

Any provision of the Certifications and Assurances in Category 08 that does not apply will not be enforced.

08.A. Interest and Financing Costs.

If your Applicant intends to use federal assistance to support the interest or any other financing costs for an Award financed under the Urbanized Area Formula Grants Program, the Fixed Guideway Capital Investment Grants Program, the New Starts, Small Starts, and Core Capacity Programs, any program that must comply with the requirements of 49 U.S.C. § 5307, or any other program as FTA may specify, the Interest and Financing Costs Certifications in Category 08.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. It will not seek reimbursement for interest or any other financing costs unless:
 - a. It is eligible to receive federal assistance for those costs, and
 - b. Its records demonstrate that it has shown reasonable diligence in seeking the most favorable financing terms, as FTA may require.
2. It will comply with the same favorable financing cost provisions for Awards financed under:
 - a. The Urbanized Area Formula Grants Program,
 - b. A Full Funding Grant Agreement,

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- c. An Early Systems Work Agreement,
- d. The Fixed Guideway Capital Investment Program financed by previous FTA enabling legislation,
- e. Any program that must comply with the requirements of 49 U.S.C. § 5307, or
- f. Any other program as FTA may specify.

08.B. Acquisition of Capital Assets by Lease.

If your Applicant seeks federal assistance from FTA to acquire capital assets (other than rolling stock or related equipment) through a lease, the Acquisition of Capital Assets by Lease Certifications and Assurances in Category 08.B applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, as required by FTA regulations, "Capital Leases," 49 CFR part 639, to the extent consistent with the FAST Act, if your Applicant acquires any capital asset (other than rolling stock or related equipment) through a lease financed with federal assistance appropriated or made available under 49 U.S.C. chapter 53, it will not enter into a capital lease for which FTA can provide only incremental federal assistance unless it has adequate financial resources to meet its future lease obligations if federal assistance is not available.

CATEGORY 09. TRANSIT ASSET MANAGEMENT PLAN AND PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.

Before FTA may provide federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support an Award, you must select the Certifications in Category 09 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 09 that does not apply will not be enforced.

09.A. Transit Asset Management Plan.

If your Applicant applies for funding appropriated or made available for 49 U.S.C. chapter 53, the Transit Asset Management Certifications in Group 09.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it and each of its Subrecipients will:

1. Follow federal guidance that, when issued, will implement the transit asset management system provisions of 49 U.S.C. § 5326, except as FTA determines otherwise in writing, and

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2. Comply with the final federal regulations that, when issued, will implement the transit asset management provisions of 49 U.S.C. § 5326.

09.B. Public Transportation Agency Safety Plan.

If your Applicant applies for funding under 49 U.S.C. chapter 53 and it is a State government, local government, or any other operator of a public transportation system, the Public Transportation Safety Plan Certifications in Group 09.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it will:

1. Follow the Federal guidance, when issued, that will implement the safety plan provisions of 49 U.S.C. § 5329(d), except as FTA determines otherwise in writing, and
2. Comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

CATEGORY 10. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If your Applicant must comply with the alcohol and controlled substance testing requirements of 49 U.S.C. § 5331 and its implementing regulations, before FTA may provide federal assistance for an Award, you must select the Certifications in Category 10 in addition to other Certifications and Assurances you select on your Applicant's behalf, except as FTA may determine otherwise in writing.

Any provision of the Certifications in Category 10 that does not apply will not be enforced.

As required by 49 U.S.C. § 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, subpart I, specifically 49 CFR § 655.83, on behalf of your Applicant, including an Applicant that is a state, and on behalf of its Subrecipients and Third Party Contractors, you certify that:

1. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have established and implemented:
 - a. An alcohol misuse testing program, and
 - b. A controlled substance testing program.
2. Your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. § 5331.
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Applicant, its Subrecipients, or its Third

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Party Contractors to which these testing requirements apply reside in a state that permits marijuana use for medical or recreational purposes, your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with the federal controlled substance testing requirements of 49 CFR part 655.

CATEGORY 11. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY IMPROVEMENT).

Before FTA may provide federal assistance for an Award financed under the New Starts, Small Starts, or Core Capacity Improvement Program authorized under 49 U.S.C. § 5309, you must select the Certifications in Category 11 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA may determine otherwise in writing.

Any provision of the Certifications in Category 11 that does not apply will not be enforced.

Except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award,
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan,
4. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304, and
5. It will comply with FTA guidance, "Final Interim Policy Guidance, Capital Investment Grant Program," August 2015, 80 *Fed. Reg.* 46514, August 5, 2015,

CATEGORY 12. STATE OF GOOD REPAIR PROGRAM.

Before FTA may provide federal assistance for an Award financed under the State of Good Repair Program authorized under 49 U.S.C. § 5337, you must select the Certifications in Category 12 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Assurance in Category 12 that does not apply will not be enforced.

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On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award,
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan, and
4. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

CATEGORY 13. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS

Before FTA may provide federal assistance for an Award under the Buses and Bus Facilities Program authorized under 49 U.S.C. § 5339, as amended by the FAST Act, which among other things authorizes grants for Low or No Emission buses, you must select the Certifications in Category 13 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 13 that does not apply will not be enforced.

13.A. Grants for Buses and Bus Facilities Program The following Certifications for the Grants for Buses and Bus Facilities Program are required by 49 U.S.C. § 5339, as amended by the FAST Act, which provides that the requirements of 49 U.S.C. § 5307 shall apply to recipients of grants made in urbanized areas and the requirements of 49 U.S.C. § 5311 shall apply to recipients of grants made in rural areas under this 49 U.S.C. §§ 5339(a) and (b). Therefore:

1. If your Applicant is in an urbanized area, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan,

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- d. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5339 during non-peak hours for transportation, recipients in an urbanized area will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
 - e. When carrying out a procurement under 49 U.S.C. § 5339, it will comply with:
 - (1) The applicable general provisions of 49 U.S.C. § 5323, and
 - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
 - g. As required by 49 U.S.C. § 5307(d):
 - (1) It has or will have the amount of funds required for the non-federal share,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
 - h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
 - i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation service.
 - j. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).
2. If your Applicant is in a rural area, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
- a. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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- c. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
- d. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
- e. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service with transportation service financed by other federal sources.
- f. Its Awards and Subawards in its Formula Grants for Rural Areas Program are included in:
 - (1) The statewide transportation improvement program, and
 - (2) To the extent applicable, a metropolitan transportation improvement program.
- g. With respect to the non-federal share:
 - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5311(g) ,
 - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
 - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
- h. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.

13.B. Low or No Emission Vehicle Deployment.

If your Applicant seeks federal assistance from FTA for an Award financed under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), the Certifications and Assurances in Category 13.B apply to your Applicant, except as FTA determines otherwise in writing.

Former section 5312(d)(5)(C)(i) of title 49, United States Code, requires the following Certifications for Low or No Emission Vehicle Deployment Program before awarding federal assistance appropriated or made available under MAP-21. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

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1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award.
4. When using or involving a facility or equipment acquired or improved with federal assistance under former 49 U.S.C. § 5312(d)(5) during non-peak hours for transportation, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability) and is unable to use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under this Program, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
 - a. It has informed or will inform the public of the amounts of its federal assistance available under this Program,
 - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities to be financed,
 - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
 - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
 - e. It has assured or will assure that its proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. § 5336, as amended by the FAST Act, with federally assisted transportation services supported by other federal sources,
 - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
 - g. It has made or will make the final list of Projects for which an Award is sought available to the public.

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7. With respect to the non-federal share:
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and
 - c. It will provide the non-federal share when needed.
8. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
9. It has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation service.
10. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).

CATEGORY 14. URBANIZED AREA FORMULA GRANTS PROGRAMS AND PASSENGER FERRY GRANT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, which among other things, authorizes federal assistance for Job Access and Reverse Commute (JARC) activities, and the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), you must select the Certifications in Category 14 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 14 that does not apply will not be enforced.

14.A. Urbanized Area Formula Grants Program under the FAST Act.

If your Applicant seeks federal assistance from FTA for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, the Certifications in Category 14.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Urbanized Area Formula Grants Program under 49 U.S.C. § 5307, as amended by the FAST Act are required by 49 U.S.C. § 5307(c)(1). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan,
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307 during non-peak hours for transportation, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under 49 U.S.C. § 5307, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
 - a. It has made or will make available to the public information on the amounts of federal assistance available to it under 49 U.S.C. § 5307,
 - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities for which federal assistance is sought,
 - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on its proposed Program of Projects and its performance as an Applicant or Recipient,
 - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
 - e. It has ensured or will ensure that its proposed Program of Projects provides for coordination of transportation services financed by FTA under 49 U.S.C. § 5336, as amended by the FAST Act, with transportation services supported by other Federal Government sources,
 - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - g. It has made or will make its final Program of Projects available to the public.
7. As required by 49 U.S.C. § 5307(d):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and

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- c. It will provide the non-federal share when needed.
8. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
9. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation.
10. Each fiscal year:
 - a. It will assure that at least one (1) percent of the amount of federal assistance under 49 U.S.C. § 5307 apportioned to its urbanized area must be expended for Public Transportation Security activities as described in 49 U.S.C. § 5307(c)(1)(J)(i) including:
 - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - (2) Increased camera surveillance of an area in or adjacent to that system,
 - (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - (4) Any other activity intended to increase the security and safety of an existing or planned public transportation system, or
 - b. The Designated Recipients in its urbanized area certify that such expenditures for Public Transportation Security activities are not necessary.
11. If it serves an urbanized area with a population of at least 200,000 individuals, as determined by the Bureau of the Census:
 - a. It will provide a report by the end of the fourth quarter of the preceding federal fiscal year that lists projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in 49 U.S.C. § 5302, and
 - b. The report of its Associated Transit Improvements or related activities is or will be incorporated by reference and made part of its Certifications and Assurances.
12. It will comply with the final federal regulations that, when issued, will implement the safety requirements of 49 U.S.C. § 5329(d).

14.B. Passenger Ferry Grant Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), the Certifications in Category 14.B apply to your Applicant, except as FTA determines otherwise in writing.

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The following Certifications for the Passenger Ferry Grant Program are required by 49 U.S.C. § 5307(c)(1) or (h). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307(h) during non-peak hours for transportation, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under 49 U.S.C. § 5307(h), it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. As required by 49 U.S.C. § 5307(d):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and
 - c. It will provide the non-federal share when needed.
7. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
8. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation service.
9. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).

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CATEGORY 15. SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.

Before FTA may provide federal assistance for an Award financed under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized under 49 U.S.C. § 5310, as amended by the FAST Act, you must select the Certifications in Category 15 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 15 that does not apply will not be enforced.

1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. § 5310. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. Each Subrecipient is:
 - (1) A private nonprofit organization, or
 - (2) A state or local governmental authority that:
 - (a) Is approved by a state to coordinate services for seniors and individuals with disabilities, or
 - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.
 - b. It will comply with the following selection and planning requirements:
 - (1) The Projects it has selected or will select for an Award or Subaward of federal assistance appropriated or made available under 49 U.S.C. § 5310 are included in a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated.
 - (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (a) Seniors,
 - (b) Individuals with disabilities,
 - (c) Representatives of public, private, and nonprofit transportation providers,
 - (d) Representatives of public, private, and nonprofit human services providers, and
 - (e) Other members of the public.
 - (3) Within its Award, the Projects selected to receive federal assistance will assist in providing transportation services for seniors and individuals with

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- disabilities are included in its Program of Projects, that is or will be submitted to FTA annually.
- (4) To the maximum extent feasible, the services financed by 49 U.S.C. § 5310 will be coordinated with transportation services financed by other federal departments and agencies, including any transportation activities carried out by a recipient of federal assistance from the Department of Health and Human Services.
 - c. As required by 49 U.S.C. § 5310(e)(2)(B), it certifies that if it allocates to any Subrecipient federal assistance received under 49 U.S.C. § 5310, it will have allocated that federal assistance on a fair and equitable basis.
 - d. It will not transfer a facility or equipment acquired or improved with federal assistance appropriated or made available for a grant under 49 U.S.C. § 5310 to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53, unless:
 - (1) The recipient possessing the facility or equipment consents to the transfer, and
 - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5310.
 - e. As required by 49 U.S.C. § 5310(b)(2), it will use at least fifty-five (55) percent of the federal assistance it receives for Capital Projects to meet the special needs of seniors and individuals with disabilities.
 - f. The requirements of 49 U.S.C. § 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized by 49 U.S.C. § 5310.
2. FTA has determined that certain requirements of 49 U.S.C. § 5307 are appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, some of which require Certifications. Therefore, as specified under 49 U.S.C. § 5307(c)(1), it certifies that:
- a. It has or will have and will require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have and will require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award or Subaward.
 - c. It will maintain and will require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award or Subaward, in accordance with the recipient's transit asset management plan.
 - d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, it will require each Subrecipient to comply with:
 - (1) The applicable general provisions of 49 U.S.C. § 5323, and
 - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.

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- e. With respect to the non-federal share:
 - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5310,
 - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
 - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
- f. It has complied or will comply and will require each Subrecipient to comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
- g. To the extent applicable, it will comply and require its Subrecipients to comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).

CATEGORY 16. RURAL AREAS AND APPALACHIAN DEVELOPMENT PROGRAMS.

Before FTA may provide federal assistance for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311(b), as amended by FAST Act, and the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. § 5311(c)(2), as amended by FAST, you must select the Certifications in Category 16 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 16 that does not apply will not be enforced.

16.A. Formula Grants for Rural Areas Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311, as amended by FAST Act, the Certifications in Category 16.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications apply to each state or state organization serving as your Applicant for federal assistance appropriated or made available for the Rural Areas Formula Program financed under 49 U.S.C. § 5311(b), as amended by FAST Act. On its behalf, you certify and assure that:

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1. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
4. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
5. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service authorized by 49 U.S.C. § 5311(b) with transportation service financed by other federal sources.
6. Its Awards and Subawards in its Formula Grants for Rural Areas Program are included in:
 - a. The statewide transportation improvement program, and
 - b. To the extent applicable, a metropolitan transportation improvement program.
7. With respect to the non-federal share:
 - a. It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by former 49 U.S.C. § 5311(g),
 - b. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
 - c. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
8. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.
9. Each fiscal year:
 - a. It will spend at least fifteen (15) percent of its federal assistance authorized under 49 U.S.C. § 5311 and available that fiscal year for eligible activities to develop and support intercity bus transportation within the state including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus facilities,
 - (3) Joint-use facilities,
 - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects, and

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- (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
- b. It will provide to FTA a Certification from the governor of the state that:
 - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the state, and
 - (2) The state's intercity bus service needs are being met adequately.

16.B. Appalachian Development Public Transportation Assistance Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. § 5311(c)(2), the Certification in Category 16.C applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, in addition to other Certifications and Assurances it must provide, if it is unable to use its federal assistance made available or appropriated for public transportation operating assistance, in accordance with 49 U.S.C. § 5311(c)(2)(D), it may use the federal assistance for a Highway Project only after:

1. It provides notice and an opportunity for comment and appeal to affected public transportation providers,
2. It approves such use in writing, and
3. In approving the use, it determines that local transit needs are being addressed.

CATEGORY 17. TRIBAL TRANSIT PROGRAMS (PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAMS).

Before FTA may provide federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), you must select the Certifications in Category 17 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 17 that does not apply will not be enforced.

FTA has established terms and conditions for Tribal Transit Program grants financed with federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). On behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.

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2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
4. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
5. With respect to its procurement system:
 - a. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, for Awards made on or after December 26, 2014,
 - b. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
 - c. It will inform FTA promptly that its procurement system does not comply with either of those U.S. DOT regulations.
6. It will comply with the Buy America requirements under 49 U.S.C. § 5323(j), as amended by FAST Act, and FTA regulations, "Buy America Requirements," 49 CFR part 661.
7. It will comply with the Certifications, Assurances, and Agreements in:
 - a. Category 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
 - b. Category 05.B (Bus Testing),
 - c. Category 06 (Demand Responsive Service),
 - d. Category 07 (Intelligent Transportation Systems), and
 - e. Category 10 (Alcohol and Controlled Substances Testing).

CATEGORY 18. STATE SAFETY OVERSIGHT GRANT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the State Safety Oversight Grant Program authorized under 49 U.S.C. § 5329(e)(6), you must select the Certifications in Category 18 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 18 that does not apply will not be enforced.

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On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award.
4. When carrying out a procurement under its Award, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
5. As required by 49 U.S.C. § 5329(e)(6)(C):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share only from sources approved by FTA, and will not be met by:
 - (1) Any federal assistance,
 - (2) Any funds received from a public transportation agency, or
 - (3) Any revenues earned by a public transportation agency, and
 - c. Will provide the non-federal share when needed.
6. It meets the applicable requirements of FTA regulations, "Rail Fixed Guideway Systems: State Safety Oversight," 49 CFR part 659.
7. It has received or will receive an FTA certification upon a determination that its State Safety Oversight Program meets the requirements of 49 U.S.C. § 5329(e) and is adequate to promote the purposes of 49 U.S.C. § 5329.

CATEGORY 19. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Public Transportation Emergency Relief Program authorized under 49 U.S.C. § 5324, you must select the Certifications in Category 19 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Assurance in Category 19 that does not apply will not be enforced.

As required by 49 U.S.C. § 5324(d), on behalf of your Applicant, you assure that it will:

1. Comply with the requirements of the Certifications and Assurances as FTA determines will apply to an Applicant for federal assistance appropriated or made available for the Public Transportation Emergency Relief Program, and
2. Comply with FTA regulations, "Emergency Relief," 49 C.F.R. part 602.

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CATEGORY 20. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Expedited Project Delivery Pilot Program authorized under section 3005(b) of the FAST Act, you must select the Certifications in Category 20 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

To the extent that any Certification in Category 20 does not apply, it will not be enforced.

As required by section 3005(b)(3)(B) of the FAST Act, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the recipient's transit asset management plan.
4. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

CATEGORY 21. INFRASTRUCTURE FINANCE PROGRAMS.

Before FTA may provide credit assistance for an Award financed under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program authorized under 23 U.S.C. §§ 601 – 609, or the State Infrastructure Banks (SIB) Program authorized under 23 U.S.C. § 610, you must select the Certifications in Category 23 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 21 that does not apply will not be enforced.

21.A. Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the TIFIA Program authorized under 23 U.S.C. §§ 601 – 609 the Certifications and Assurances in Category 23.A applies to your Applicant, except as FTA determines

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otherwise in writing. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.

On behalf of your Applicant, you certify and assure, as required by 49 U.S.C. § 5323(o), that federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, apply to any Project under 49 U.S.C. chapter 53 that receives TIFIA credit assistance under 23 U.S.C. §§ 601 – 609.

1. To comply with 49 U.S.C. § 5307, specifically 49 U.S.C. § 5307(c)(1), on its behalf, you certify that:
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
 - d. For transportation during non-peak hours and using or involving a facility or equipment of an Award financed using 49 U.S.C. § 5307 funds, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
 - e. When carrying out a TIFIA-financed procurement, it will comply with:
 - (1) The applicable provisions of 49 U.S.C. § 5323, and
 - (2) The applicable provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
 - g.
 - (1) It has or will have no more than 80 percent of the Total Award Budget as the sum of all federal grants and any TIFIA-financed awards,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
 - h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.

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- i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.
- j. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).
2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award that must be in compliance with those requirements unless:
 - a. It is eligible to receive federal assistance for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).
4. Pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 5321 *et seq.*, it will receive an environmental categorical exclusion, a finding of no significant impact, or a record of decision under NEPA for its Award before obligating federal assistance.
5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. § 5326(d), when required.

21.B. State Infrastructure Banks (SIB) Program.

If your Applicant is a state and seeks federal assistance from FTA financed under the SIB Program authorized under 23 U.S.C. § 610, the Certifications and Assurances in Category 23.B applies to your state and its Award, except as FTA determines otherwise in writing. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.

On behalf of the state organization serving as your Applicant for federal assistance for its SIB Program, you certify and assure that:

1. It will comply with the following applicable federal laws establishing the various SIB Programs since 1995:
 - a. 23 U.S.C. § 610, as amended by the FAST Act,
 - b. 23 U.S.C. § 610 or its predecessor before the FAST Act was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or
 - d. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181.
2. It will comply with or follow the Cooperative Agreement establishing the state's SIB Program between:
 - a. It and FHWA, FRA, and FTA, or
 - b. It and FHWA and FTA.

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3. It will comply with or follow the Grant Agreement that provides federal assistance from FTA for the SIB and is between it and FTA, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that any provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
 - a. 23 U.S.C. § 610, as amended by the FAST Act,
 - b. 23 U.S.C. § 610 or its predecessor before the FAST Act was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181 note,
 - d. Federal guidance pertaining to the SIB Program,
 - e. The Cooperative Agreement establishing the state's SIB Program, or
 - f. The Grant Agreement with FTA.
4. As required by 49 U.S.C. § 5323(o), federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, as amended by the FAST Act, apply to any Award under 49 U.S.C. chapter 53 that receives SIB support or financing under 23 U.S.C. § 610 (or any support from 23 U.S.C. §§ 601 – 609).
5. As required by 49 U.S.C. § 5323(o) and 49 U.S.C. § 5307(c)(1):
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
 - d. When using or involving a facility or equipment acquired or improved with federal assistance under a SIB-financed Award during non-peak hours for transportation, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
 - e. When carrying out a procurement under a SIB-financed Award, it will comply with:
 - (1) The applicable general provisions of 49 U.S.C. § 5323, and
 - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).

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- g. (1) It has or will have the amount of funds required for the non-federal share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
 - h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
 - i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.
 - j. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).
6. As required by 49 U.S.C. chapter 53, it certifies that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award unless:
- a. It is eligible to receive federal assistance for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, as FTA may require.
7. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. § 5326(d).

GROUP CATEGORY 22. PAUL S. SARBANES TRANSIT IN PARKS PROGRAM

Before FTA may provide federal assistance for an Award financed under the Paul S. Sarbanes Transit in Parks Program authorized under former 49 U.S.C. § 5320, in effect in FY 2012 or a previous fiscal year, except as superseded by FAST Act requirements that apply you must select the Certifications in Category 22 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 22 that does not apply will not be enforced.

- 1. Except as superseded by the FAST Act cross-cutting requirements that apply, the following Certifications and Assurances for the Paul S. Sarbanes Transit in Parks Program (Parks Program) are required by former 49 U.S.C. § 5320, in effect in FY 2012 or a previous fiscal year. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

- a. It will consult with the appropriate federal land management agency during the planning process, and
 - b. The requirements of former 49 U.S.C. § 5307, as determined by FTA, will apply to the Parks Program authorized by former 49 U.S.C. § 5320.
2. FTA has determined certain requirements of former 49 U.S.C. § 5307 to be appropriate for the Parks Program, of which some require Certifications. Therefore, as specified under former 49 U.S.C. § 5307(d)(1), except as superseded by the FAST Act cross-cutting requirements that apply, you certify that:
- a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award.
 - d. When carrying out a procurement under former 49 U.S.C. § 5320, it will comply and will require each Subrecipient to comply with the following provisions:
 - (1) Competitive procurement (as defined or approved by FTA) requirements of 49 U.S.C. § 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. § 5323(h),
 - (3) “Buy America” requirements under 49 U.S.C. § 5323(j), as amended by the FAST Act, and FTA regulations, “Buy America Requirements,” 49 CFR part 661,
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. § 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. § 5325(e), and
 - (6) “Veterans Preference/Employment” requirements under 49 U.S.C. § 5325(k).
 - e. It will comply with other applicable requirements under 49 U.S.C. § 5323 and § 5325.
 - f. It has complied or will comply with the requirements of former 49 U.S.C. § 5307(c), and specifically:
 - (1) It has made or will make available to the public information on the amounts available for the Parks Program, former 49 U.S.C. § 5320, and the Projects it proposes to implement under its Award,
 - (2) It has developed or will develop, in consultation with interested parties including private transportation providers, Projects to be financed under its Award,
 - (3) It has published or will publish a list of proposed Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed Projects and submit comments on the proposed Projects and its performance,

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- (4) It has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed Projects,
 - (5) It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
 - (6) It has made or will make the final list of Projects for which an Award is sought available to the public.
- g. With respect to the non-federal share:
- (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5320,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
- h. It has complied or will comply with and will require each Subrecipient to comply with:
- (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
- i. It has a locally developed process to solicit and consider public comment before:
- (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.

CATEGORY 23. CONSTRUCTION HIRING PREFERENCES.

Before FTA may provide federal assistance for a third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C. using a geographic, economic, or any other hiring preference not otherwise authorized by federal law or regulation, you must select the Certifications in Category 23 on behalf of your Applicant in addition to other Certifications you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 23 that does not apply will not be enforced.

As provided by section 192 of division L, title I of the Consolidated Appropriations Act, 2016, Pub. L. 114-113, on behalf of your Applicant, you certify that if, in connection with any third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C., it uses a geographic, economic, or any other hiring preference not otherwise authorized by law or prohibited under 2 CFR § 200.319(b):

1. Except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

work that the third party contract requires resides in the jurisdiction where the work will be performed;

2. It will include appropriate provisions in its bid document ensuring that its third party contractor(s) do not displace any of its existing employees in order to satisfy such hiring preference; and
3. That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

Selection and Signature Page(s) follow.

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

**FEDERAL FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES FOR
FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS**
(Signature pages alternative to providing Certifications and Assurances in TrAMS)

Name of Applicant: _____

The Applicant agrees to comply with applicable provisions of Categories 01 – 23. _____
OR

The Applicant agrees to comply with applicable provisions of the Categories it has selected:

<u>Category</u>	<u>Description</u>	
01.	Required Certifications and Assurances for Each Applicant.	_____
02.	Lobbying.	_____
03.	Procurement and Procurement Systems.	_____
04.	Private Sector Protections.	_____
05.	Rolling Stock Reviews and Bus Testing.	_____
06.	Demand Responsive Service.	_____
07.	Intelligent Transportation Systems.	_____
08.	Interest and Financing Costs and Acquisition of Capital Assets by Lease.	_____
09.	Transit Asset Management Plan and Public Transportation Agency Safety Plan.	_____
10.	Alcohol and Controlled Substances Testing.	_____
11.	Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement).	_____
12.	State of Good Repair Program.	_____
13.	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs.	_____
14.	Urbanized Area Formula Grants Programs and Passenger Ferry Grant Program.	_____
15.	Seniors and Individuals with Disabilities Programs.	_____
16.	Rural Areas and Appalachian Development Programs.	_____
17.	Tribal Transit Programs (Public Transportation on Indian Reservations Programs).	_____
18.	State Safety Oversight Grant Program.	_____
19.	Public Transportation Emergency Relief Program.	_____
20.	Expedited Project Delivery Pilot Program.	_____
21.	Infrastructure Finance Programs.	_____
22.	Paul S. Sarbanes Transit in Parks Program.	_____
23.	Hiring Preferences	_____

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

FEDERAL FISCAL YEAR 2016 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE
(Required of all Applicants for federal assistance to be awarded by FTA and all FTA Grantees with an active Capital or Formula Award)

AFFIRMATION OF APPLICANT

Name of the Applicant: _____

Name and Relationship of the Authorized Representative: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2016, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during federal fiscal year 2016.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute.

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature _____ Date: _____

Name _____
Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature _____ Date: _____

Name _____
Attorney for Applicant

Each Applicant for federal assistance to be awarded by FTA and each FTA Recipient with an active Capital or Formula Project or Award must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within FTA's electronic award and management system, provided the Applicant has on file and uploaded to FTA's electronic award and management system this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.



AGENDA ACTION FORM

Issuance of Certificate of Compliance for Retail Food Stores to Sell Wine

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

Action Form No.: AF-104-2016
Work Session: May 2, 2016
First Reading: N/A

Final Adoption: May 3, 2016
Staff Work By: Angie Marshall
Presentation By: Jim Demming

Recommendation:

Approve the issuance of a Certificate of Compliance to the following retail food store to sell wine.

- KenJo Market #17, 2209 West Stone Drive

Executive Summary:

This is an application for a retail food store who has 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.

This application has met the requirements of TCA 57-3-806. Police background checks have been conducted on the applicant with nothing found that would prevent receiving this certificates. Planning has also verified the business is properly zoned.

Attachments:

None

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



AGENDA ACTION FORM

Apply for and Accept a Section 5339b Bus and Bus Facilities Discretionary Program 2016 Funding Opportunity Grant, Federal Transit Administration Grant (FTA-2016-002-TPM) from the U.S. Department of Transportation

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

Action Form No.: AF-106-2016
 Work Session: May 2, 2016
 First Reading: N/A

Final Adoption: May 3, 2016
 Staff Work By: KATS staff
 Presentation By: Chris McCartt

Recommendation:

Approve the Resolution.

Executive Summary:

The Board of Mayor and Alderman is required to approve a resolution authorizing the filing for the Federal Transit Administration (Opportunity ID: FTA-2016-002-TPM) Grant Program 5339b Bus and Bus Facilities Discretionary Program, in order to secure Capital funding for Phase 2 of the KATS new transit center. Phase 2 would include construction of the Bus Storage and Maintenance building and associated parking area. The total project cost for Phase 2 of the transit center including, construction, professional services, other costs and owner's contingency is outline below.

If awarded, funding to fulfill the local match has been budgeted in the FY 2017 CIP.

Capital Assistance (80%) Federal; (10%) Local; (10%) State	Local	State	Federal	Total
Engineering & Design	35,000	35,000	280,000	350,000
Construction	365,000	365,000	2,920,000	3,650,000
TOTAL CAPITAL	\$400,000	\$400,000	\$3,200,000	\$4,000,000

Attachments:

1. Resolution
2. Supplemental Information

Funding source appropriate and funds are available: 

	Y	N	O
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 A SECTION 5339b BUS AND BUS FACILITIES DISCRETIONARY PROGRAM 2016 FUNDING OPPORTUNITY GRANT FEDERAL TRANSIT ADMINISTRATION GRANT FROM THE UNITED STATES DEPARTMENT OF TRANSPORTATION

WHEREAS, in order to secure capital funding for phase 2 of the KATS new transit center, the city is required to authorize the filing for the Federal Transit Administration (Opportunity ID: FTA-2016-002-TPM) Grant Program 5339b Bus and Bus Facilities Discretionary Program; and

WHEREAS, phase 2 of the project consists of the bus storage and maintenance building and associated parking area; and

WHEREAS, the total amount of the grant opportunity would be for \$4,000,000.00, and requires a 10% local match; and

WHEREAS, the \$400,000.00 local match has been provided by the city FY 2017 CIP.

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 (Opportunity ID: FTA-2016-002-TPM) Grant Program 5339b Bus and Bus Facilities Discretionary Program, in the total amount \$4,000,000.00.00, including a \$400,000.00 local match.

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 3rd day of May, 2016.

JOHN CLARK, MAYOR

ATTEST:

JAMES H. DEMMING, CITY RECORDER

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, CITY ATTORNEY

Kingsport Area Transit Service Transit Facility Needs Assessment

Figure 5.3: Refined Foundry Site Sketch



In November and December 2014, visualizations of the proposed transit facility were prepared (Appendix E). Through the preparation of the visualizations, the layout of the transit center was revised, building materials and additional site amenities were enhanced or added, the bus storage and maintenance garage was reoriented, and the footprint of the site was expanded to encompass a parking area for visitors and transit riders (as shown in Figure 5.4).

Figure 5.4: Visualization of Proposed KATS Facility



