



BOARD OF MAYOR AND ALDERMEN BUSINESS MEETING AGENDA

Tuesday, December 03, 2024 at 7:00 PM

City Hall, 415 Broad Street, Montgomery-Watterson Boardroom

Board of Mayor and Aldermen

Mayor Paul W. Montgomery, Presiding
Vice Mayor Darrell Duncan
Alderman Morris Baker
Alderman Betsy Cooper

Alderman Colette George
Alderman Gary Mayes
Alderman James Phillips

Leadership Team

Chris McCartt, City Manager
Michael Borders, Assistant City Manager
Bart Rowlett, City Attorney
Lisa Winkle, City Recorder/Treasurer
John Morris, Budget Director
Scott Boyd, Fire Chief

Ryan McReynolds, Deputy City Manager
Jessica Harmon, Assistant City Manager
Tyra Copas, Human Resources Director
Dale Phipps, Police Chief
Adrienne Batara, Public Relations Director
Floyd Bailey, Chief Information Officer

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE TO THE FLAG - New Vision Youth

III. INVOCATION – Pastor Randy Frye, First Broad Street United Methodist Church

IV. ROLL CALL

V. RECOGNITIONS AND PRESENTATIONS

VI. COMMENT

Citizens may speak on agenda items and 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. A total of thirty minutes is allocated for public comment.

VII. APPOINTMENTS

VIII. APPROVAL OF MINUTES

- [1.](#) November 18, 2024 - Work Session
- [2.](#) November 19, 2024 - Business Meeting

IX. BUSINESS MATTERS REQUIRING FIRST READING AND/ OR PUBLIC HEARINGS

- [1.](#) Consideration of a Budget Adjustment Ordinance for Various Funds in FY2025 (AF-322-2024) (Chris McCartt)

X. BUSINESS MATTERS REQUIRING FINAL ADOPTION

- [1.](#) Consideration of an Ordinance Amending Chapter 2 Article V Division 4 Public Art Committee (AF-295-2024) (Michael T. Borders)
- [2.](#) Consideration of a Budget Ordinance for Various Funds FY25 (AF-304-2024) (Chris McCartt)
- [3.](#) Consideration of an Ordinance to Reallocate ARPA Funding Between Projects (AF-311-2024) (Lisa Winkle)
- [4.](#) Consideration of an Ordinance to Amend the FY 2025 General Purpose School Fund Budget (AF-309-2024) (David Frye)
- [5.](#) Consideration of an Ordinance to Amend the FY 2025 School Projects Fund Budget (AF-313-2024) (David Frye)

XI. OTHER BUSINESS

- [1.](#) Consideration of a Resolution Authorizing the Mayor to Execute All Documents Necessary for School Nutrition Services LINQ Connect Service Agreement (AF-326-2024) (David Frye)
- [2.](#) Consideration of a Resolution to Authorize the Mayor to Sign All Documents Necessary to Apply and Receive the Assistance to Firefighters (AFG) Grant through the U.S. Fire Administration of the Federal Emergency Management Administration (FEMA) Division of the Department of Homeland Security (DHS) (AF-324-2024) (Scott Boyd)
- [3.](#) Consideration of a Resolution to Approve Tennessee Department of Health, Healthy Built Environment Amended Grant Contract and Authorize the Mayor to Execute All Documents (AF-318-2024) (Michael Borders)

- [4.](#) Consideration of a Resolution Authorizing the Mayor to Execute All Documents Necessary to Apply for and Accept a Safety Training Grant from the Tennessee Department of Transportation (AF-323-2024) (Candace Sherer)
- [5.](#) Consideration of a Resolution Amending an Economic Development Contribution to the Industrial Development Board of Kingsport and Authorizing One or More Agreements Pertaining to the Same (AF-328-2024) (Chris McCartt)
- [6.](#) Consideration of a Resolution to Authorize the Mayor to Renew an Interlocal Agreement with Sullivan County to Allow a Lease Agreement for the Use of Space at 225 W. Center Street by Create Appalachia (AF-333-2024) (Steven Bower)
- [7.](#) Consideration of a Resolution to Renew a Lease Agreement with Create Appalachia and to Allow the Mayor to Sign all Documents Necessary and Proper as they Pertain to the Lease (AF-329-2024) (Steven Bower)
- [8.](#) Consideration of a Resolution to Execute Agreement with Kimley-Horn and Associates, INC. for the Creation of the Kingsport Comprehensive Plan and Land Use Map (AF-330-2024) (Jessica Harmon)
- [9.](#) Consideration of a Resolution Authorizing the City Manager to Execute a Purchase Order for a Centegix Safety Platform and CrisisAlert System from Central Technologies for Kingsport City Schools (AF-310-2024) (David Frye)

XII. CONSENT AGENDA

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

- [1.](#) Consideration of Approval of Offer for Right-of-Ways and Easements for the Reedy Creek Trunkline Sanitary Sewer Improvement Project – Lovedale to Clinchfield (AF-321-2024) (Ryan McReynolds)
- [2.](#) Consideration of a Resolution to Accept a Donation from The Encounter (AF-319-2024) (Scott Boyd)
- [3.](#) Consideration of a Resolution Authorizing the Mayor to Sign a Survey & Appraisal Permission Form for Appalachian Power Company (AF-334-2024) (Michael T. Borders)

XIII. COMMUNICATIONS

1. City Manager
2. Mayor and Board Members

XIV. ADJOURN



BOARD OF MAYOR AND ALDERMEN WORK SESSION MINUTES

Monday, November 18, 2024 at 4:30 PM

City Hall, 415 Broad Street, Montgomery - Watterson Boardroom

Board of Mayor and Aldermen

Mayor Paul W. Montgomery, Presiding
Vice Mayor Darrell Duncan
Alderman Morris Baker
Alderman Betsy Cooper

Alderman Colette George
Alderman Gary Mayes
Alderman James Phillips

- I. **CALL TO ORDER** by Mayor Montgomery.
- II. **ROLL CALL** by City Recorder/Treasurer Lisa Winkle.
- III. **DISCUSSION ITEMS**

1. **Petworks Update** - Michelle Watts

John Campbell gave a presentation on this item due to the absence of Ms. Watts. Mr. Campbell discussed the mission of the shelter and provided statistics over the last year. He also provided details on the budget by highlighting significant revenues, expenditures and fundraising efforts. Discussion ensued throughout as he answered questions from the board.

The City Manager provided further details on the related agenda item and how to move forward. He also presented budgetary information and how the specifics of this item have changed. Budget Director John Morris provided further information and answered questions.

2. **Roads & Paving Update** - Michael Thompson

Public Works Director Michael Thompson presented this item and provided an overview of transportation. He defined the mission and gave details on the data driven process utilized. He highlighted the ongoing projects and provided details on grants, answering questions during the presentation. Lastly, Mr. Thompson discussed future projects that will be presented to the board. There was some discussion throughout.

BOARD OF MAYOR AND ALDERMEN WORK SESSION MINUTES

Monday, November 18, 2024, at 4:30 PM

Kingsport City Hall, 415 Broad Street, Boardroom

Deputy City Manager Ryan McReynolds then gave an update on paving, discussing the Pave Kingsport initiative and its sustainability. He pointed out the program goal is to manage a data driven and defensible resurfacing effort. He presented statistical data that provides a guide to indicate where the work needs to be done. Mr. McReynolds stated staff is pursuing options to maintain the effort and funding needs.

IV. REVIEW OF BUSINESS MEETING AGENDA

City staff gave a summary for each item on the November 19, 2024 proposed agenda. The following items were discussed at greater length or received specific questions of concerns.

IX.1 Consideration of an Ordinance Amending Chapter 2 Article V Division 4 Public Art Committee (AF-295-2024) Assistant City Manager Michael Borders provided details on this item, discussing how the management structure has changed in the cultural arts office. He stated in conjunction with Engage Kingsport the identity and mission of cultural arts was redefined and revamped with the existing public art committee to better encompass their overview. This ordinance is a result which changes the name, the representatives and the responsibility. It depicts the broadened scope to anything related to public art in Kingsport by adding a new definition.

V. ITEMS OF INTEREST

1. Projects Status Report

Alderman George expressed disappointment with the housing data received from KHRA. She stated there is a need to make changes in how they market and prioritize to people outside the area. She commented the Lee property is completely out of our hands and stating we are going down the wrong path and need to fix the problem.

Alderman Phillips agreed provided statistics on the housing vouchers. Additionally, he mentioned the Housing Authority statistics show there is an issue at KHRA, and he would like staff to come back with a plan. He also discussed how some of the Christmas decorations area outside was totally trashed and pointed out there's a difference between homelessness and vagrancy.

Alderman Baker also agreed remarking we need ordinances and a judicial system that will back them up. He commented on the PETWORKS item, asking staff to do more research on the loan and possibly deferring the vote tomorrow night. The City Manager recommended to vote as is, but that it could defer action. The City Attorney stated he will correct the resolution to reflect this.

Vice Mayor Duncan and Alderman Cooper agreed with the previous comments.

BOARD OF MAYOR AND ALDERMEN WORK SESSION MINUTES

Monday, November 18, 2024, at 4:30 PM

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The Mayor asked Mr. McCartt to look at KHRA's structure and to provide options to the board. He also pointed out a meeting is being coordinated regarding the homeless.

VI. ADJOURN

Seeing no other business for consideration, Mayor Montgomery adjourned the meeting at 6:49 p.m.

ANGELA MARSHALL

Deputy City Recorder

PAUL W. MONTGOMERY

Mayor



BOARD OF MAYOR AND ALDERMEN BUSINESS MEETING MINUTES

Tuesday, November 19, 2024 at 7:00 PM

City Hall, 415 Broad Street, Montgomery-Watterson Boardroom

Board of Mayor and Aldermen

Mayor Paul W. Montgomery, Presiding

Vice Mayor Darrell Duncan

Alderman Morris Baker

Alderman Betsy Cooper

Alderman Colette George

Alderman Gary Mayes

Alderman James Phillips

City Administration

Chris McCartt, City Manager

Bart Rowlett, City Attorney

Lisa Winkle, City Recorder/Treasurer

Angie Marshall, City Clerk/Deputy City Recorder

I. **CALL TO ORDER** 7:00 pm by Mayor Montgomery.

II. **PLEDGE OF ALLEGIANCE TO THE FLAG** led by New Vision Youth

III. **INVOCATION** led by Greg Burton, Colonial Heights Baptist Church (retired).

IV. **ROLL CALL** by City Recorder/Treasurer Lisa Winkle.

V. RECOGNITIONS AND PRESENTATIONS

1. **Small Business Saturday Proclamation** - Alderman Baker

VI. COMMENT

Mayor Montgomery invited citizens in attendance to speak. There being no one coming forward to speak, the mayor closed the public comment section.

VII. APPOINTMENTS *(These items are approved under one motion.)*

Motion made by Alderman George, Seconded by Alderman Baker.

Passed: All present voting "aye."

1. **Consideration of Appointment to the Kingsport Economic Development Board** (AF-307-2024) (Mayor Montgomery)

BOARD OF MAYOR AND ALDERMEN BUSINESS MEETING MINUTES

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Kingsport City Hall, 415 Broad Street, Boardroom

APPOINT TED FIELDS TO THE KINGSPORT ECONOMIC DEVELOPMENT BOARD TO FULFILL THE UNEXPIRED TERM OF ROBERT HARSHBARGER EFFECTIVE IMMEDIATELY AND EXPIRING JANUARY 1, 2028

- 2. Consideration of Appointments to the Employee Dependent Scholarship Program (AF-312-2024) (Mayor Montgomery)**

APPOINT JAY CLINE AND MADISON GREENE TO THE EMPLOYEE DEPENDENT SCHOLARSHIP PROGRAM EFFECTIVE IMMEDIATELY AND EXPIRING AUGUST 1, 2027

VIII. APPROVAL OF MINUTES *(These items are approved under one motion.)*

Motion made by Vice Mayor Duncan, Seconded by Alderman Cooper.

Passed: All present voting "aye."

- 1. November 4, 2024 - Work Session**
- 2. November 5, 2024 - Business Meeting**
- 3. November 12, 2024 - Strategic Planning Session**

IX. BUSINESS MATTERS REQUIRING FIRST READING AND/ OR PUBLIC HEARINGS

- 1. Consideration of an Ordinance Amending Chapter 2 Article V Division 4 Public Art Committee (AF-295-2024) (Michael Borders)**

Motion made by Alderman George, Seconded by Alderman Phillips.

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, CHAPTER 2, ARTICLE V, DIVISION 4 RELATING TO THE PUBLIC ARTS COMMITTEE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

- 2. Consideration of an Ordinance to Amend the 2025 General Purpose School Fund Budget (AF-309-2024) (David Frye)**

Motion made by Alderman Baker, Seconded by Alderman Cooper.

AN ORDINANCE TO AMEND THE GENERAL PURPOSE SCHOOL FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2025; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

- 3. Consideration of an Ordinance to Amend the 2025 School Special Project Fund Budget (AF-313-2024) (David Frye)**

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Motion made by Alderman Phillips, Seconded by Alderman Baker.

AN ORDINANCE TO AMEND THE FY 2025 SCHOOL SPECIAL PROJECTS FUND BUDGET;
AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

- 4. Consideration of a Budget Adjustment Ordinance for Various Funds in FY2025 (AF-304-2024) (Chris McCartt)**

Motion made by Vice Mayor Duncan, Seconded by Alderman George.

AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR THE YEAR ENDING JUNE 30, 2025; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

- 5. Consideration of an Ordinance to Reallocate ARPA Funding Between Projects to Ensure it is Spent or Encumbered by December 31, 2024 (AF-311-2024) (Lisa Winkle)**

Motion made by Alderman George, Seconded by Alderman Mayes.

AN ORDINANCE TO AMEND THE GENERAL PROJECT-SPECIAL REVENUE FUND BUDGET AND THE GENERAL PROJECT FUND BUDGET BY REALLOCATING AMERICAN RESCUE PLAN ACT FUNDS BETWEEN PROJECTS FOR THE YEAR ENDING JUNE 30, 2025; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

X. BUSINESS MATTERS REQUIRING FINAL ADOPTION None.

XI. OTHER BUSINESS

- 1. Consideration of a Resolution Renewing the Agreement for the Rental of a Caterpillar PM312 Cold Planer Roadway Milling Machine and Laymor Sweeper Closed Cab SM450 from Stowers Machinery and Authorizing the City Manager to Execute the Rental Agreement for the Same (AF-306-2024) (Ryan McReynolds)**

Motion made by Vice Mayor Duncan, Seconded by Alderman Mayes.

RESOLUTION NO. 2025-094 A RESOLUTION AUTHORIZING THE RENEWAL OF AN AGREEMENT FOR THE RENTAL OF A CATERPILLAR PM312 COLD PLANER ROADWAY MILLING MACHINE AND A LAYMOR SWEEPER CLOSED CAB SM450 TO STOWERS MACHINERY CORPORATION AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR THE SAME

Passed: All present voting "aye."

BOARD OF MAYOR AND ALDERMEN BUSINESS MEETING MINUTES

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2. **Consideration of a Resolution to Apply for and Receive Apprenticeship Training Grant from First Tennessee Development District (AF-305-2024) (Tyra Copas)**

Motion made by Alderman Mayes, Seconded by Alderman Baker.

RESOLUTION NO. 2025-095 A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE AN APPRENTICESHIP TRAINING GRANT FROM THE FIRST TENNESSEE DEVELOPMENT DISTRICT

Passed: All present voting "aye."

3. **Consideration of a Resolution Authorizing the Mayor to Accept a Donation from Ballad Health for a Reset Room for Ross N. Robinson Middle School (AF-308-2024) (David Frye)**

Motion made by Vice Mayor Duncan, Seconded by Alderman Mayes.

RESOLUTION NO. 2025-096 A RESOLUTION ACCEPTING A DONATION FROM BALLAD HEALTH ON BEHALF OF ROSS N. ROBINSON MIDDLE SCHOOL AND AUTHORIZING THE MAYOR TO ACCEPT FUTURE DONATIONS AND SIGN ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

Passed: All present voting "aye."

4. **Consideration of a Resolution Authorizing the City Manager to Execute a Purchase Order for a Wrestling Mat and Wall Pad for Dobyns-Bennett High School from Resilite Sports Products (AF-316-2024) (David Frye)**

Motion made by Alderman Phillips, Seconded by Alderman Cooper.

RESOLUTION NO. 2025-097 A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO RESILITE FOR A WRESTLING MAT AND WALL PAD FOR DOBYNS-BENETT HIGH SCHOOL

Passed: All present voting "aye."

5. **Consideration of a Resolution to Amend an Agreement with Petworks Animal Services, Inc. (AF-314-2024) (Chris McCartt)**

Motion made by Vice Mayor Duncan, Seconded by Alderman George.

RESOLUTION NO. 2025-098 A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH PETWORKS ANIMAL SERVICES, INC. TO PROVIDE FUNDS FOR THE BUILDING CAPITAL CAMPAIGN 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."

BOARD OF MAYOR AND ALDERMEN BUSINESS MEETING MINUTES

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Kingsport City Hall, 415 Broad Street, Boardroom

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

Motion made by Vice Mayor Duncan, Seconded by Alderman Cooper.

Passed as presented with a roll call vote: Alderman Baker, Alderman Cooper, Vice Mayor Duncan, Alderman George, Alderman Mayes, Alderman Phillips, Mayor Montgomery

1. **Consideration of a Resolution to Accept a Donation from the Bays Mountain Park Association for the Observation Tower** (AF-315-2024) (Michael T. Borders)

RESOLUTION NO. 2025-099 A RESOLUTION ACCEPTING A MONETARY DONATION FROM THE BAYS MOUNTAIN PARK ASSOCIATION FOR THE OBSERVATION TOWER PROJECT

2. **Consideration of Approval of Issuance of a Certificate of Compliance for a Business to Sell Retail Alcoholic Beverages** (AF-317-2024) (Lisa Winkle)
3. **Consideration of a Resolution to Approve Inclusion of the Kingsport City Schools in the Social Media Accountability Litigation and Authorizes the Director of Schools to Execute an Agreement with the Frantz Law Group to Represent the Kingsport City Schools** (AF-320-2024) (Bart Rowlett)

RESOLUTION NO. 2025-100 A RESOLUTION APPROVING THE INCLUSION OF THE KINGSFORT CITY SCHOOLS IN THE SOCIAL MEDIA ACCOUNTABILITY LITIGATION AND AUTHORIZING THE DIRECTOR OF SCHOOLS TO EXECUTE AN AGREEMENT RETAINING THE FRANTZ LAW GROUP TO REPRESENT THE KINGSFORT CITY SCHOOLS

XIII. COMMUNICATIONS

1. **City Manager**

Report on Debt Obligation

Mr. McCartt presented a report on debt obligation to be spread across the minutes. He also mentioned the new landscaping at Church Circle made possible through a unique partnership with Beverly Purdue and Keep Kingsport Beautiful who raised the funding to maintain it as well. On behalf of city staff, he wished the board and citizens a Happy Thanksgiving, noting many city offices will be closed during an abbreviated week next week for the holiday. He encouraged citizens to check the website for schedules.

BOARD OF MAYOR AND ALDERMEN BUSINESS MEETING MINUTES

Tuesday, November 19, 2024 at 7:00 PM

Kingsport City Hall, 415 Broad Street, Boardroom

2. Mayor and Board Members

Alderman Baker remarked the board had just come from DB Dome and stated it's a nice facility and he's proud of it. He also commented on the homeless issue and destruction of property discussion yesterday at the work session stating he would like to look at the city ordinances in place to address and enforce related violations and if they should be strengthened. Alderman Phillips stated the carousel is doing twilight rides in the month of December on Thursday nights in conjunction with Christmas at the Carousel. He stated the paving update at work session yesterday provided good information and showed progress was being made and for citizens to check PAVEKingsport.com for updates. Alderman Mayes echoed previous comments and stated he was excited for the DKA grant. He gave a shoutout to the DB Band who competed nationally in Indianapolis last weekend noting he was proud of them. Alderman Cooper stated the Christmas trees will be in Kingsport tomorrow and they will be going up next week for people to decorate. She also commented on the new Christmas bulbs downtown. She mentioned the Lamplight Christmas show and noted they just had a ribbon cutting on a new coffee shop inside the Emporium. Alderman George mentioned the downtown Christmas tree lighting and parade is December 7 and the Santa Train is this coming Saturday. She also reminded everyone we had a favorable sales tax report and encouraged citizens to shop local and support small business. She also wished everyone a Happy Thanksgiving. Vice Mayor Duncan congratulated the band for finishing tenth in the nation as well as the football team for making it to the playoffs. He noted improvement from Domtar as they have been working hard over the last month and gave details on their progress. Lastly, he wished everyone a Happy Thanksgiving. Mayor Montgomery congratulated Kingsport City Schools for academic achievements for the 8th year in a row. Last week attended graduation at the North facility recovery center and support is the key to success of that program. He thanked the BMA and staff for Strategic Planning Session last week and moving it forward.

XIV.ADJOURN

Seeing no other business for consideration, Mayor Montgomery adjourned the meeting at 7:42 p.m.

ANGELA MARSHALL
Deputy City Recorder

PAUL W. MONTGOMERY
Mayor



AGENDA ACTION FORM

Consideration of a Budget Ordinance for Various Funds FY25

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

Action Form No.: AF-322-2024
Work Session: December 2, 2024
First Reading: December 3, 2024
Final Adoption: December 17, 2024
Staff Work By: Morris
Presentation By: McCartt

Recommendation:

Approve the Budget Ordinance

Executive Summary:

The General Fund is being amended by accepting a \$1,800 donation to the Fire Department from The Encounter for specialized Rescue Equipment and by transferring \$69,585 from the Police Patrol Salaries line to the To CDBG Fund to meet matching requirements for the Emergency Solutions Grant.

The Community Development Block Grant Fund is being amended by appropriating \$69,585 from the General Fund to the Emergency Solution Grant project (CD2517).

The General Project-Special Revenue Fund is being amended by transferring \$348,804 from the Miscellaneous Project (NC2325) to the Contracted Landscaping project (GP2508) in the amount of \$250,000, to the Contracted Landscaping project (NC2402) in the amount of \$17,585 to cover overages and close the project, to the General Landscaping project (NC2509) in the amount of \$53,969, and by returning \$27,250 to the General Fund for use in the Fire Facilities/Capital project (GP2208). It also transfers \$28,445 from the Street Resurfacing project (NC2300) to the Street Resurfacing project (NC2503) and transfers \$12,800 from the I-26 Gateway Enhancements project (NC2237) to the General Landscaping project (NC2509). It closes NC2237 and NC2402.

The General Project Fund be amended by transferring \$59,072 from the General Park Improvements project (GP2106), \$6,300 from the Facilities ADA project (GP1909), and \$26,807 from the Faci Maint-Improv HVAC project (GP2009) for a total of \$92,179 to the Facilities Maintenance project (GP2506). It also appropriates \$27,250 from the General Fund to the Fire Facilities/Capital project (GP2208). It closes GP1909 and GP2009.

Attachments:

- 1. Budget Ordinance

Item IX1.

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Phillips	—	—	—
Vacancy	—	—	—
Montgomery	—	—	—

ORDINANCE NO.

AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR
THE YEAR ENDING JUNE 30, 2025; AND, TO FIX THE
EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Fund be amended by accepting a donation from The Encounter for specialized Rescue Equipment to the From Corporations line (110-0000-364.20-00) and appropriated to the Operating Supplies & Tool line (110-3505-451.30-20), by reducing the To Gen Proj-Special Rev line (110-4804-481.70-35) by \$27,250 and increasing the General Project Fund line (110-4804-481.70-36) by \$27,250, and by transferring \$69,585 from the Salaries & Wages line (110-3030-443.10-10) to the To CDBG Fund line (110-4804-481.70-55) to meet matching requirements for the Emergency Solutions Grant.

SECTION II. That the Community Development Block Grant Fund be amended by appropriating \$69,585 from the General Fund to the Emergency Solution Grant project (CD2517).

SECTION III. That the General Project-Special Revenue Fund be amended by transferring \$348,804 from the Misc Project project (NC2325) to the Contracted Landscaping project (NC2508) in the amount of \$250,000, to the Contracted Landscaping project (NC2402) in the amount of \$17,585, to the General Landscaping project (NC2509) in the amount of \$53,969, and returning \$27,250 to the General Fund for use in the Fire Facilities/Capital project (GP2208), by transferring \$28,445 from the Street Resurfacing project (NC2300) to the Street Resurfacing project (NC2503), and by transferring \$12,800 from the I-26 Gateway Enhancements project (NC2237) to the General Landscaping project (NC2509). Close NC2237 and NC2402.

SECTION IV. That the General Project Fund be amended by transferring \$59,072 from the General Park Improvements project (GP2106), \$6,300 from the Facilities ADA project (GP1909), and \$26,807 from the Faci Maint-Improv HVAC project (GP2009) for a total of \$92,179 to the Facilities Maintenance project (GP2506) and by appropriating \$27,250 from the General Fund to the Fire Facilities/Capital project (GP2208). Close GP1909 and GP2009.

Fund 110: General Fund

Account Number/Description:

Revenues:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
110-0000-364.20-00 From Corporations	0	1,800	1,800
Total:	0	1,800	1,800

Expenditures:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
110-3030-443.10-10 Salaries & Wages	4,202,760	(69,585)	4,133,175
110-3505-451.30-20 Operating Supplies & Tool	8,323	1,800	10,123
110-4804-481.70-35 To Gen Proj-Special Rev	2,480,152	(27,250)	2,452,902
110-4804-481.70-36 General Project Fund	6,936,074	27,250	6,963,324
110-4804-481.70-55 To CDBG Fund	0	69,585	69,585
Total:	13,627,309	1,800	13,629,109

Gen Proj-Special Rev Fund: 111

Misc Projects (NC2325)

Account Number/Description:

Revenues:

111-0000-391.01-00 From General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$ 1,348,804	\$ (348,804)	\$ 1,000,000
Total:	1,348,804	(348,804)	1,000,000

Expenditures:

111-0000-601.90-04 Equipment

	\$ 1,348,804	\$ (348,804)	\$ 1,000,000
Total:	1,348,804	(348,804)	1,000,000

Contracted Landscaping (NC2508)

Account Number/Description:

Revenues:

111-0000-391.01-00 From General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$ 0	\$ 250,000	\$ 250,000
Total:	0	250,000	250,000

Expenditures:

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

	\$ 0	\$ 250,000	\$ 250,000
Total:	0	250,000	250,000

Contracted Landscaping (NC2402)

Account Number/Description:

Revenues:

111-0000-391.01-00 From General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$ 207,313	\$ 17,585	\$ 224,898
Total:	207,313	17,585	224,898

Expenditures:

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

	\$ 207,313	\$ 17,585	\$ 224,898
Total:	207,313	17,585	224,898

I-26 Gateway Enhancements (NC2237)

Account Number/Description:

Revenues:

111-0000-391.01-00 From General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$ 50,000	\$ (12,800)	\$ 37,200
Total:	50,000	(12,800)	37,200

Expenditures:

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

	\$ 50,000	\$ (12,800)	\$ 37,200
Total:	50,000	(12,800)	37,200

General Landscaping (NC2509)

Account Number/Description:

Revenues:

111-0000-391.01-00 From General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$ 0	\$ 66,769	\$ 66,769
Total:	0	66,769	66,769

Expenditures:

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

	\$ 0	\$ 66,769	\$ 66,769
Total:	0	66,769	66,769

Streets Resurfacing (NC2300)

Account Number/Description:

Revenues:

111-0000-331.95-00 American Rescue Plan Act

111-0000-391.01-00 From General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$ 1,227,518	\$ 0	\$ 1,227,518
	3,169,083	(28,445)	3,140,638
Total:	4,396,601	(28,445)	4,368,156

Expenditures:

111-0000-601.20-22 Construction Contracts

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

	\$ 3,871,601	\$ 355,047	\$ 4,226,648
	525,000	(383,492)	141,508
Total:	4,396,601	(28,445)	4,368,156

Streets Resurfacing (NC2503)

Account Number/Description:

Revenues:

111-0000-391.01-00 From General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$ 1,800,000	\$ 28,445	\$ 1,828,445
Total:	1,800,000	28,445	1,828,445

Expenditures:

111-0000-601.20-22 Construction Contracts

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

	\$ 1,800,000	\$ (9,226)	\$ 1,790,774
	0	37,671	37,671
Total:	1,800,000	28,445	1,828,445

CDBG Fund: 124
Emergency Solutions Grant (CD2517)

Account Number/Description:

Revenues:

124-0000-337.49-00 Housing & Urban Dev
 124-0000-391.01-00 From General Fund

Total:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	126,613	0	126,613
	0	69,585	69,585
Total:	126,613	69,585	196,198

Expenditures:

124-0000-603.10-10 Salaries & Wages
 124-0000-603.30-10 Office Supplies

Total:

	\$	\$	\$
	120,000	69,585	189,585
	6,613	0	6,613
Total:	126,613	69,585	196,198

General Project Fund: 311
General Park Improvements (GP2106)

Account Number/Description:

Revenues:

311-0000-364.20-00 From Corporations
 311-0000-364.30-00 From Non-Profit Groups
 311-0000-368.10-55 Series 2017 A GO Bonds
 311-0000-368.10-66 Series 2019 GO Improvement
 311-0000-368.21-01 Premium From Bond Sale
 311-0000-391.01-00 From General Fund
 311-0000-391.69-00 Visitor Enhancement Fund

Total:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	2,000	0	2,000
	13,000	0	13,000
	26,950	0	26,950
	11,128	0	11,128
	2,104	0	2,104
	165,809	(59,072)	106,737
	5,824	0	5,824
Total:	226,815	(59,072)	167,743

Expenditures:

311-0000-601.90-03 Improvements

Total:

	\$	\$	\$
	226,815	(59,072)	167,743
Total:	226,815	(59,072)	167,743

Facilities ADA (GP1909)

Account Number/Description:

Revenues:

311-0000-368.10-55 Series 2017 A GO Bonds
 311-0000-368.10-66 Series 2019 GO Improvement
 311-0000-368.21-01 Premium From Bond Sale

Total:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
	172,598	0	172,598
	319,907	(6,300)	313,607
	35,163	0	35,163
Total:	527,668	(6,300)	521,368

Expenditures:

311-0000-601.40-41 Bond Sale Expense
 311-0000-601.90-03 Improvements

Total:

	\$	\$	\$
	7,668	0	7,668
	520,000	(6,300)	513,700
Total:	527,668	(6,300)	521,368

Faci Maint-Improv HVAC (GP2009)

Account Number/Description:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
311-0000-368.10-56 GO Bonds Series 2018 A	1,850	(1,850)	0
311-0000-368.10-66 Series 2019 GO Improvement	440,452	0	440,452
311-0000-368.21-01 Premium From Bond Sale	39,590	0	39,590
311-0000-391.01-00 From General Fund	295,680	(24,957)	270,723
Total:	775,722	(26,807)	750,765

Expenditures:

311-0000-601.20-22 Construction Contracts	298,672	(18,530)	280,142
311-0000-601.20-23 Arch/Eng/Landscaping	15,875	(500)	15,375
311-0000-601.40-41 Bond Sale Expense	5,042	0	5,042
311-0000-601.90-03 Improvements	457,983	(7,777)	450,206
Total:	775,722	(26,807)	750,765

Facilities Improvements (GP2506)

Account Number/Description:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
311-0000-368.10-56 GO Bonds Series 2018 A	0	1,850	1,850
311-0000-368.10-66 Series 2019 GO Improvement	0	6,300	6,300
311-0000-391.01-00 From General Fund	0	84,029	84,029
Total:	0	92,179	92,179

Expenditures:

311-0000-601.90-03 Improvements	0	92,179	92,179
Total:	0	92,179	92,179

Fire Facilities/Capital (GP2208)

Account Number/Description:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
311-0000-331.95-00 American Rescue Plan Act	11,129	0	11,129
311-0000-368.10-69 GO Bonds Series 2021	276,150	0	276,150
311-0000-368.21-01 Premium From Bond Sale	27,121	0	27,121
311-0000-391-01.00 From General Fund	7,500	27,250	34,750
Total:	321,900	27,250	349,150

Expenditures:

311-0000-601.40-41 Bond Sale Expense	3,271	0	3,271
311-0000-601.90-03 Improvements	318,629	27,250	345,879
Total:	321,900	27,250	349,150

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

PAUL W. MONTGOMERY, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

PASSED ON 1ST READING:

PASSED ON 2ND READING:



AGENDA ACTION FORM

Consideration of an Ordinance Amending Chapter 2 Article V Division 4 Public Art Committee

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

Action Form No.: AF-295-2024
Work Session: November 18, 2024
First Reading: November 19, 2024
Final Adoption: December 3, 2024
Staff Work By: Committee
Presentation By: Michael T. Borders

Recommendation:

Approve the Resolution.

Executive Summary:

If approved the City will amend Sections 2-410, 2-412, and 2-413 of the City of Kingsport Municipal Code.

Kingsport Cultural Arts Division is responsible for special events, the Kingsport Carousel, the Kingsport Farmer’s Market, and the city’s arts related programs. After several discussions with the public art committee, we jointly developed changes to the municipal code as it relates to the existing Public Art Committee to better align the committee to the responsibilities of Kingsport Cultural Arts and to be more encompassing of the art community.

This ultimately led to the Public Art Committee at their called meeting on October 21st recommending changes to the related sections of the Municipal Code. The primary changes include:

1. Composition: Changes the name from “Public Art Committee” to “Cultural Arts Commission”. Changes membership from recommending specific groups to representatives “committed to further cultural arts in Kingsport”.
2. Added responsibilities for advising on the operations of the carousel and carousel gift shop funds (equivalent to the Bays Mountain Park Commission structure). Changed “Public Art” to “Cultural Arts”.
3. Defined Public Art as, “art commissioned by the Cultural Arts Commission utilizing public funds or art located on public property that is intended to be permanent or semi-permanent in nature.”

Attachments:

1. Ordinance

	<u>Y</u>	<u>N</u>	<u>O</u>
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayes	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

Item X1.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, CHAPTER 2, ARTICLE V, DIVISION 4 RELATING TO THE PUBLIC ARTS COMMITTEE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That Chapter 2, Article V, Division 4 of the Code of Ordinances, City of Kingsport, Tennessee, is hereby amended to read as follows:

Sec. 2-409. Name and purpose.

The Public Art Committee is hereby renamed as the Cultural Arts Commission whose purpose is to advance cultural arts programs, partnerships, initiatives, and provide guidance and support to the department of leisure services for matters related to cultural arts.

Sec. 2-410. Composition.

The Cultural Arts Commission shall be composed of seven members. Members shall be committed to furthering cultural arts in Kingsport.

- (1) The members of the commission shall be appointed by the mayor with the approval of the board of mayor and aldermen.
- (2) The members of the commission shall serve terms of three years.
- (3) Any member of the Commission with unauthorized absences from three consecutive meetings shall be deemed to have resigned from the commission. A successor shall be appointed to fill the vacancy as provided in this section.
- (4) If a vacancy occurs on the commission, the mayor shall appoint a new member to fill the unexpired term. Such appointment shall be approved by the board of mayor and aldermen.
- (5) The members of the commission shall serve without compensation.

Sec. 2-411. Meetings; election of officers.

(a) The members of the Cultural Arts Commission shall meet in regular session and organize themselves by electing from their number a chairperson, vice-chairperson and a secretary. Each person elected shall hold office for one year or until a successor is elected and qualified. Four members shall constitute a quorum.

(b) The Cultural Arts Commission shall meet in regular session but no less than quarterly, and the time and place shall be decided by a vote of the members. It shall be the duty of the chairperson to preside over all meetings of the Commission. In the absence of the chairperson, the vice-chairperson shall preside. The secretary shall keep a record of all proceedings of the commission. Special meetings may be called by the chairperson or by any four voting members of the commission. The Cultural Arts Commission may have such sub-committees as it deems appropriate.

Sec. 2-412. Administration; funding.

(a) The cultural arts division of the city shall be responsible for administering cultural arts programs.

(b) The Cultural Arts Commission, subject to the administrative guidance of the city manager, or designee, and control of the Board of Mayor and Aldermen, shall be responsible for the development of public art policies and guidelines as laid out in Sec. 2-413 and advise on all matters related to cultural arts. The commission is also responsible for advising on the operations of the carousel as well as public art and carousel gift shop funds.

(b) Cultural arts projects and initiatives in the city may be funded from the capital improvement plan. The public art reserve fund may receive up to 0.75 percent of eligible general fund capital improvement project funds, up to a maximum of \$75,000.00 per project, at the time construction of an eligible project is initiated provided there are sufficient funds. Up to 0.50 percent of eligible general fund capital improvement project funds may be used for the selection, design and development of works of public art with priority given to the particular capital improvement project generating funds and 0.25 percent of eligible general fund capital improvement project funds may go to the public art fund for maintenance of the city's public art, marketing and public education, programs, and initiatives regarding cultural arts provided there are sufficient funds.

Sec. 2-413. Public art policy.

(a) Public Art shall be defined as art commissioned by the Cultural Arts Commission utilizing public funds or art located on public property that is intended to be permanent or semi-permanent in nature.

(b) The Cultural Arts Commission shall develop public art policies and guidelines for consideration by the Board of Mayor and Aldermen. It shall also establish a plan and a priority for public art projects within the city limits. The commission may establish selection committees for each individual public art project and oversee the request for proposal process. All matters concerning public art shall first be referred to the Cultural Arts Commission for consideration, coordination and recommendation to the Board of Mayor and Aldermen. The Cultural Arts Commission shall serve in an advisory capacity to the board of mayor and aldermen for all matters involving cultural arts.

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

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

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



AGENDA ACTION FORM

Consideration of a Budget Ordinance for Various Funds FY25

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

Action Form No.: AF-304-2024
Work Session: November 18, 2024
First Reading: November 19, 2024
Final Adoption: **December 3, 2024**
Staff Work By: Morris
Presentation By: McCartt

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
The General Fund is accepting \$13,524 from State Farm for reimbursement for the repair of damaged fiber optic cable, \$6,737 from State Farm for reimbursement for the repair of the damaged Splash Pad sign, and \$59,072 from Travelers for reimbursement for the repairs to the complex at the Eastman soccer fields. It's accepting \$6,500,000 from the State of Tennessee for the creation of a Dental Clinic.

The General Project-Special Revenue Fund is accepting a donation from the Bay Mountain Park Association in the amount of \$61,725 for the Observation Tower.

The State Street Aid Fund is being increased by appropriating \$13,524 from the Geneal Fund for Traffic Signal Supplies.

The General Project Fund is appropriating \$65,809 from the General Fund for General Park Improvements, appropriating \$6,500,000 from the General Fund for the Dental Clinic, and appropriating \$50,000 from the General Fund for a Large Format Printer for the Traffic Division.

Attachments:
1. Budget Ordinance

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayes	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

Item X2.

ORDINANCE NO.

AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR
THE YEAR ENDING JUNE 30, 2025; AND, TO FIX THE
EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Fund be amended by increasing the Miscellaneous line (110-0000-368.99-00) by \$79,333 by accepting \$13,524 from State Farm for reimbursement for the repair of damaged fiber optic cable, \$6,737 from State Farm for reimbursement for the repair of the damaged Splash Pad sign, and \$59,072 from Travelers for reimbursement for the repairs to the complex at the Eastman soccer fields, by increasing the Direct Appropriation line (110-0000-332.57-00) by accepting \$6,500,000 from the State of Tennessee for the creation of a Dental Clinic, increasing the To State Street Aid Fund line (110-4804-481.70-23) by \$13,524, decreasing the To Gen Proj-Special Rev line (110-4804-481.70-35) by \$50,000, and increasing the To General Project Fund line (110-4804-481.70-36) by \$6,615,809.

SECTION II. That the General Project-Special Revenue Fund be amended by reducing the Misc Projects project (NC2325) by \$50,000 to be returned to the General Fund to be transferred to the General Project Fund for use in the Large Format Printer project (GP2505) and by appropriating \$61,725 from the Bay Mountain Park Association to the Observation Tower project (NC2415).

SECTION III. That the State Street Aid Fund be increased by appropriating \$13,524 from the General Fund to the Traffic Signal Supplies line (121-4024-461.30-27).

SECTION IV. That the General Project Fund be amended by appropriating \$65,809 from the General Fund to the General Park Improvements project (GP2106), \$6,500,000 from the General Fund to the Dental Clinic project (GP2504) and appropriating \$50,000 from the General Fund to the Large Format Printer project (GP2505).

Fund 110: General Fund

Account Number/Description:

Revenues:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
110-0000-332.57-00 Direct Appropriation	900,000	6,500,000	7,400,000
110-0000-368.99-00 Miscellaneous	200,000	79,333	279,333
Total:	1,100,000	6,579,333	7,679,333

Expenditures:

	\$	\$	\$
110-4804-481.70-23 To State Street Aid Fund	1,146,250	13,524	1,159,774
110-4804-481.70-35 To Genl Proj-Special Rev	2,530,152	(50,000)	2,480,152
110-4804-481.70-36 General Project Fund	320,265	6,615,809	6,936,074
Total:	3,996,667	6,579,333	10,576,000

Gen Proj-Special Rev Fund: 111

Misc Projects (NC2325)

Account Number/Description:

Revenues:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
111-0000-391.01-00 From General Fund	\$ 1,398,804	\$ (50,000)	\$ 1,348,804
Total:	1,398,804	(50,000)	1,348,804

Expenditures:

111-0000-601.90-04 Equipment

111-0000-601.90-04 Equipment	\$ 1,398,804	\$ (50,000)	\$ 1,348,804
Total:	1,398,804	(50,000)	1,348,804

Observation Tower (NC2415)

Account Number/Description:

Revenues:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
111-0000-332.69-00 Miscellaneous Other State	\$ 100,000	\$ 0	\$ 100,000
111-0000-364.30-00 From Non-Profit Groups	0	61,725	61,725
111-0000-391.62-00 Bays Mtn Park Comm Fund	60,000	0	60,000
Total:	130,000	61,725	221,725

Expenditures:

111-0000-601.90-03 Improvements

111-0000-601.90-03 Improvements	\$ 160,000	\$ 61,725	\$ 221,725
Total:	160,000	61,725	221,725

Fund 121: State Street Aid Fund

Account Number/Description:

Revenues:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
121-0000-391.01-00 From General Fund	\$ 1,126,250	\$ 13,524	\$ 1,139,774
Total:	1,126,250	13,524	1,139,774

Expenditures:

121-4024-461.30-27 Traffic Signal Supplies

121-4024-461.30-27 Traffic Signal Supplies	\$ 128,943	\$ 13,524	\$ 142,467
Total:	128,943	13,524	142,467

General Project Fund: 311
General Park Improvements (GP2106)

Account Number/Description:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
Revenues:			
311-0000-364.20-00 From Corporations	2,000	0	2,000
311-0000-364.30-00 From Non-Profit Groups	13,000	0	13,000
311-0000-368.10-55 Series 2017 A GO Bonds	26,950	0	26,950
311-0000-368.10-66 Series 2019 GO Improvement	11,128	0	11,128
311-0000-368.21-01 Premium From Bond Sale	2,104	0	2,104
311-0000-391.01-00 From General Fund	100,000	65,809	165,809
311-0000-391.69-00 Visitor Enhancement Fund	5,824	0	5,824
Total:	161,006	65,809	226,815

Expenditures:

311-0000-601.90-03 Improvements	161,006	65,809	226,815
Total:	161,006	65,809	226,815

Dental Clinic (GP2504)

Account Number/Description:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
Revenues:			
311-0000-391.01-00 From General Fund	0	6,500,000	6,500,000
Total:	0	6,500,000	6,500,000

Expenditures:

311-0000-601.90-03 Improvements	0	6,500,000	6,500,000
Total:	0	6,500,000	6,500,000

Large Format Printer (GP2505)

Account Number/Description:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
Revenues:			
311-0000-391.01-00 From General Fund	0	50,000	50,000
Total:	0	50,000	50,000

Expenditures:

311-0000-601.90-04 Equipment	0	50,000	50,000
Total:	0	50,000	50,000

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

PAUL W. MONTGOMERY, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

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



AGENDA ACTION FORM

Consideration of an Ordinance to Reallocate ARPA Funding Between Projects

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

Action Form No.: AF-311-2024
Work Session: November 18, 2024
First Reading: November 19, 2024
Final Adoption: **December 3, 2024**
Staff Work By: Lisa Winkle
Presentation By: Lisa Winkle

Recommendation:
Approve the Ordinance.

Executive Summary:
The city received American Rescue Plan Act funding totaling \$10,356,906. As of September 30, 2024 Kingsport has used \$8,652,074 leaving a balance of \$1,704,832.

Of this remaining amount \$1,406,444 that was allocated to the GP2300 Library Renovations has not been spent or encumbered. Since the construction contract has not been awarded yet, we need to swap the ARPA funding in GP2300 for cash from general fund in GP2400 Street Resurfacing. There is also unencumbered ARPA funds in GP2208 Fire Training Facility of \$6,174 and GP1516 Main Street of \$35,917 which will be swapped out with cash from general fund in Street Resurfacing GP2400. The total reallocated to GP2400 Street Resurfacing is \$1,448,535.

There is unspent ARPA funding in NC2208 IT Cybersecurity of \$1,084 and NC2218 Senior Center of \$35,602 that can be swapped out for general fund cash in NC2217 Allandale Improvements. NC2217 has expenses and encumbrances that will qualify for the ARPA funding. Total ARPA funding going to NC2217 is \$36,686.

All ARPA funding must be encumbered by December 31, 2024 and spent by December 31, 2026.

Attachments:
1. Ordinance

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayer	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

Item X3.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT-SPECIAL REVENUE FUND BUDGET AND THE GENERAL PROJECT FUND BUDGET BY REALLOCATING AMERICAN RESCUE PLAN ACT FUNDS BETWEEN PROJECTS FOR THE YEAR ENDING JUNE 30, 2025; 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 reallocating American Rescue Plan Act grant funds between projects to allow the grant funds to be spent or encumbered by December 31, 2024. Total funding for each project will remain the same.

Account Number/Description:

Fund 111: General Project-Special Revenue Fund **Budget** **Incr/(Decr)** **New Budget**
IT Cybersecurity (NC2208)

Revenues:

111-0000-331-9500 American Rescue Plan Act	\$ 140,000	\$ (1,084)	\$ 138,916
111-0000-391-0100 Transfer from General Fund	0	1,084	1,084
	140,000	0	140,000

Senior Cener Improvements (NC2218)

Revenues:

111-0000-331-9500 American Rescue Plan Act	\$ 225,000	\$ (35,602)	\$ 189,398
111-0000-391-0100 Transfer from General Fund	0	35,602	35,602
	225,000	0	225,000

Allandale Improvements (NC2217)

Revenues:

111-0000-331-9500 American Rescue Plan Act	\$ 285,000	\$ 36,686	\$ 321,686
111-0000-391-0100 Transfer from General Fund	204,486	(36,686)	167,800
	489,486	0	489,486

SECTION II. That the General Project Fund budget be amended by reallocating American Rescue Plan Act grant funds between projects to allow the grant funds to be spent or encumbered by December 31, 2024. Total funding for each project will remain the same.

Account Number/Description:
Fund 311: General Project Fund
Fire Training Facility (GP2208)

Revenues:

311-0000-331-9500 American Rescue Plan Act	\$ 11,129	\$ (6,174)	\$ 4,955
311-0000-391-0100 Transfer from General Fund	7,500	6,174	13,674
	<u>18,629</u>	<u>0</u>	<u>18,629</u>

Main Street (GP1516)

Revenues:

311-0000-331-9500 American Rescue Plan Act	\$ 35,917	\$ (35,917)	\$ 0
311-0000-391-0100 Transfer from General Fund	512,981	35,917	548,898
	<u>548,898</u>	<u>0</u>	<u>548,898</u>

Library Renovations (GP2300)

Revenues:

311-0000-331-9500 American Rescue Plan Act	\$ 1,478,444	\$ (1,406,444)	\$ 72,000
311-0000-391-0100 Transfer from General Fund	1,000,000	1,406,444	2,406,444
	<u>2,478,444</u>	<u>0</u>	<u>2,478,444</u>

Street Resurfacing (GP2400)

Revenues:

311-0000-331-9500 American Rescue Plan Act	\$ 3,400,000	\$ 1,448,535	\$ 4,848,535
311-0000-391-0100 Transfer from General Fund	2,022,277	(1,448,535)	573,742
	<u>5,422,277</u>	<u>0</u>	<u>5,422,277</u>

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

 PAUL W. MONTGOMERY, Mayor

ATTEST:

 ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

 RODNEY B. ROWLETT III, City Attorney

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



AGENDA ACTION FORM

Consideration of an Ordinance to Amend the FY 2025 General Purpose School Fund Budget

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

Action Form No.: AF-309-2024
Work Session: November 18, 2024
First Reading: November 19, 2024
Final Adoption: **December 3, 2024**
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:

Approve the Ordinance.

Executive Summary:

The Board of Education approved fiscal year 2025 budget amendment number two at their meeting on November 12, 2024. This amendment increases the General Purpose School Fund budget by \$854,536. The estimated revenue for Other Local Revenue and the appropriation for Robinson Capital Outlay will be increased by \$4,500 for a donation from Ballad Health to create a “Reset Room”. The estimated revenue for Other Local Revenue and various salary, benefit, and instructional supply accounts will be increased by \$149,536 to account for a grant from the Niswonger Foundation to provide tutoring services. The estimated revenue for Fund Balance Appropriations is and the appropriation for Technology Equipment is being increased by \$700,560. This will fund the purchase of the Centegix Safety Platform with Crisis Alert system. This system equips school staff with wearable alert devices, allowing them to activate an emergency alert instantly with a push of a button.

Attachments:

- 1. Ordinance

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayes	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PURPOSE
SCHOOL FUND BUDGET FOR THE FISCAL YEAR ENDING
JUNE 30, 2025; AND TO FIX THE EFFECTIVE DATE OF THIS
ORDINANCE

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

SECTION I. The General Purpose School Fund will be amended by increasing the estimated revenue for Other Local Revenue by \$153,976 and the estimated revenue for Unreserved Fund Balance Appropriations by \$700,560. The expenditure budget will be amended by increasing the appropriations Technology Equipment by \$700,560; by increasing the appropriation for Robinson Capital Outlay by \$4,500; and by increasing the appropriation for Adams, Kennedy, Lincoln, Roosevelt and Sevier Teacher Salary and Benefits and Instructional Supplies and Materials account by \$149,476.

Fund 141: General Purpose School Fund

<u>Revenues:</u>	\$	\$	\$
141-0000-369-4990 Other Local Revenue	860,000	153,976	1,013,976
141-0000-392-0100 Fund Balance Appropriations	3,117,979	700,560	3,818,539
<i>Totals</i>	<u>3,977,979</u>	<u>854,536</u>	<u>4,832,515</u>

<u>Expenditures:</u>	\$	\$	\$
141-7261-785-0790 Technology-Other Equipment	513,261	700,560	1,213,821
141-7605-871-0790 Robinson-Non-Inst Equip	23,087	4,500	27,587
141-7110-711-0116 Sevier-Teacher Salaries	3,321,300	40,154	3,361,454
141-7110-711-0201 Sevier-Social Security	197,200	2,490	199,690
141-7110-711-0204 Sevier-St Retirement	237,100	3,614	240,714
141-7110-711-0212 Sevier-Medicare	46,200	582	46,782
141-7110-711-0429 Sevier-Inst Supplies	38,700	600	39,300
141-7112-711-0116 Adams-Teacher Salaries	1,940,600	26,147	1,966,747
141-7112-711-0201 Adams-Social Security	123,400	1,621	125,021
141-7112-711-0204 Adams-St Retirement	135,900	2,353	138,253
141-7112-711-0212 Adams-Medicare	28,900	379	29,279
141-7112-711-0429 Adams-Inst Supplies	25,026	600	25,626
141-7116-711-0116 Roosevelt-Teacher Salaries	1,307,000	17,831	1,324,831
141-7116-711-0201 Roosevelt-Social Security	83,500	1,105	84,605
141-7116-711-0204 Roosevelt-St Retirement	96,300	1,605	97,905
141-7116-711-0212 Roosevelt-Medicare	19,500	259	19,759
141-7116-711-0429 Roosevelt-Inst Supplies	13,217	600	13,817
141-7130-711-0116 Kennedy-Teacher Salaries	1,204,800	25,718	1,230,518
141-7130-711-0201 Kennedy-Social Security	75,100	1,594	76,694
141-7130-711-0204 Kennedy-St Retirement	92,200	2,315	94,515
141-7130-711-0212 Kennedy-Medicare	17,500	373	17,873
141-7130-711-0429 Kennedy-Inst Supplies	13,495	600	14,095
141-7135-711-0116 Lincoln-Teacher Salaries	1,639,600	15,719	1,655,319
141-7135-711-0201 Lincoln-Social Security	103,600	975	104,575
141-7135-711-0204 Lincoln-St Retirement	122,500	1,415	123,915
141-7135-711-0212 Lincoln-Medicare	24,200	227	24,427

141-7135-7135-0429 Lincoln-Inst Supplies
Totals

20,577	600	21,177
11,463,763	854,536	12,318,299

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:

PAUL W. MONTGOMERY, Mayor

APPROVED AS TO FORM:

ANGELA MARSHAL, Deputy City Recorder

RODNEY B. ROWLETT, III, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____



AGENDA ACTION FORM

Consideration of an Ordinance to Amend the FY 2025 School Special Projects Fund Budget

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

Action Form No.: AF-313-2024
Work Session: November 18, 2024
First Reading: November 19, 2024
Final Adoption: **December 3, 2024**
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:

Approve the Ordinance.

Executive Summary:

The Board of Education approved fiscal year 2025 budget amendment number two at their meeting on November 12, 2024. This amendment increases the School Special Projects Fund budget by \$85,000. The estimated revenue for Other Local Revenue and the appropriations for the Melissa’s Hope project will be increased by \$85,000. These funds are provided to provide professional development, supplies, and equipment to supplement the special education programs at Dobyys-Bennett High School and John Sevier Middle School.

Attachments:

1. Ordinance

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayes	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

ORDINANCE NO. ****

**PRE-FILED
CITY RECORDER**

AN ORDINANCE TO AMEND THE FY 2025 SCHOOL SPECIAL PROJECTS FUND BUDGET; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the FY 2025 School Special Projects Fund budget be amended by increasing/(decreasing) appropriations for Grant funds to the following Grant projects.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
FRC025 Family Resource Center	10,000	0	10,000
HAG025 Homeless Assistance	10,000	0	10,000
KTIP25 Kingsport Truancy Intervention	53,720	0	53,720
PK5125 Pre-K Expansion Grant System-Wide	685,000	0	685,000
HOPE25 Melisa's Hope Grant	0	85,000	85,000
Transfer from General School Fund	65,000	0	65,000
<i>Totals:</i>	<u>823,720</u>	<u>85,000</u>	<u>908,720</u>

<u>Expenditures:</u>	\$	\$	\$
Instruction	749,900	27,732	777,632
Support Services	73,820	47,268	121,088
Non-Instructional Services	0	0	0
Capital Outlay	0	10,000	10,000
Other	0	0	0
<i>Totals:</i>	<u>823,720</u>	<u>85,000</u>	<u>908,720</u>

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

PAUL W. MONTGOMERY, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, City Attorney

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

City of Kingsport, Tennessee

Item X5.



AGENDA ACTION FORM

Consideration of a Resolution Authorizing the Mayor to Execute All Documents Necessary for School Nutrition Services LINQ Connect Services Agreement

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

Action Form No.: AF-326-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: Committee
Presentation By: David Frye

Recommendation:

Approve the Resolution

Executive Summary:

Effective January 1, 2022, the City entered into an agreement with EMS LINQ, Inc., formerly known as Titan School Solutions, for a new software package for School Nutrition Services. At this time, the vendor requests that a service agreement for LINQ Connect Services be executed. LINQ Connect, which is used by families in the district to add funds to their student accounts, has requested a renewal of their agreement.

The primary focus on the change is a replacement of the payment processor to a LINQ-provided solution, named LINQ Pay. Families will not see any changes as a result of this change. Accounting staff will have access to additional tools and reports that provide them with the ability to better manage incoming payments and reporting.

There is no cost to the district for this change.

Attachments:

- Resolution
- Agreement
- Addendum

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayes	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE
LINQ CONNECT SERVICES AGREEMENT AND ANY AND ALL
DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE
THE PURPOSE OF THIS RESOLUTION

WHEREAS, the city entered into an agreement with EMS LINQ, Inc., formerly known as Titan School Solutions, effective January 1, 2022, for School Nutrition Services software; and

WHEREAS, currently, the vendor requests execution of the LINQ Connect Services Agreement; and

WHEREAS, LINQ Connect, which is used by families in the district to add funds to their student accounts, has requested a renewal of their agreement. The primary focus on the change is a replacement of the payment processor to a LINQ-provided solution, named LINQ Pay. Families will not see any changes as a result of this change. Accounting staff will have access to additional tools and reports that provide them with the ability to better manage incoming payments and reporting.; and

WHEREAS, there is no cost to the city for this change.

Now therefore,

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

SECTION I. The LINQ Connect Services Agreement 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 LINQ Connect Services Agreement and to deliver the agreements and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreements and this resolution.

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the agreements that do not substantially alter the material provisions of the agreements, 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 December 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



LINQ CONNECT SERVICES AGREEMENT

This LINQ Connect Services Agreement (the "Agreement") is made on August 1, 2024 (the "Effective Date") by and between EMS LINQ, LLC ("LINQ"), and CITY OF KINGSPORT FOR ITS KINGSPORT CITY SCHOOLS ("Merchant" or "School District") with the address shown below.

The parties have caused their duly authorized representatives to execute this Agreement as of the dates set forth below.

MERCHANT: CITY OF KINGSPORT FOR ITS KINGSPORT CITY SCHOOLS EMS LINQ, LLC

Signature: _____

Signature: _____

Mark Fredericks

Name: _____

Name: Mark Fredericks

Title: _____

Title: Controller

Date: _____

Date: _____

Address: 400 CLINCHFIELD ST., STE 200

Address: 2801 Via Fortuna, Suite 400

KINGSPORT, TN 37660

Austin, TX 78746

Email: jwalker@k12k.com (Jennifer Walker - contact)

Email: accountmanagement@linq.com

(Note: The School District/Merchant must complete and sign pages 1, 6, 7, and 8 of this Agreement.)

1. Definitions. The terms not defined in this Section will have the meanings set forth in this Agreement.
 - a. "End User" means any person who uses any of the Services to establish an account, make a payment or receive information via the Services, including parents, guardians, Merchant staff (including administrators, faculty, agents, and staff), and any others who are authorized to access an account.
 - b. "Intellectual Property Rights" means any patents and applications thereto, copyrights, trademarks, service marks, trade names, domain name rights, trade secret rights, and all other intellectual property and proprietary rights.
 - c. "LINQ Connect" means the websites, mobile applications, or online services, including www.LINQConnect.com, provided by LINQ and its affiliates that enable payments to be made to a student's school account or accounts, or to Merchant, for fees, purchases, etc., using a credit card, debit card, electronic check or other payment method. LINQ Connect will have access to appropriate debit, credit and public access networks (the "Networks"), third-party processors (the "Processor"), and bank or banks (the "Settlement Bank"), each of which will be selected by LINQ.
 - d. "LINQ Pay" means the terminal hardware, virtual terminal, APIs, payment gateway, and swipe card terminal that may be utilized by Merchant to facilitate in-person payments. LINQ Pay will have access to appropriate Networks, Processor and Settlement Bank, each of which will be selected by LINQ.
 - e. "Services" means, collectively, LINQ Connect, LINQ Pay and any other services provided by LINQ to Merchant hereunder.

2. Provision of Services.
 - a. Access. LINQ will provide Merchant with access to the Services during the Term. LINQ will provide to Merchant the necessary passwords, security protocols and policies, network links or connections, and access protocols to allow Merchant and its Ends Users to access the Services. Merchant will be solely

- responsible for any unauthorized access to, or use of, the Services, and will notify LINQ promptly of any such unauthorized use known to Merchant.
- b. License. Subject to the terms and conditions of this Agreement, LINQ grants to Merchant a non-exclusive, non-sublicensable, non-transferable license during the Term to: (1) access and use Services; and (2) grant End Users the right to access and use the Services. Merchant is responsible for ensuring that End Users comply with the terms hereof.
 - c. Payment Methods. The Services will facilitate (at LINQ's option) some or all of the following: the acceptance of debit cards, credit cards and stored value cards, electronic transactions, the use of such forms of electronic funds transfer as LINQ may elect, including electronic transfers from Merchant's bank, the use of electronic checks, and the transfer of funds received from the Settlement Bank to Merchant's designated bank account.
 - d. Payment Processor. The provision of the Services to Merchant hereunder is subject to Merchant's acceptance of the Payment Processor Sub-Merchant Agreement provided to Merchant by LINQ, and Merchant agrees to abide by the terms set forth therein. LINQ reserves the right to change the Payment Processor, or add additional Payment Processors at any time, with or without prior notice to Merchant. Merchant agrees to be bound by the terms applicable to the new Payment Processor's services.
3. Payment Fees and Merchant Funds.
- a. Calculation of Payment Fees. The Services will calculate and add to the original sale transaction amount a processing-fee, service-fee, site-fee, or convenience-fee (collectively "Payment Fees"). Payment Fees will be charged as set forth in Exhibit A, attached hereto and incorporated herein by reference, which indicates a fee schedule that is paid by either the End User, Merchant, or divided between the End User and Merchant. The entire amount of the Payment Fees will be retained by LINQ as remuneration for providing the Services.
 - b. Routing and Control of Funds. LINQ shall act on Merchant's behalf with the Processor and the applicable Settlement Bank. Once an End User has made an online payment to Merchant, Merchant has sole discretion over the application and use of those funds, including providing refunds or returns. LINQ is not responsible for any funds, or Merchant's use of funds, after the End User submits a payment using the Services.
 - c. Chargebacks and Returns. If LINQ is assessed a chargeback or return from the Processor or Settlement Bank for any reason permitted under applicable law, Merchant agrees that LINQ may update any student account(s) associated with the chargeback or return and debit Merchant's designated bank account for the amount of the chargeback or return. Both parties agree that LINQ is not required to dispute a chargeback or return but may do so in its sole discretion. For clarity, applicable laws governing chargebacks and returns include, but are not limited to, the Fair Credit Billing Act (FCBA) of 1974, the Truth in Lending Act, and the Electronic Fund Transfer Act.
 - d. Processing Authorization Form. A completed Merchant ACH Processing Authorization Form (attached hereto as Exhibit B and incorporated herein by reference) is required for processing payments hereunder.
 - e. Taxes. If Merchant is a tax-exempt organization, then this provision does not apply. All fees owed by Merchant in connection with this Agreement are exclusive of, and Merchant will pay, all sales, use, excise and other taxes and applicable export and import fees, customs duties and similar charges that may be levied upon Merchant in connection with this Agreement, except for employment taxes for LINQ employees and taxes based on LINQ's net income. LINQ has no obligation to pay Merchant's taxes under any circumstances. If LINQ is compelled to pay taxes on Merchant's behalf, Merchant agrees to indemnify, defend and hold LINQ harmless for any and all such payments.
4. Relationship.
- a. LINQ and Merchant. LINQ and Merchant are independent contractors, and nothing in this Agreement or any attachment hereto will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties.
 - b. LINQ and End Users. End Users may supply data, including confidential data and personally identifiable information ("PII"), to utilize the Services, and may be able to retrieve PII associated with their account via desktop or mobile devices. PII submitted by End Users, whether via letter, voice, fax, email, chat, SMS, social media, mobile application, or browser, will be processed in accordance with LINQ's Terms of Service and Privacy Policy, available at www.linq.com.
 - c. Communication with End Users. Merchant hereby grants LINQ permission to use directory information to communicate with End Users and potential users to notify them of the Services, to communicate updates (such as features, functionality, availability, etc.), to respond to support requests, and to conduct normal

business. Communications may include any medium, including but not limited to email, text messages/SMS, in-app notifications, social media, and postal mail as deemed appropriate in LINQ's sole discretion. In all cases, LINQ's practices will conform to its then-current Privacy Policy.

5. Term and Termination.

- a. Term. The term of this Agreement shall begin on the Effective Date and shall continue in force for an initial term of twelve (12) months (the "Initial Term"). Unless either party notifies the other party of its intention to terminate this Agreement at least sixty (60) days prior to the end of the Initial Term or any Renewal Term, this Agreement will be automatically extended for a period of twelve (12) months (a "Renewal Term") on the same terms as stated herein. The Initial Term and any Renewal Terms shall be collectively referred to as the "Term".
- b. Termination for Cause. Either Party may terminate this Agreement for cause in the event of a material breach by the other party, which breach is not cured within thirty (30) days after written notice of such breach is provided to the other party.
- c. Termination by LINQ. LINQ may terminate this Agreement at any time upon written notice to Merchant in the event the provision of the Services hereunder is determined by LINQ in its sole discretion to violate any statute, regulation, rule, order or operating procedure enacted or promulgated by a governmental or judicial authority of competent jurisdiction, NACHA (or any similar industry organization with authority over the services), or in the event that any statute, regulation, rule, order or operating procedure is enacted or promulgated which effectively reduces or eliminates the fees charged by LINQ.

6. Indemnification. To the extent permitted by applicable law, each party agrees to indemnify, hold harmless and defend the other party, its shareholders, directors, officers, employees and agents from and against any third-party action, cause, claim, damage, debt, demand or liability, including reasonable costs and attorney's fees, arising out of or relating to such party's: (1) material breach of this Agreement; (2) violation of applicable federal, state and/or local law; and (3) gross negligence or willful misconduct in connection with its obligations under this Agreement. The indemnifying party's obligations are expressly conditioned upon each of the following: (x) the indemnified party will promptly notify the indemnifying party in writing of any threatened or actual claim or suit; (y) the indemnifying party will have sole control of the defense or settlement of any claim or suit; and (z) the indemnified party will cooperate with the indemnifying party to facilitate the settlement or defense of any claim or suit.

7. Access to Records. During the Term, LINQ shall maintain all preparatory books, records, documents, accounting ledgers, and similar materials related to Merchant transactions processed under this Agreement. Merchant transaction data is made available to Merchant for up to two (2) years online, and up to two (2) more subsequent years by mail.

8. Compliance with Laws, Rules, and Regulations. Services performed by LINQ pursuant to this Agreement shall be performed in accordance with all applicable federal, state, and city laws and any rules or regulations promulgated thereunder. In addition, LINQ has established and implemented policies and practices pursuant to applicable security rules and regulations relating to the security and safeguarding of payment data, including the Payment Card Industry Data Security Standards (PCI-DSS), as outlined more fully in its Terms of Service and Privacy Policy, available at www.linq.com.

9. Governing Law and Venue. This Agreement and any action related thereto will be governed and interpreted by and under the laws of the State of Texas, without giving effect to any conflicts of laws principles. Merchant hereby expressly consents to exclusive personal jurisdiction and venue in the state and federal courts for the county in which LINQ's principal place of business is located for any lawsuit arising from or relating to this Agreement. In the event of any dispute, the prevailing party will be entitled to collect from the other the fees and costs of litigation, including but not limited to attorneys' fees and expenses.

10. Amendment or Modification. LINQ reserves the right to modify the Services or change or add to the terms of this Agreement or any exhibit or attachment hereto at any time with electronic notice to Merchant or notice by such other means as LINQ may select, in a manner and at such time as LINQ deems reasonable. Such changes may be to any of the terms hereof, including but not limited to Payment Fees. If Merchant does not terminate this Agreement by providing written notice to LINQ within thirty (30) days following notification of any such change, then Merchant shall be deemed to have accepted the change. This Agreement may also be amended by written agreement between the parties hereto.

11. Ownership Rights. LINQ reserves all title and interest in and to the Services and any and all Intellectual Property Rights related thereto, including but not limited to any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by Merchant or any other party relating to the Services. The LINQ and LINQ Connect names and logos are registered trademarks of EMS LINQ, LLC, and no right or license is granted to use them without LINQ's express written permission.
12. DISCLAIMER OF WARRANTIES. EXCEPT AS PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED TO MERCHANT STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. THE SERVICES MAY BE SUBJECT TO LIMITATIONS OR ISSUES INHERENT IN THE USE OF THE INTERNET AND LINQ IS NOT RESPONSIBLE FOR ANY PROBLEMS OR OTHER DAMAGE RESULTING FROM SUCH LIMITATIONS OR ISSUES.
13. Limitation on All Damages. EXCEPT WITH RESPECT TO A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR MERCHANT'S PAYMENT OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT WHETHER IN CONTRACT, TORTS, OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED IN THE AGGREGATE, THE LESSOR OF THE TOTAL AMOUNT PAYABLE TO LINQ UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE ACT OR GIVING RISE TO THE LIABILITY OR TWENTY FIVE THOUSAND DOLLARS (\$25,000).
14. Disclaimer of Consequential Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOST PROFITS OR REVENUE OR FOR ANY INDIRECT, SPECIAL, COVER, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING UNDER THIS AGREEMENT AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, MERCHANT'S PAYMENT OBLIGATIONS HEREUNDER, OR TO THE EXTENT PROHIBITED BY APPLICABLE LAW. THE LIMITATIONS SET FORTH IN THIS SECTION 14 SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH CLAIMS ARE BROUGHT (CONTRACT, TORT, INCLUDING NEGLIGENCE OR OTHERWISE).
15. GENERAL PROVISIONS.
 - a. Survivability. Sections 3(a), 3(e), 6, 7, 9 and 11 through 15 will survive termination or expiration of this Agreement.
 - b. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.
 - c. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in effect.
 - d. Force Majeure. Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, denial of service attacks, fire, earthquake, flood, pandemic, health crisis, civil unrest, acts of terror, service disruptions involving hardware, software or power systems not within such party's reasonable control, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the cause of such delay and to resume performance as soon as possible.
 - e. Notices. Each party must deliver all notices or other communications required or permitted under this Agreement in writing by (1) a nationally recognized express mail service or (2) email. Notice by express mail service will be effective upon receipt or refusal of delivery. Notice by email will be effective when sent even if the sender receives a machine-generated message that delivery has failed, provided that the sender sends a tangible copy of the notice by express mail service with ten business days of sending the email message. Notice shall be delivered as set forth on the first page of this Agreement.
 - f. Professional Advice. All Services and other information provided by LINQ to Merchant in the normal course of business should be considered for informational purposes only and is not to be taken as professional legal advice.

- g. **Headings.** The bolded headings contained in the Agreement are for convenience of reference only, shall not be deemed to be a part of the Agreement and shall not be referred to in connection with the construction or interpretation of the Agreement.
- h. **Entire Agreement.** This Agreement and any schedules or exhibits attached hereto or referenced herein represent the entire agreement of the parties, and supersede all prior discussions, emails, and/or agreements, including requests for proposals between the parties, and is intended to be the final expression of their Agreement. To the extent there is a conflict between this Agreement and any additional or inconsistent terms, including any pre-printed terms on a Merchant purchase order, the terms of this Agreement shall prevail, unless expressly stated otherwise. Notwithstanding any language to the contrary therein, no terms stated in a purchase order or in any other order document (other than an order form expressly incorporated herein) shall be incorporated into this Agreement, and all such terms shall be void. No failure or delay in exercising any right hereunder shall constitute a waiver of such right. The Agreement and all exhibits hereto, including any related order forms, may not be modified or altered except by written instrument, and no amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed (either manually or electronically) by an authorized representative of Merchant and LINQ. All rights not expressly granted to Merchant are reserved by LINQ and its licensors.

(The remainder of this page is intentionally blank.)

**EXHIBIT A
PAYMENT FEES**

The following Services will be provisioned and the Payment Fees specified below will be charged on each payment transaction in accordance with the Agreement:

Check

Meal Payments

Meal Payments will be paid by the following party: (choose one)

End User/Parent/Guardian/Family – All Payment Fees will be paid as a Convenience Fee by End User.

School District/Merchant Fee– All Payment Fees will be paid by Merchant.

Shared Fee between School District/Merchant and End User. Payment Fees will be divided between the End User and Merchant. Merchant will pay _____ % and \$_____ per transaction of the Payment Fees listed below.

Online Meal Payments (includes one-time, scheduled, and recurring payments)

Method	Payment Fee	Maximum transaction ¹
Card Payments	3.95% with a minimum fee of \$2.85	\$2,500
ACH payments	\$1.85	\$2,500

Check

School Store, Student Activity Fees, Ticketing, and Invoices Payments

This option allows for the payment of any school-related fees, tickets, donations, field trips, class fees, technology fees, etc. This option includes in-person payments by card reader or virtual terminal. The Payment Fees will be paid by the following party: (choose one)

End User/Parent/Guardian/Family – All Payment Fees will be paid as a Convenience Fee by End User.

School District/Merchant Fee– All Payment Fees will be paid by Merchant.

Shared Fee between School District/Merchant and End User. Payment Fees will be divided between the End User and Merchant. Merchant will pay _____ % and \$_____ per transaction of the Payment Fees listed below.

Method	Payment Fee	Maximum transaction
Card Payments	3.95% with a minimum fee of \$2.85	\$2,500
ACH payments	\$1.85	\$2,500

Check

In-Person Card Payments (Card reader option)

This option allows for in-person payments using a card reader. All transactions are charged 3.95% to the Merchant/School District.

¹ If a higher limit is needed, please contact LINQ Customer Support to request a limit increase. It can take up to 2-5 days to authorize this change.

Item X11.

EXHIBIT B

MERCHANT ACH PROCESSING AUTHORIZATION FORM

This Exhibit B must be completed regardless of how Payment Fees are collected as defined in Exhibit A, since it allows LINQ to interact with the School District/Merchant's bank account(s).

The undersigned whose name appears in the signature space below hereby authorizes and grants LINQ authorization to credit or debit the following bank account(s) during the term of this authorization for cash receipts, adjustments, chargebacks, returns, rejects, processor fees, damaged, lost, or stolen equipment provided by LINQ to Merchant, communication expenses and or other miscellaneous fees and expenses from the operation of an Electronic Data Capture Device (ATM/POS/EBT/Currency/Stored Value/eCheck or other items of value). These credits and debits will be facilitated by use of the Automated Clearing House (ACH). Point of Service (POS) transactions are settled by LINQ where the payment amount is directly settled into Merchant's business checking account (DDA) by the Visa and MasterCard Member bank. This authorization is valid from the effective date hereof until such time as this authorization is terminated in writing by the undersigned and shall remain effective after termination with respect to amounts owed by Merchant to LINQ on the date of termination. The person whose name appears below hereby indemnifies the named financial institution harmless of any and all such claims made or asserted by either party hereto. This authorization may be assigned by LINQ to a third party.

The undersigned hereby represents and warrants the following signature(s) have been authorized to execute and deliver bank drafts from the following bank account.

Agreed to on this _____.

Financial Institution

Financial Institution Name: _____

District Approval

Authorized Signature on above Bank Account

Second Authorized Signature, if applicable

(Please complete one form for each depository account associated with your account. In most cases there is a separate account for nutrition payments and school fee payments.)

Item X11.

EXHIBIT C

SUBMERCHANT AGREEMENT ACKNOWLEDGEMENT

The undersigned whose name appears in the signature space below acknowledges receipt of the Submerchant Agreement which is incorporated by reference. A copy of the Submerchant Agreement can be found at <https://bit.ly/sma431217>

MERCHANT: _____

By:

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

CITY ATTORNEY

ATTEST:

CITY RECORDER

ADDENDUM TO LINQ CONNECT SERVICES AGREEMENT

This Addendum (herein "Addendum") amends the LINQ Connect Services Agreement entered into between the parties on November 20, 2024, as well as all attachments, exhibits, any physical or virtual documents or writings, referenced therein (all of which are herein "Agreement") between EMS LINQ, LLC, a Delaware limited liability company principally located in Austin, Texas its affiliates and subsidiaries (herein "Vendor") and City of Kingsport, Tennessee on behalf of its Kingsport City Schools (herein "City"). In consideration of using Vendor's form agreement, the mutual promises set out herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged the Agreement is amended as follows:

- 1. Precedence.** Notwithstanding any other provision in the Agreement, the language in this Addendum takes precedence over all other terms, conditions or language to the contrary or in conflict with the language herein, and the Agreement and this Addendum shall not be construed to create any ambiguity, it being the intent of the parties that this Addendum shall control.
- 2. Indemnity, Limitation of Liability and Disclaimer of Warranty.** Article II, Section 29 of the Tennessee Constitution prohibits cities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. Any indemnity or hold harmless provision contained in the Agreement requiring City to indemnify or hold harmless Vendor or any other person or entity and any limitation of liability in favor of Vendor is enforceable only to the extent permitted by Tennessee law, provided City's monetary limits of liability under any such provision is limited to the monetary limits of liability as provided for in the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101 *et seq.* No provision of this Agreement shall act or be deemed a waiver by City of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101 *et seq.*
- 3. No Liability for Users or Third Parties.** Except as provided in the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101 *et seq.* City is not responsible for users of the Services, their acts or data, or any acts or data of a third party.
- 4. Confidentiality.** The Agreement is a public record, and it, along with all documents or materials, in any format, including, but not limited to, paper, electronic, or virtual, that are public records pursuant to the Tennessee Open Records Act, set out in T.C.A. §10-7-503 *et seq.*, are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, City must, upon proper request, release public documents and records as defined by T.C.A. §10-7-503 *et seq.*, including, but not limited to, the Agreement and all records created and maintained related to the Agreement, without any requirement to disclose such request to Vendor or provide Vendor with notice or the time to obtain a protective order. City does not have the burden of establishing that information is not confidential information or that its release is authorized to release the records. This section 4 serves to meet such burden and authorization of disclosure.
- 5. Term.** City or Vendor may terminate the Agreement and use of the service at any time for any reason. However, termination shall not take effect until 30 days after written notice is delivered by the party terminating the agreement to the other party. Notices to the City shall be sent to:

Director of Schools
Kingsport City Schools
400 Clinchfield Street
Kingsport, TN 37660

With a copy to:

Office of the City Attorney
City of Kingsport
415 Broad Street
Kingsport, Tennessee 37660

6. **Accessibility.** Vendor warrants that to the extent applicable its services conform to the accessibility guidelines, including, but not limited to, supporting assistive software or devices such as large-print interfaces, text-to-speech output, refreshable braille displays, voice-activated input, and alternate keyboard or pointer interfaces, established by the World Wide Web Consortium's Web Content Accessibility Guidelines 2.1 (WCAG 2.1), and the accessibility guidelines established by Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and implementing regulations set forth in 36 C.F.R. Part 1194. Vendor shall provide City a current completed Voluntary Product Accessibility Template (VPAT) to detail compliance with the federal Section 508 standards. Vendor shall promptly respond to and resolve any complaint regarding accessibility of its products or services. Failure to comply with these requirements shall constitute a material breach of the Agreement.

7. **Student Data.**

- a. **Definition of Data.** Data means any information relating to an identified or identifiable natural person where such data is End User data (as defined in the Agreement) or is processed by Vendor as a processor on behalf of City. Data shall include, but is not limited to, student data, metadata, and End User content. Data shall exclude End User data related to payment cards and End User banking information.
- b. **De-Identification.** Vendor may use de-identified Data for product development, research, or other purposes. De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, name, ID numbers, date of birth, demographic information, location information, and school ID. Furthermore, Vendor agrees not to attempt to re-identify de-identified Data and not to transfer de-identified Data to any party unless that party agrees not to attempt re-identification.
- c. **Marketing and Advertising.** Vendor will not use any Data to advertise or market to students or their parents. Advertising or Marketing may be directed to the City only if student information is properly de-identified. Data may not be used for any purpose other than the specific purpose(s) outlined in this Agreement.
- d. **Modification of Terms of Service.** Vendor will provide reasonable notice in the event it changes how Data is collected, used, or shared under the terms of this Agreement.
- e. **Data Collection.** Vendor will only collect Data necessary to fulfill its duties as outlined in this Agreement.
- f. **Data Use.** Vendor will use Data only for the purpose of fulfilling its duties and providing Services under this Agreement, and for improving Services under this Agreement.
- g. **Data Mining.** Vendor is prohibited from mining Data for any purposes other than those agreed to by the parties. Data mining or scanning of End User content for the purpose of advertising or marketing to students or their parents is prohibited.
- h. **Data Sharing.** Data cannot be shared with any additional parties without prior written consent of the User except as otherwise set forth in the Agreement and/or as required by law. If Vendor relies on or uses one or more subcontractors to perform work necessary to fulfill services under this Agreement, any such persons and/or entities shall have appropriate written contractual terms to protect and maintain data security and confidentiality.
- i. **Data Transfer or Destruction.** Vendor will ensure that all Data in its possession and in the possession of any subcontractors, or agents to which the Vendor may have transferred Data, is destroyed or transferred to the City under the direction of the City when the Data is no longer needed for their specified purpose, at the written request of the City.
- j. **Rights and License in and to Data.** Parties agree that all rights, including all intellectual property rights, of Data shall remain the exclusive property of the City, and Vendor has a limited, nonexclusive license solely for the purpose of performing its obligations as outlined in the Agreement. This Agreement does not give Vendor any rights, implied or otherwise, to Data, content, or intellectual property, except as expressly stated in the Agreement. This includes the right to sell or trade Data.
- k. **Access.** Any Data held by Vendor will be made available to the City upon request by the City.
- l. **Security Controls.** Vendor will store and process Data in accordance with industry accepted practices. This includes appropriate administrative, physical, and technical safeguards to secure Data from unauthorized access, disclosure, and use. Vendor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Vendor will also have a written incident response plan, to include reasonably prompt notification of the City in the event of a security or privacy incident, as well as industry accepted practices for responding to a Data breach. Vendor agrees to share its incident response plan upon request.

8. **Name and Logo.** City does not consent to the use of its name or logo in any advertising or promotional material

or distributions or other commercial use by Vendor other than in connection with any events promoted through or for which tickets are sold through Vendor's services. Additionally, City does not waive any and all moral right to the use of the name submitted to Vendor.

9. **Governing Law.** The Agreement and the rights and obligations of the parties are governed by the laws of the state of Tennessee, without regard to its conflict of laws principles.
10. **City's Refusal to Arbitrate, Selection of Jurisdiction, Waiver of Jury Trial, Venue, Service of Process.** Pursuant to the Constitution and Laws of the State of Tennessee, City is a sovereign entity subject only to those courts with jurisdiction over City. Therefore, any reference to the resolution of disputes through arbitration is expressly stricken from the Agreement and City expressly refuses to arbitrate any dispute. If a dispute arises between the parties concerning any aspect of the Agreement, and it cannot be resolved by mutual agreement, any party may resort to resolution of the dispute by litigation in the state courts in Kingsport, Tennessee or the Federal court for the Eastern District of Tennessee, Northeastern Division. However, neither party shall be obligated to provide any type of pre-suit notice before initiating a cause of action. The parties waive their right to a jury trial. Mandatory and exclusive venue and jurisdiction for any disputes shall be in the state court located in Kingsport, Tennessee or the Federal court for the Eastern District of Tennessee. Service of process on City shall comply with the Tennessee Rules of Civil Procedure or applicable federal rules, and City does not agree to any other service of process procedure.
11. **Responsibility for Litigation Costs, Expenses and Payment of Attorney's Fees.** Article II, Section 29 of the Tennessee Constitution prohibits cities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. This prohibition extends to contractual provisions for the payment of attorney's fees. In the event of litigation between City and Vendor each party shall be solely and exclusively responsible for the payment of litigation costs, expenses and attorney's fees excepting those costs which may be awarded by a court of competent jurisdiction as specified by Tennessee law or applicable rules of civil procedure.
12. **Non-appropriation.** Vendor acknowledges that City is a governmental entity, and the validity of the Agreement is based upon the availability of public funding under its authority. In the event Client fails to appropriate funds or make monies available for any fiscal year covered by the term of this Agreement for the services to be provided, this Agreement shall be terminated on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to City, such termination shall not be a breach of this Agreement, and any unused payment made to Vendor shall be returned to City. Furthermore, this provision shall extend to any and all obligations imposed upon City to reimburse Vendor for any reimbursements, refunds, chargebacks, penalties, fees, or other financial obligations which exceed the funds tendered to Vendor, FPPs, or Payment Processing Partners in relation to any event.
13. **No Taxes.** As a tax-exempt entity, City shall not be responsible for sales or use taxes incurred for products or services. City shall supply Vendor with its Sales and Use Tax Exemption Certificate upon Vendor's request.
14. **Compliance with Tenn. Code Ann. § 49-1-221(c).** Pursuant to the requirements of Tenn. Code Ann. § 49-1-221(c) Provider shall: (a) Verify that the digital or online materials do not violate Tenn. Code Ann. § 39-17-902; (b) Filter, block, or otherwise prevent access to pornography or obscenity through one's use of the digital or online materials; (c) Verify, in writing, that the Provider's technology prevents a user from sending, receiving, viewing, or downloading materials that are harmful to minors, as defined in Tenn. Code Ann. § 39-17-901; and (d) Remove, within one (1) business day, upon the Customer's request, access to digital or online materials for ages or audiences for which the contracting LEA or state agency has determined the material to be age – or audience – inappropriate unless the deadline for removal is ex-tended upon mutual agreement of the parties.
15. **Amendment.** Unilateral modification or amendment of the Agreement by Vendor is prohibited and any provision permitting such by Vendor is not applicable to City. Any amendment or modification of the Agreement or this Addendum is binding only if it is in writing and properly executed by the signatures of authorized representatives of the parties hereto, including attestation by City's city recorder and approved as to form by City's city attorney.

- 16. Survival.** This Addendum shall survive the completion of or any termination of the Agreement or other document which may accompany the Agreement or be incorporated by reference.
- 17. No Presumption Against Drafter.** This Addendum shall not be construed for or against any party because that party or that party's legal representative drafted any of its provisions. Accordingly, this Addendum shall be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences shall be drawn from the fact that the final, duly executed Addendum differs in any respect from any previous draft hereof.
- 18. Counterparts.** This Addendum may be executed in one or more counterparts by City and Vendor. If so executed, the signer shall deliver an original to the other party and the collective counterparts shall be treated as the fully executed document.
- 19. Effective Date.** This Addendum shall be effective immediately after the Agreement is effective.

EMS LINQ, LLC

City of Kingsport, Tennessee on behalf of its
Kingsport City Schools

Signature

Paul W. Montgomery, Mayor

Date

Date

Printed Name

Attest:

Title

City Recorder

Approved as to form:

Rodney B. Rowlett, III, City Attorney



AGENDA ACTION FORM

Consideration of a Resolution to Authorize the Mayor to Sign All Documents Necessary to Apply and Receive the Assistance to Firefighters (AFG) Grant through the Federal Emergency Management Administration (FEMA)

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

Action Form No.: AF- 324-2024
Work Session: December 2, 2024
First Reading: December 3, 2024
Final Adoption: December 3, 2024
Staff Work By: Terry Arnold, Scott Boyd
Presentation By: Chief Scott Boyd

Recommendation:
Approve the Resolution.

Executive Summary:
The Kingsport Fire Department (KFD) is eligible to apply for a FEMA for Assistance to Firefighters Grant (AFG). This program is designed to meet the firefighting and emergency response needs of fire departments and non-affiliated emergency medical services organizations. The Grant Programs Directorate of the Federal Emergency Management Agency administers the grants in cooperation with the U.S. Fire Administration.

The grant will be for 80 portable radios to replace the existing radios on all KFD apparatus. This will cover all seated positions and ensure we will have encryption along with the assurance of interoperability with other agencies in the city and the region. The cost for each radio is \$6,795.26. This price includes 1 radio, 2 batteries, 1 charger and 1 remote speaker microphone. This shall be accomplished with a combination of a grant and funds from project account # GP2208. The grant will be for a total of \$543,620.80 with ten percent (10%) of the matching funds of \$54,362.08.

Attachments:
1.Resolution

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayer	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE AN ASSISTANCE TO FIREFIGHTERS GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION FOR THE KINGSPORT FIRE DEPARTMENT

WHEREAS, the Federal Emergency Management Administration (FEMA), an agency of the U.S. Department of Homeland Security, has Assistance to Firefighters Grants which are available to the Kingsport Fire Department; and

WHEREAS, this particular grant is in the amount of \$543,620.80, which includes a required 10% match, or \$54,362.08, from the city; and

WHEREAS, the grant funds will be used to for 80 portable radios to replace the existing radios on all KFD apparatus; and

WHEREAS, funding for the city's match towards the grant is available in account GP2208.

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 grant funds from the Federal Emergency Management Administration for an Assistance to Firefighter Grant to purchase 80 portable radios at an approximate cost of \$543,620.80, and with a required local match of ten (10%) percent, which funds are available, and to take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transaction contemplated by this resolution.

SECTION II. That the mayor is authorized to execute any and all documents including those necessary and proper to demonstrate the city's compliance with the grant requirements or its provisions necessary to effectuate the purpose of the grant or this resolution.

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

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

ADOPTED this the 3rd day of December, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



AGENDA ACTION FORM

Consideration of a Resolution to Approve Tennessee Department of Health, Healthy Built Environment Amended Grant Contract and Authorize the Mayor to Execute All Documents

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

Action Form No.: AF-318-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: Kitty Frazier
Presentation By: Michael Borders

Recommendation:
Approve the Resolution.

Executive Summary:
If approved the City will approve and execute an amended grant contract for the Healthy Built Environment Grant.

The City was awarded an \$80,000 State of Tennessee Healthy Built Environment grant to replace playground equipment in Riverview Park.

The grant budget allocated funds for two consecutive fiscal years. FY year one budget (\$58,000) provided funds for purchasing the playground equipment and FY year two budget (\$22,000) provided funds for installation of the equipment. Due to supply chain/order delays the playground equipment was not delivered during fiscal year one. Purchase and installation of the new equipment was completed in August 2024 of FY year two. The state of Tennessee has authorized a budget amendment in order to allow all the funds to be utilized during FY year two of the grant.

The revised contract, with budget changes, requires approval by the BMA and authorization for the mayor to sign.

- Attachments:**
- 1. Resolution
 - 2. Amended Grant Contract
 - 3. Playground Equipment Photo

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayes	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

Item X13.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE GRANT CONTRACT WITH THE STATE OF TENNESSEE, DEPARTMENT OF HEALTH, FOR THE HEALTHY BUILT ENVIRONMENT GRANT; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, on July 18, 2023, the board approved Resolution No.: 2024-008 authorizing the mayor to sign the grant contract with State of Tennessee, Department of Health, for the Healthy Built Environment grant to replace playground equipment in Riverview Park; and

WHEREAS, the grant budget allocated funds for two consecutive fiscal years, FY year one budget (\$58,000) provided funds for purchasing the playground equipment and FY year two budget (\$22,000) provided funds for installation of the equipment; and

WHEREAS, due to supply chain issues and order delays the playground equipment was not delivered during fiscal year one, and the purchase and installation of the new equipment was completed in August 2024 of FY year two; and

WHEREAS, the State of Tennessee, Department of Health, has authorized an amendment to the grant contract to allow all the funds to be utilized during FY year two of the grant.

Now therefore,

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

SECTION I. That an amendment to the grant contract with the State of Tennessee, Department of Health, for the Healthy Built Environment Grant to replace playground equipment in Riverview Park is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the agreement State of Tennessee for the Healthy Built Environment Grant to replace playground equipment in Riverview Park, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said amendment being generally as follows:

**AMENDMENT 1
OF GRANT CONTRACT Z-24-284377**

This Grant Contract Amendment is made and entered by and between the State of Tennessee, Department of Health, hereinafter referred to as the "State" and City of Kingsport, hereinafter referred to as the "Grantee." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Grant Contract is hereby amended as follows:

1. Grant Contract Attachment 2 is deleted in its entirety and replaced with the new Attachment 2 attached hereto.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective once all required approvals are obtained. All other terms and conditions of this Grant Contract not expressly amended herein shall remain in full force and effect.

[Acknowledgements Deleted for Inclusion in this Resolution]

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

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

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

ADOPTED this the 3rd day of December, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:


ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



GRANT AMENDMENT

Agency Tracking # 34360-02724	Edison ID 284377	Contract # Z-24-284377	Amendment # 1		
Contractor Legal Entity Name City of Kingsport			Edison Vendor ID 1562		
Amendment Purpose & Effect(s) Move funds from fiscal year 2024 to 2025					
Amendment Changes Contract End Date: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		End Date: 6/30/2025			
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			\$ 0		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2024	\$0				\$0
2025	\$80,000				\$80,000
TOTAL:	\$80,000				\$80,000
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations. 				<i>CPO USE</i>	
Speed Chart (optional)		Account Code (optional)			

**AMENDMENT 1
OF GRANT CONTRACT Z-24-284377**

This Grant Contract Amendment is made and entered by and between the State of Tennessee, **Department of Health**, hereinafter referred to as the "State" and **City of Kingsport**, hereinafter referred to as the "Grantee." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Grant Contract is hereby amended as follows:

1. Grant Contract Attachment **2** is deleted in its entirety and replaced with the new Attachment **2** attached hereto.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective **once all required approvals are obtained**. All other terms and conditions of this Grant Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

CITY OF KINGSPORT:

GRANTEE SIGNATURE

DATE

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

TENNESSEE DEPARTMENT OF HEALTH:

**RALPH ALVARADO, MD, FACP
COMMISSIONER**

DATE



Memo

To: Cameron Taylor

From: Kitty Frazier

Subject: Contract amendment to move funds

Date: 6/11/2024

Dear Cameron

The City of Kingsport is requesting a contract amendment for our Healthy Built Environment Grant to move funds from fiscal year 2024 to fiscal year 2025. Currently our 2024 grant budget includes \$58,000 for the purchase of playground equipment. This equipment has been ordered but due to supply chain issues the equipment will not be delivered to Kingsport until July or August. We cannot approve payment for the equipment until it has been delivered, received and inspected by the City of Kingsport. Therefore, we will not have any playground equipment expenditures or invoices to submit to the state by June 30, 2024. The accrued liability form has been submitted, indicating no remaining project expenses are anticipated in fiscal year 2024.

We request the \$58,000 authorized for fiscal year 2024 be allocated to fiscal year 2025 budget. The capital purchase line item and total 2025 budget will be \$80,000. Purchase and installation of the playground equipment will be completed fall 2025.

As outlined in our application, we plan to utilize an eco ped counter to help provide data in our evaluation process. The counter is available and ready to be set up when the playground equipment installation is complete.

Please let me know if you have any questions or if you need additional information. We are excited about the new playground equipment that will impact the health and wellness of Kingsport youth.

Thank you

A handwritten signature in blue ink that reads "Kitty Frazier".

Kitty Frazier

Kingsport Parks and Recreation Manager

Healthy Built Environments				
APPLICABLE PERIOD: The grant budget line-item amounts below shall be applicable only to expense incurred during the period beginning September 1, 2023, and ending June 30, 2025.				
POLICY 03 Object Line-Item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹ (detail schedule(s) attached as applicable)	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
1	Salaries ²	\$0.00	\$0.00	\$0.00
2	Benefits & Taxes	\$0.00	\$0.00	\$0.00
4, 15	Professional Fee/ Grant & Award ²	\$0.00	\$0.00	\$0.00
5	Supplies	\$0.00	\$0.00	\$0.00
6	Telephone	\$0.00	\$0.00	\$0.00
7	Postage & Shipping	\$0.00	\$0.00	\$0.00
8	Occupancy	\$0.00	\$0.00	\$0.00
9	Equipment Rental & Maintenance	\$0.00	\$0.00	\$0.00
10	Printing & Publications	\$0.00	\$0.00	\$0.00
11, 12	Travel/ Conferences & Meetings ²	\$0.00	\$0.00	\$0.00
13	Interest ²	\$0.00	\$0.00	\$0.00
14	Insurance	\$0.00	\$0.00	\$0.00
16	Specific Assistance To Individuals ²	\$0.00	\$0.00	\$0.00
17	Depreciation ²	\$0.00	\$0.00	\$0.00
18	Other Non-Personnel ²	\$0.00	\$0.00	\$0.00
20	Capital Purchase ²	\$80,000.00	\$0.00	\$80,000.00
22	Indirect Cost (% and method)	\$0.00	\$0.00	\$0.00
24	In-Kind Expense	\$0.00	\$0.00	\$0.00
25	GRAND TOTAL	\$80,000.00	\$0.00	\$80,000.00

¹ Each expense object line-item is

defined by the U.S. OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart E Cost Principles (posted on the Internet at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E>) and CPO Policy 2013-007 (posted online at <https://www.tn.gov/generalservices/procurement/central-procurement-office-cpo-library.html>).

² Applicable detail follows this page if line-item is funded.

Item X13.

ATTACHMENT 2 (continued)
GRANT BUDGET LINE-ITEM DETAIL
(BUDGET PAGE 2)

SALARIES							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)		x		x		+	(Longevity, if applicable)
ROUNDED TOTAL							\$0.00
ROUNDED TOTAL							\$0.00
PROFESSIONAL FEE/ GRANT & AWARD							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
TRAVEL/ CONFERENCES & MEETINGS							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
INTEREST							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
SPECIFIC ASSISTANCE TO INDIVIDUALS							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
DEPRECIATION							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
OTHER NON-PERSONNEL							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
CAPITAL PURCHASE							AMOUNT
Purchase and installation of playground equipment							\$80,000.00
ROUNDED TOTAL							\$80,000.00

Healthy Built Environments				
APPLICABLE PERIOD: The grant budget line-item amounts below shall be applicable only to expense incurred during the period beginning September 1, 2023, and ending June 30, 2024.				
POLICY 03 Object Line-Item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹ (detail schedule(s) attached as applicable)	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
1	Salaries ²	\$0.00	\$0.00	\$0.00
2	Benefits & Taxes	\$0.00	\$0.00	\$0.00
4, 15	Professional Fee/ Grant & Award ²	\$0.00	\$0.00	\$0.00
5	Supplies	\$0.00	\$0.00	\$0.00
6	Telephone	\$0.00	\$0.00	\$0.00
7	Postage & Shipping	\$0.00	\$0.00	\$0.00
8	Occupancy	\$0.00	\$0.00	\$0.00
9	Equipment Rental & Maintenance	\$0.00	\$0.00	\$0.00
10	Printing & Publications	\$0.00	\$0.00	\$0.00
11, 12	Travel/ Conferences & Meetings ²	\$0.00	\$0.00	\$0.00
13	Interest ²	\$0.00	\$0.00	\$0.00
14	Insurance	\$0.00	\$0.00	\$0.00
16	Specific Assistance To Individuals ²	\$0.00	\$0.00	\$0.00
17	Depreciation ²	\$0.00	\$0.00	\$0.00
18	Other Non-Personnel ²	\$0.00	\$0.00	\$0.00
20	Capital Purchase ²	\$0.00	\$0.00	\$0.00
22	Indirect Cost (% and method)	\$0.00	\$0.00	\$0.00
24	In-Kind Expense	\$0.00	\$0.00	\$0.00
25	GRAND TOTAL	\$0.00	\$0.00	\$0.00

1 Each expense object line-item is defined by the U.S. OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart E Cost Principles (posted on the Internet at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E>) and CPO Policy 2013-007 (posted online at <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-.html>).

2 Applicable detail follows this page if line-item is funded.

ATTACHMENT 2 (continued)
GRANT BUDGET LINE-ITEM DETAIL
(BUDGET PAGE 4)

SALARIES							AMOUNT	
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)		x		x		+	(Longevity, if applicable)	\$0.00
ROUNDED TOTAL							\$0.00	
PROFESSIONAL FEE/ GRANT & AWARD							AMOUNT	
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00	
ROUNDED TOTAL							\$0.00	
TRAVEL/ CONFERENCES & MEETINGS							AMOUNT	
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00	
ROUNDED TOTAL							\$0.00	
INTEREST							AMOUNT	
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00	
ROUNDED TOTAL							\$0.00	
SPECIFIC ASSISTANCE TO INDIVIDUALS							AMOUNT	
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00	
ROUNDED TOTAL							\$0.00	
DEPRECIATION							AMOUNT	
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00	
ROUNDED TOTAL							\$0.00	
OTHER NON-PERSONNEL							AMOUNT	
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00	
ROUNDED TOTAL							\$0.00	
CAPITAL PURCHASE							AMOUNT	
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00	
ROUNDED TOTAL							\$0.00	

Healthy Built Environments				
APPLICABLE PERIOD: The grant budget line-item amounts below shall be applicable only to expense incurred during the period beginning July 1, 2024, and ending June 30, 2025.				
POLICY 03 Object Line-Item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹ (detail schedule(s) attached as applicable)	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
1	Salaries ²	\$0.00	\$0.00	\$0.00
2	Benefits & Taxes	\$0.00	\$0.00	\$0.00
4, 15	Professional Fee/ Grant & Award ²	\$0.00	\$0.00	\$0.00
5	Supplies	\$0.00	\$0.00	\$0.00
6	Telephone	\$0.00	\$0.00	\$0.00
7	Postage & Shipping	\$0.00	\$0.00	\$0.00
8	Occupancy	\$0.00	\$0.00	\$0.00
9	Equipment Rental & Maintenance	\$0.00	\$0.00	\$0.00
10	Printing & Publications	\$0.00	\$0.00	\$0.00
11, 12	Travel/ Conferences & Meetings ²	\$0.00	\$0.00	\$0.00
13	Interest ²	\$0.00	\$0.00	\$0.00
14	Insurance	\$0.00	\$0.00	\$0.00
16	Specific Assistance To Individuals ²	\$0.00	\$0.00	\$0.00
17	Depreciation ²	\$0.00	\$0.00	\$0.00
18	Other Non-Personnel ²	\$0.00	\$0.00	\$0.00
20	Capital Purchase ²	\$80,000.00	\$0.00	\$80,000.00
22	Indirect Cost (% and method)	\$0.00	\$0.00	\$0.00
24	In-Kind Expense	\$0.00	\$0.00	\$0.00
25	GRAND TOTAL	\$80,000.00	\$0.00	\$80,000.00

1 Each expense object line-item is defined by the U.S. OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart E Cost Principles (posted on the Internet at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E>) and CPO Policy 2013-007 (posted online at <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-.html>).

2 Applicable detail follows this page if line-item is funded.

ATTACHMENT 2 (continued)
GRANT BUDGET LINE-ITEM DETAIL
(BUDGET PAGE 6)

SALARIES							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)		x		x		+	(Longevity, if applicable)
ROUNDED TOTAL							\$0.00
ROUNDED TOTAL							\$0.00
PROFESSIONAL FEE/ GRANT & AWARD							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
TRAVEL/ CONFERENCES & MEETINGS							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
INTEREST							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
SPECIFIC ASSISTANCE TO INDIVIDUALS							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
DEPRECIATION							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
OTHER NON-PERSONNEL							AMOUNT
SPECIFIC, DESCRIPTIVE, DETAIL (REPEAT ROW AS NECESSARY)							\$0.00
ROUNDED TOTAL							\$0.00
CAPITAL PURCHASE							AMOUNT
Purchase and installation of playground equipment							\$80,000.00
ROUNDED TOTAL							\$80,000.00



Item X13.



AGENDA ACTION FORM

Consideration of a Resolution Authorizing the Mayor to Execute All Documents Necessary to Apply for and Accept a Safety Training Grant from the Tennessee Department of Transportation

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

Action Form No.: AF-323-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: Candace Sherer
Presentation By: Candace Sherer

Recommendation:
Approve the Resolution.

Executive Summary:
The Tennessee Department of Transportation (TDOT) has allocated \$12,000 to the Kingsport Area Transit Service (KATS) for Safety Training. This grant funding will be used for ongoing training of all employees on safety-related transit topics relating to transportation services.

The grant is 100% TDOT funded and does not require a local match.

Attachments:
1. Resolution
2. Grant Contract

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayer	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE A STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION SAFETY TRAINING GRANT FOR THE KINGSPORT AREA TRANSIT SERVICE

WHEREAS, the Tennessee Department of Transportation (TDOT) has allocated \$12,000.00 to the Kingsport Area Transit Service (KATS) for Safety Training; and

WHEREAS, this grant funding will be used for ongoing training of all employees on safety related transit topics relating to transportation services; and

WHEREAS, the grant is 100% TDOT funded and does not require a local match; and

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 funds from the Tennessee Department of Transportation (TDOT) Safety Training Grant in the amount of \$12,000.00.

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 Grant Contract with the Tennessee Department of Transportation (TDOT) for the Safety Training Grant, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution as set out below:

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

This grant contract ("Grant Contract"), by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" or the "Grantor State Agency" and Grantee City of Kingsport hereinafter referred to as the "Grantee," is for the provision of urban technical assistance, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # 1562

A. SCOPE OF SERVICES AND DELIVERABLES:

A.1. The Grantee shall provide the scope of services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.

A.2. The Grantee shall utilize Urban Technical Assistance Program (UTAP) funds to access training, technical assistance, and professional development for public transportation staff, as well as strategic consulting services to advance the Grantee's public transportation goals.

A.3. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity

regarding the Grantee's duties, responsibilities, and performance hereunder, these items shall govern in order of precedence below.

- a. this Grant Contract document with any attachments or exhibits (excluding the items listed at subsections b. and c., below);
- b. the State grant proposal solicitation as may be amended, if any;
- c. the Grantee's proposal incorporated by reference to elaborate supplementary scope of services specifications.

B. TERM OF GRANT CONTRACT:

This Grant Contract shall be effective for the period beginning on January 1, 2025 ("Effective Date") and ending on December 31, 2026, ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Twelve Thousand Dollars and No Cents (\$12,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment One, is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.

C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.

C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

Tennessee Department of Transportation Public Transportation Section
Division of Passenger Transportation, Rail & Freight
505 Deaderick Street – James K. Polk Building, Suite 1200 Nashville, Tennessee 37243

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

- (1) Invoice/Reference Number (assigned by the Grantee).
- (2) Invoice Date.
- (3) Invoice Period (to which the reimbursement request is applicable).
- (4) Grant Contract Number (assigned by the State).
- (5) Grantor: Tennessee Department of Transportation, Division of Passenger Transportation, Rail & Freight.
- (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
- (7) Grantee Name.
- (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
- (9) Grantee Remittance Address.
- (10) Grantee Contact for Invoice Questions (name, phone, or fax).
- (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:

i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).

ii. The amount reimbursed by Grant Budget line-item to date.

iii. The total amount reimbursed under the Grant Contract to date.

iv. The total amount requested (all line-items) for the Invoice Period.

b. The Grantee understands and agrees to all of the following.

(1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.

(2) An invoice under this Grant Contract shall not include any reimbursement request for future

expenditures.

(3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

(4) All invoice reimbursement amounts are to be rounded down to the next lowest full dollar of the expense by source of reimbursement and by detail budget line item. If the contract includes funds previously allocated in a previous grant contract or provides for a subsequent phase of work with the same funding as a previous contract, and partial dollars were paid in the previous grant contract, then this Grant Contract's initial reimbursement by source of reimbursement and by detail budget line item shall be to achieve the remaining reimbursements in whole dollars. All remaining reimbursements after the first by source of reimbursement and by detail budget line item are to be rounded down to the next lowest whole dollar by source of reimbursement and by detail budget line item.

C.6. Budget Line-item. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may request revisions of Grant Budget line-items by letter, giving full details supporting such request, provided that such revisions do not increase total Grant Budget amount. Grant Budget line-item revisions may not be made without prior, written approval of the State in which the terms of the approved revisions are explicitly set forth. Any increase in the total Grant Budget amount shall require a Grant Contract amendment.

C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within ninety (90) days of the Grant Contract end date, in form and substance acceptable to the State.

a. The Grant Budget specifies a Grantee Match Requirement and the final grant disbursement reconciliation report shall detail all Grantee expenditures recorded to meet this requirement.

i. No Grantee expenditure shall be recorded and reported toward meeting a Grantee Match Requirement of more than one grant contract with the State.

ii. The final grant disbursement reconciliation report shall specifically detail the exact amount of any Grantee failure to meet a Match Requirement, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the Grant Budget column "Grant Contract," shall be reduced by the amount that the Grantee failed to contribute to the Total Project as budgeted.

b. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract (including any adjustment pursuant to subsection a.ii. above), the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.

c. The State shall not be responsible for the payment of any invoice submitted to the state after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.

d. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the state pursuant to this Grant Contract.

e. The Grantee must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.

C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Central Procurement Office Policy Statement 2013-007 or any amendments or revisions made to this policy statement during the Term.

C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.

C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.

C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.

C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.

a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").

b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.

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

D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.

D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.

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

a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant,

the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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

c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The State:

Brenden Henderson, Transit Grants Financial Analyst Office of Grants Administration
Public Transportation Section
Division of Passenger Transportation, Rail & Freight James K. Polk Building, Suite 1200
505 Deaderick Street
Nashville, Tennessee 37243 Brenden.henderson@tn.gov Phone: (615) 253-4942
Fax: (615) 253-1482

The Grantee:

Chris Campbell, AICP, Public Transportation Manager City of Kingsport, Kingsport Area Transit Service
900 East Main Street Kingsport, Tennessee 37660 chriscampbell@kingsporttn.gov Phone: (423) 224-2857
Fax: (423) 224-2615

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

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

D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.11. HIPAA Compliance. As applicable, the State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.

a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.

b. The Grantee warrants that it will cooperate with the State, including cooperation and

coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.

c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.

D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives. The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides. In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system. Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.

D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For

grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.

D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law. At least ninety (90) days before the end of its fiscal year, the Grantee shall complete the Information for Audit Purposes ("IAP") form online (accessible through the Edison Supplier portal) to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed form online during the Grantee's fiscal year. Immediately after the fiscal year has ended, the Grantee shall fill out the End of Fiscal Year ("EOFY") (accessible through the Edison Supplier portal).

When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.327 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds ten thousand dollars (\$10,000.00).

D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.

D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.

D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate

sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.

D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.

D.26. **Reserved.**

D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.

D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.

D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.

D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.

D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section

b. of this certification; and

d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

D.35. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Grant Contract.

D.36. State Sponsored Insurance Plan Enrollment. The Grantee warrants that it will not enroll or permit its employees, officials, or employees of contractors to enroll or participate in a state sponsored health insurance plan through their employment, official, or contractual relationship with Grantee unless Grantee first demonstrates to the satisfaction of the Department of Finance and Administration that it and any contract entity satisfies the definition of a governmental or quasigovernmental entity as defined by federal law applicable to ERISA.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.

E.2. Printing Authorization. The Grantee agrees that no publication coming within the jurisdiction of Tenn. Code Ann. § 12-7-101, *et seq.*, shall be printed pursuant to this Grant Contract unless a printing authorization number has been obtained and affixed as required by Tenn. Code Ann. § 12-7-103(d).

E.3. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn. Code Ann. §§ 39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract

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

(ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Grantee shall immediately notify State: (1) of any disclosure or use of any PII by Grantee or any of its employees, agents and representatives in breach of this Grant Contract; and

(2) of any disclosure of any PII to Grantee or its employees, agents and representatives where the purpose of such disclosure is not known to Grantee or its employees, agents and representatives.

The State reserves the right to review Grantee's policies and procedures used to maintain the

security and confidentiality of PII and Grantee shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Grantee is in full compliance with its obligations under this Grant Contract in relation to PII. Upon termination or expiration of the Grant Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Grantee shall immediately return to the State any and all PII which it has received under this Grant Contract and shall destroy all records of such PII.

The Grantee shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Grantee ("Unauthorized Disclosure") that come to the Grantee's attention. Any such report shall be made by the Grantee within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Grantee. Grantee shall take all necessary measures to halt any further Unauthorized Disclosures. The Grantee, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Grantee shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Grant Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Grant Contract.

E.5. Transfer of Grantee's Obligations.

The Grantee shall not transfer or restructure its operations related to this Grant Contract without the prior written approval of the State. The Grantee shall immediately notify the State in writing of a proposed transfer or restructuring of its operations related to this Grant Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving a proposed transfer or restructuring.

E.6. T.C.A. Section 13-10-107 Compliance.

- 1) Grantee agrees to proceed expeditiously with and complete the project in accordance with plans approved by the Commissioner of TDOT ("Commissioner");
- 2) Grantee agrees to commence and continue operation of the project on completion of the project and not to discontinue operations or dispose of all or part of the project without Commissioner's prior written approval;
- 3) Grantee agrees to apply for and make reasonable efforts to secure federal assistance for the project, subject to any conditions the Commissioner may require in order to maximize the amounts of such assistance received or to be received for all projects in the State; and
- 4) Grantee agrees to provide Grantee's share of the cost of the project and comply with T.C.A. § 13-10-107(c)(4).

E.7. Match/Share Requirement. A Grantee Match/Share Requirement is detailed in the Grant Budget, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the "Grant Contract" column in the Grant Budget, shall be reduced by the amount of any Grantee failure to meet the Match/Share Requirement.

E.8. Reimbursements to Reflect Match/Share. Reimbursements to Grantee shall reflect the percentage of Grantee Match/Share detailed in the Grant Budget. Reimbursements are subject to the other provisions of this Grant Contract, including but not limited to, the maximum liability amount in Section C.1.

E.9. No Retainage Allowed. The Grantee may not withhold retainage on progress payments from the prime contractor and the prime contractor may not withhold retainage from their subcontractors.

E.10. Title VI Compliance. Grantee shall comply with requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1, pursuant to the guidelines established by the Tennessee Human Rights Commission's Title VI Compliance Office, by completing all of the following items:

- a. Provide name and contact information of Grantee's Title VI Coordinator to State.
- b. Ensure Policies and Procedures Manual contains a Title VI section with information on: (a) Filing a complaint; (b) Investigations; (c) Report of findings; (d) Hearings and appeals; (e) Description of Title VI Training Program; (f) Limited English Proficiency (LEP) procedure; and (g) Retaliation.
- c. Train all staff (regular, contract, volunteer) on Title VI upon employment and annually thereafter. Training documentation shall be made available upon request of State, and include: 1) dates and duration of each training; 2) list of staff completing training on each date.
- d. Annually complete and submit a Title VI self-survey as supplied by State.
- e. Implement a process and provide documentation to ensure service recipients are informed of Title VI and how to file a discrimination complaint.

Additional Title VI resources may be found at [Title VI Program \(tn.gov\)](http://Title VI Program (tn.gov)).

IN WITNESS WHEREOF,

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is authorized to execute any and all documents including those necessary and proper to demonstrate the city's compliance with the grant requirements or its provisions necessary to effectuate the purpose of the grant or this resolution.

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

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

ADOPTED this the 3rd day of December, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

 GOVERNMENTAL GRANT CONTRACT (cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)					
Begin Date 1/1/2025		End Date 12/31/2026		Agency Tracking # 40100-51386	
Grantee Legal Entity Name City of Kingsport				Edison ID 1562	
Subrecipient or Recipient <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Recipient		Assistance Listing Number Grantee's fiscal year end June 30			
Service Caption (one line only) SFY 2025 Urban Technical Assistance Program (UTAP) - Training Assistance					
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Grant Contract Amount
2025	\$12,000.00				\$12,000.00
TOTAL:	\$12,000.00				\$12,000.00
Grantee Selection Process Summary					
<input type="checkbox"/> Competitive Selection		Describe the competitive selection process used.			
<input checked="" type="checkbox"/> Non-competitive Selection		State only funds awarded by formula using urban area population for urban area operating assistance.			
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.				CPO USE – GG	
Speed Chart (optional)		Account Code (optional) 71302000			

Address # 1

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

This grant contract ("Grant Contract"), by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" or the "Grantor State Agency" and Grantee City of Kingsport hereinafter referred to as the "Grantee," is for the provision of urban technical assistance, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # 1562

A. SCOPE OF SERVICES AND DELIVERABLES:

- A.1. The Grantee shall provide the scope of services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.
- A.2. The Grantee shall utilize Urban Technical Assistance Program (UTAP) funds to access training, technical assistance, and professional development for public transportation staff, as well as strategic consulting services to advance the Grantee's public transportation goals.
- A.3. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Grantee's duties, responsibilities, and performance hereunder, these items shall govern in order of precedence below.
- a. this Grant Contract document with any attachments or exhibits (excluding the items listed at subsections b. and c., below);
 - b. the State grant proposal solicitation as may be amended, if any;
 - c. the Grantee's proposal incorporated by reference to elaborate supplementary scope of services specifications.

B. TERM OF GRANT CONTRACT:

This Grant Contract shall be effective for the period beginning on January 1, 2025 ("Effective Date") and ending on December 31, 2026, ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Twelve Thousand Dollars and No Cents (\$12,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment One, is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.
- C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section

- C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

Tennessee Department of Transportation
 Public Transportation Section
 Division of Passenger Transportation, Rail & Freight
 505 Deaderick Street – James K. Polk Building, Suite1200
 Nashville, Tennessee 37243

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Grantee).
 - (2) Invoice Date.
 - (3) Invoice Period (to which the reimbursement request is applicable).
 - (4) Grant Contract Number (assigned by the State).
 - (5) Grantor: Tennessee Department of Transportation, Division of Passenger Transportation, Rail & Freight.
 - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
 - (7) Grantee Name.
 - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
 - (9) Grantee Remittance Address.
 - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
 - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
 - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
 - ii. The amount reimbursed by Grant Budget line-item to date.
 - iii. The total amount reimbursed under the Grant Contract to date.
 - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.
- (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
 - (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.
 - (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
 - (4) All invoice reimbursement amounts are to be rounded down to the next lowest full dollar of the expense by source of reimbursement and by detail budget line item. If the contract includes funds previously allocated in a previous grant contract or provides for a subsequent phase of work with the same funding as a

previous contract, and partial dollars were paid in the previous grant contract, then this Grant Contract's initial reimbursement by source of reimbursement and by detail budget line item shall be to achieve the remaining reimbursements in whole dollars. All remaining reimbursements after the first by source of reimbursement and by detail budget line item are to be rounded down to the next lowest whole dollar by source of reimbursement and by detail budget line item.

- C.6. Budget Line-item. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may request revisions of Grant Budget line-items by letter, giving full details supporting such request, provided that such revisions do not increase total Grant Budget amount. Grant Budget line-item revisions may not be made without prior, written approval of the State in which the terms of the approved revisions are explicitly set forth. Any increase in the total Grant Budget amount shall require a Grant Contract amendment.
- C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within ninety (90) days of the Grant Contract end date, in form and substance acceptable to the State.
- a. The Grant Budget specifies a Grantee Match Requirement and the final grant disbursement reconciliation report shall detail all Grantee expenditures recorded to meet this requirement.
 - i. No Grantee expenditure shall be recorded and reported toward meeting a Grantee Match Requirement of more than one grant contract with the State.
 - ii. The final grant disbursement reconciliation report shall specifically detail the exact amount of any Grantee failure to meet a Match Requirement, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the Grant Budget column "Grant Contract," shall be reduced by the amount that the Grantee failed to contribute to the Total Project as budgeted.
 - b. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract (including any adjustment pursuant to subsection a.ii. above), the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
 - c. The State shall not be responsible for the payment of any invoice submitted to the state after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
 - d. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the state pursuant to this Grant Contract.
 - e. The Grantee must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal

agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.

- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Central Procurement Office Policy Statement 2013-007 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.
- a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
 - b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable

to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.

- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.
- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.
- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
 - c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The State:

Brenden Henderson, Transit Grants Financial Analyst
 Office of Grants Administration
 Public Transportation Section
 Division of Passenger Transportation, Rail & Freight
 James K. Polk Building, Suite 1200
 505 Deaderick Street
 Nashville, Tennessee 37243
Brenden.henderson@tn.gov
 Phone: (615) 253-4942
 Fax: (615) 253-1482

The Grantee:

Chris Campbell, AICP, Public Transportation Manager
 City of Kingsport, Kingsport Area Transit Service
 900 East Main Street
 Kingsport, Tennessee 37660
chriscampbell@kingsporttn.gov
 Phone: (423) 224-2857
 Fax: (423) 224-2615

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

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

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.11. HIPAA Compliance. As applicable, the State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.

- b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.
- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
- D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.
- D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.
- At least ninety (90) days before the end of its fiscal year, the Grantee shall complete the Information for Audit Purposes ("IAP") form online (accessible through the Edison Supplier portal) to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed form online during the Grantee's fiscal year. Immediately after the fiscal year has ended, the Grantee shall fill out the End of Fiscal Year ("EOFY") (accessible through the Edison Supplier portal).
- When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.
- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.327 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term “equipment” shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds ten thousand dollars (\$10,000.00).

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.23. Limitation of State’s Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State’s total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.24. Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee’s representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee’s performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.
- D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.
- D.26. **Reserved.**

- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.
- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

- d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.35. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Grant Contract.

- D.36. State Sponsored Insurance Plan Enrollment. The Grantee warrants that it will not enroll or permit its employees, officials, or employees of contractors to enroll or participate in a state sponsored health insurance plan through their employment, official, or contractual relationship with Grantee unless Grantee first demonstrates to the satisfaction of the Department of Finance and Administration that it and any contract entity satisfies the definition of a governmental or quasigovernmental entity as defined by federal law applicable to ERISA.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.
- E.2. Printing Authorization. The Grantee agrees that no publication coming within the jurisdiction of Tenn. Code Ann. § 12-7-101, *et seq.*, shall be printed pursuant to this Grant Contract unless a printing authorization number has been obtained and affixed as required by Tenn. Code Ann. § 12-7-103(d).
- E.3. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn. Code Ann. §§ 39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract
- E.4. Personally Identifiable Information. While performing its obligations under this Grant Contract, Grantee may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Grant Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Grantee agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Grantee shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII

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

The Grantee shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Grantee ("Unauthorized Disclosure") that come to the Grantee's attention. Any such report shall be made by the Grantee within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Grantee. Grantee shall take all necessary measures to halt any further Unauthorized Disclosures. The Grantee, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Grantee shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Grant Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Grant Contract.

E.5. Transfer of Grantee's Obligations.

The Grantee shall not transfer or restructure its operations related to this Grant Contract without the prior written approval of the State. The Grantee shall immediately notify the State in writing of a proposed transfer or restructuring of its operations related to this Grant Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving a proposed transfer or restructuring.

E.6. T.C.A. Section 13-10-107 Compliance.

- 1) Grantee agrees to proceed expeditiously with and complete the project in accordance with plans approved by the Commissioner of TDOT ("Commissioner");
- 2) Grantee agrees to commence and continue operation of the project on completion of the project and not to discontinue operations or dispose of all or part of the project without Commissioner's prior written approval;
- 3) Grantee agrees to apply for and make reasonable efforts to secure federal assistance for the project, subject to any conditions the Commissioner may require in order to maximize the amounts of such assistance received or to be received for all projects in the State; and
- 4) Grantee agrees to provide Grantee's share of the cost of the project and comply with T.C.A. § 13-10-107(c)(4).

E.7. Match/Share Requirement. A Grantee Match/Share Requirement is detailed in the Grant Budget, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the "Grant Contract" column in the Grant Budget, shall be reduced by the amount of any Grantee failure to meet the Match/Share Requirement.

- E.8. Reimbursements to Reflect Match/Share. Reimbursements to Grantee shall reflect the percentage of Grantee Match/Share detailed in the Grant Budget. Reimbursements are subject to the other provisions of this Grant Contract, including but not limited to, the maximum liability amount in Section C.1.
- E.9. No Retainage Allowed. The Grantee may not withhold retainage on progress payments from the prime contractor and the prime contractor may not withhold retainage from their subcontractors.
- E.10. Title VI Compliance. Grantee shall comply with requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1, pursuant to the guidelines established by the Tennessee Human Rights Commission's Title VI Compliance Office, by completing all of the following items:
- a. Provide name and contact information of Grantee's Title VI Coordinator to State.
 - b. Ensure Policies and Procedures Manual contains a Title VI section with information on: (a) Filing a complaint; (b) Investigations; (c) Report of findings; (d) Hearings and appeals; (e) Description of Title VI Training Program; (f) Limited English Proficiency (LEP) procedure; and (g) Retaliation.
 - c. Train all staff (regular, contract, volunteer) on Title VI upon employment and annually thereafter. Training documentation shall be made available upon request of State, and include: 1) dates and duration of each training; 2) list of staff completing training on each date.
 - d. Annually complete and submit a Title VI self-survey as supplied by State.
 - e. Implement a process and provide documentation to ensure service recipients are informed of Title VI and how to file a discrimination complaint.

Additional Title VI resources may be found at [Title VI Program \(tn.gov\)](https://www.tn.gov).

IN WITNESS WHEREOF,

CITY OF KINGSPORT:

PAUL MONTGOMERY, MAYOR

DATE

BART ROWLETT, CITY ATTORNEY

DATE

ANGELA MARSHALL, CITY RECORDER

DATE

DEPARTMENT OF TRANSPORTATION:

HOWARD H. ELEY, COMMISSIONER

DATE

LESLIE SOUTH, GENERAL COUNSEL
APPROVED AS TO FORM AND LEGALITY

DATE

ATTACHMENT ONE

UNIVERSAL MULTIMODAL TRANSPORTATION RESOURCES BUDGET

	STATE SHARE	FEDERAL SHARE	GRANT CONTRACT	GRANTEE SHARE	TOTAL
SCOPE—CAPITAL					
11.00.S0 Capital Assistance, Non-ADA - TDOT					
11.00.S1 Capital Assistance, ADA - TDOT					
11.1x.xx Revenue Rolling Stock					
11.2x.xx Transitways / Line					
11.3x.xx Station Stops & Terminals					
11.4x.xx Support Equip / Facilities					
11.5x.xx Electrification / Power Dist.					
11.6x.xx Signal & Communication Equip					
11.7x.xx Other Capital Items					
11.8x.xx State / Programs Administration					
11.9x.xx Transit Enhancements					
12.xx.xx Fixed Guideway					
14.xx.xx New Start					
SCOPE—OPERATING					
30.00.00 Operating Assistance - TDOT					
30.xx.xx Operating Assistance					
SCOPE—PLANNING					
44.00.S0 Planning - TDOT					
44.xx.xx Planning					
SCOPE—MANAGEMENT TRAINING					
50.xx.xx Management Training					
SCOPE—OVERSIGHT REVIEWS					
51.xx.xx Oversight Review					
SCOPE—RESEARCH PROJECTS					
55.xx.xx Research Projects					
SCOPE—SAFETY & SECURITY					
57.xx.xx Safety and Security					
SCOPE - UNIVERSITY RESEARCH					
70.xx.xx					
SCOPE - Non-Add Scope Codes					
99.xx.xx					
SCOPE - OTHER					
43.5x.xx - Rural Technical Assistance Program					
43.U0.S1 - Urban Technical Assistance Program	\$12,000.00	\$0.00	\$12,000.00	\$0.00	\$12,000.00
62.0x.xx - Project Administration					
64.8x.xx - Appalachian					
GRAND TOTAL	\$12,000.00	\$0.00	\$12,000.00	\$0.00	\$12,000.00

GRANT BUDGET LINE-ITEM DETAIL INFORMATION

Line Item Detail For: OTHER	State	Federal	Grant Contract	Grantee	Total Project
43.U0.S1 - Urban Technical Assistance Program	\$12,000.00	\$0.00	\$12,000.00	\$0.00	\$12,000.00
TOTAL	\$12,000.00	\$0.00	\$12,000.00	\$0.00	\$12,000.00



AGENDA ACTION FORM

Consideration of a Resolution Amending an Economic Development Contribution to the Industrial Development Board of Kingsport and Authorizing One or More Agreements Pertaining to the Same

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

Action Form No.: AF-328-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: Steven Bower
Presentation By: Chris McCartt

Recommendation:
Approve the Resolution.

Executive Summary:
In December of 2013 the Industrial Development Board of Kingsport (Kingsport Economic Development Board or KEDB) purchased a portion of the property owned by General Shale. During that same time the Kingsport BMA approved a resolution authorizing a contribution agreement, should it be needed, in the amount of \$4.0 million which was the amount of the loan/line of credit issued to KEDB. In addition to the purchase of the property, which was \$2,770,000, additional funding was used to demolish the structures located on the site in order to prepare it for future development.

At the October 27, 2020 KEDB meeting a motion was made and approved to amend the current loan (\$4.0m) with First Horizon at a fixed rate of 2.15% for an additional 36 months with no early principal payment penalties and then approved at the December 1, 2020 BMA meeting referenced in AF-301-2020. At a meeting held on December 12, 2023 KEDB voted to extend the loan for 12 months commencing December 31, 2023 through December 20, 2024 at a fixed interest rate of 7.5%. The BMA approved on December 5th, 2023 referenced in AF-373-2023.

At the December 3rd, 2024 meeting the KEDB board voted to extend the loan for 72 months at a fixed interest rate of 4.09%. The loan amount is now \$2,620,000 and will continue to decrease as the Brickyard Village Project progresses. In the event loan payments are not made, this resolution provides that the city agrees to contribute to KEDB, if needed, for economic or industrial development.

Attachments:

- 1. Resolution
- 2. Property Map

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayes	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

Item XI5.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE ECONOMIC DEVELOPMENT CONTRIBUTION AGREEMENT WITH THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KINGSPORT, TENNESSEE; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, in December, 2013, the board approved a resolution authorizing the mayor to sign an economic development agreement authorizing a contribution to the Industrial Development Board of the City of Kingsport, Tennessee (KEDB) for a portion of the property owned by General Shale; and

WHEREAS, the city and KEDB with First Horizon amended the agreement on December 1, 2020 (Resolution 2021-101) to extend the loan through December 31, 2023 and a second amendment was approved by the board on December 5, 2023 (Resolution 2024-124) which is set to expire on December 20, 2024; and

WHEREAS, KEDB and First Horizon have negotiated to extend the agreement for an additional 72 months, from the date of closing which KEDB will formally approve at its meeting on December 3, 2024; and

WHEREAS, upon approval of the extension by KEDB the city will need to extend the above referenced contribution agreement for the same period of time; and

WHEREAS, as time is of the essence in securing the extension, it is deemed advisable for the board to approve the third amendment to the contribution agreement contingent upon approval of the extension by KEDB.

Now therefore,

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

SECTION I. That the Third Amendment to the Contribution Agreement with the Industrial Development Board of the City of Kingsport, Tennessee (KEDB) for property it owns formerly owned by General Shale Brick, Inc. is approved contingent upon approval of the loan extension by KEDB.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the Third Amendment to the Contribution Agreement with KEDB for property it owns formerly owned by General Shale Brick, Inc., to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said agreement being as follows:

THIRD AMENDMENT TO CONTRIBUTION AGREEMENT

THIS THIRD AMENDMENT TO CONTRIBUTION AGREEMENT, dated as of December __, 2024, is made by and between THE CITY OF KINGSPORT, TENNESSEE, a municipal corporation

of the State of Tennessee ("City"), and THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KINGSPORT, TENNESSEE, a corporation organized under T.C.A. § 7-53-101 et seq., commonly known as the "Kingsport Economic Development Board" ("KEDB").

RECITALS:

A. KEDB has previously acquired certain real property owned by General Shale Brick, Inc. consisting of approximately 98 acres designated on the Sullivan County Tax Assessor's Tax Maps as Tax Parcel 009.00 of Group F on Map 046P, City of Kingsport, 11th Civil District of Sullivan County, Tennessee (the "Property"), and has held the Property for development (the "Project").

B. To finance KEDB's acquisition of the Property and development of the Project, First Horizon Bank's predecessor, First Tennessee Bank National Association (herein "First Horizon Bank") provided a loan to KEDB in the principal amount of \$4,000,000 (the "Acquisition and Development Loan").

C. To assist KEDB in economic development, including the acquisition of the Property and the pursuit of the Project, the City entered into a Contribution Agreement dated December 20, 2013 whereby the City agreed to assist KEDB in economic development by making certain payments for up to seven years as economic development contributions to KEDB (the "Contribution Agreement").

D. The Acquisition and Development Loan matured on December 30, 2020 and pursuant to Renewal and Extension Promissory Note dated December 10, 2020, First Horizon Bank agreed to renew and extend the Loan for an additional period of three (3) years to a new maturity date of December 30, 2023.

E. The Board of Mayor and Aldermen of the City adopted Resolution No. 2021-101 whereby the City committed to make continued economic development contributions to KEDB in the form of semi-annual contributions of \$43,000.00 each for three (3) years beginning on June 1, 2021 and December 1, 2021 and on each succeeding June 1 and December 1 through December 1, 2023.

F. The Board of Mayor and Aldermen of the City adopted Resolution No. 2024-124 further renewing and extending the Loan for an additional period of one (1) year to a new maturity date of December 30, 2024, conditioned upon KEDB being able to demonstrate continued financial support from the City.

G. The Board of Mayor and Aldermen of the City has adopted Resolution No. 2025-_____ whereby the City has committed to make certain payments to KEDB during calendar for an additional 72 months after the closing as continued economic development contributions to KEDB, as set out herein.

H. The parties desire to execute this Third Amendment to Contribution Agreement to satisfy the terms and conditions of the Resolution and the requirements of First Horizon Bank.

NOW, THEREFORE, in consideration of the foregoing premises, and in consideration of the parties' mutual covenants and undertakings set forth herein below, the City and KEDB do hereby mutually agree and contract with each other as follows:

1. **Renewal and Extension of Acquisition and Development Loan.** The City hereby acknowledges and agrees that, pursuant to KEDB's \$4,000,000 Third Renewal and Extension Promissory Note dated December __, 2024, First Horizon Bank will renew and extend the Acquisition and Development Loan for a period of 72 months. Beginning December __, 2024, interest will accrue at a fixed interest rate of 4.09% for 72 months, with all principal due and payable at maturity on December 30, 2030

2. **Contribution Commitments by the City of Kingsport.** To support KEDB's acquisition and development of the Property and its ability to pay the debt service due under the Loan, the City hereby agrees to provide to KEDB contributions for economic development, during calendar year 2024, as requested by KEDB, in semi-annual contributions of up to \$150,000 each, effective for June 1, 2024 and December 1. KEDB agrees to use such contributions to pay the interest payments due under the Loan. KEDB shall use all net proceeds realized from the sale of any portion of the Property to repay principal due under the Acquisition and Development Loan; provided, however, KEDB acknowledges that the City is not obligated to pay KEDB for the transfer of a portion of the Property by KEDB to the City for recreational use (the exact boundaries and acreage of such recreational area to be mutually determined by KEDB and the City). KEDB shall use all net proceeds realized from the lease of all or any portion of the Property to pay the interest payments due under the Acquisition and Development Loan from time to time. In the event a principal balance remains outstanding under the Acquisition and Development Loan at maturity, the City shall either: (i) purchase the Property (or the balance of the Property) from KEDB for a purchase price equal to the outstanding principal balance and any accrued interest then owed on the Loan, or (ii) provide an economic development contribution to KEDB in an amount sufficient to pay the outstanding principal balance and any remaining accrued interest then owed on the Acquisition and Development Loan. In either event, KEDB shall use such funds to retire the remaining balance of the Acquisition and

Development Loan in full. Notwithstanding any other provision herein, the City's obligation to make such economic development contributions shall terminate when the Acquisition and Development Loan is paid in full.

3. Security Interest and Pledge. The City acknowledges and agrees that KEDB has heretofore assigned, pledged and granted to Lender a security interest in KEDB's rights under this Agreement as collateral for the Acquisition and Development Loan, and the City further agrees that Lender, as the assignee, pledgee and holder of such security interest, shall be entitled to enforce KEDB's rights under the Contribution Agreement and to apply the monies payable by the City under the Contribution Agreement toward the monies due under the Acquisition and Development Loan from time to time. In the event there is a default under the Acquisition and Development Loan, Lender shall be entitled to apply the proceeds so realized to satisfy the indebtedness under the Acquisition Loan and the Acquisition and Development Loan in such order and allocation as Lender may determine.

4. No Personal Liability. No member, director, officer, commissioner, elected representative, or employee, past, present or future, of the City, or KEDB, or any successor body, shall have any personal liability for the performance of any obligations of the City or KEDB, respectively, under this Agreement.

5. Applicable Law. This Agreement is made as a Tennessee contract and shall be construed and applied according to the laws of the State of Tennessee.

6. No Other Amendments. Except as set forth herein, there are no other amendments to the terms of the Contribution Agreement as originally executed.

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

[Acknowledgements Deleted for Inclusion in this Resolution]

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

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

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

ADOPTED this the 3rd day of December, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

Remaining KEDB Land Brickyard Area



Legend

- Remaining KEDB Land
- Parcels
- Streets

Item XI5.



NC CGIA, Maxar, Microsoft



AGENDA ACTION FORM

Consideration of a Resolution to Authorize the Mayor to Renew an Interlocal Agreement with Sullivan County to Allow a Lease Agreement for the Use of Space at 225 W. Center Street by Create Appalachia

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

Action Form No.: AF-333-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: Bower/Rowlett
Presentation By: Steven Bower

Recommendation:
Approve the Resolution.

Executive Summary:
An Interlocal Agreement between Sullivan County, Tennessee and the City of Kingsport, Tennessee was executed on November 16th, 2021, referenced in AF-325-2021 to facilitate the lease at 225 W. Center Street. The current lease expires in January.

The current tenant, Create Appalachia, wishes to continue leasing the space and has requested a renewal of the lease. The purpose of this action is to renew the Interlocal Agreement to secure the County's consent for the City to continue leasing the space. Once approved by the Board of Mayor and Aldermen, the Interlocal Agreement will go to the Sullivan County Commission for review and approval.

Create Appalachia is a non-profit organization that offers entrepreneurs access to private offices, artist studios, temporary co-working desks, conference rooms and hi-speed internet. In addition to office space, they provide a video studio, motion-capture equipment, and 3D printing capabilities.

- Attachments:**
1. Resolution
2. Interlocal Agreement

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayer	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

RESOLUTION NO. _____

A RESOLUTION RENEWING THE INTERLOCAL AGREEMENT WITH SULLIVAN COUNTY TO ALLOW RENEWAL OF A LEASE AGREEMENT FOR THE USE OF SPACE AT 225 W. CENTER STREET BY CREATE APPALACHIA; AND AUTHORIZING THE MAYOR TO EXECUTE ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS AGREEMENT

WHEREAS, the board of mayor and aldermen approved Resolution 2022-092 on November 16, 2021 which provided for an interlocal agreement with Sullivan County to lease the unoccupied space in the property located at 225 W. Center Street to Create Appalachia; and

WHEREAS, the term of the interlocal agreement will terminate upon the expiration of the term of the current lease, which expires in January 2024; and

WHEREAS, Create Appalachia desires to continue using the space at 225 W. Center Street and has requested renewal of the lease agreement; and

WHEREAS, renewal of the interlocal agreement securing the county's consent to the city's lease of the premises is necessary due to the county's 16% undivided interest in the property located at 225 West Center Street.

Now therefore,

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

SECTION I. That renewal of an Interlocal Agreement between the City of Kingsport and Sullivan County for to allow Create Appalachia to lease space at 225 W. Center Street, is approved.

SECTION II. That the mayor or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the an Interlocal Agreement between the City of Kingsport and Sullivan County for to allow Create Appalachia to lease space at 215 W. Center Street, to deliver the Agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said agreement being as follows:

INTERLOCAL AGREEMENT

THIS AGREEMENT, to be effective as of the last date signed below, is made and entered into by and between **Sullivan County, Tennessee**, a political subdivision of the State of Tennessee (hereinafter referred to as "County") and the **City of Kingsport, Tennessee**, a municipal corporation of the State of Tennessee (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, on the 9th day of April, 1962 City executed a deed which conveyed a 16% undivided interest in the real property located at 225 West Center Street, Kingsport, Sullivan County, Tennessee being more particularly described as follows:

PARCEL. NO. 1: BEGINNING at the intersection of the northwesterly sideline of Shelby Street with the southwesterly sideline of West Center Street; thence southwesterly with the northwesterly sideline of Shelby Street at right angles to the southwesterly sideline of West Center Street one hundred fifty (150) feet to a point; thence northwesterly at right angles to the Shelby Street right-of-

way line and crossing Block 15, two hundred ninety-five (295) feet to a point in the southeasterly sideline of Clay Street, thence northeasterly at right angles and with the southeasterly sideline of Clay Street one hundred fifty (150) feet to its intersection with the southwesterly sideline of West Center Street; thence southeasterly at right angles to the right-of-way line of Clay Street and with the southwesterly sideline of West Center Street two hundred ninety-five (295) feet to the point of BEGINNING, and being part of Block 15, and containing one and two hundredths (1.02) acres, more or less.

WHEREAS, upon said property was constructed the City-County Administrative building (hereinafter "Building") which housed administrative offices of the City, the offices of the county clerk and county trustee, and which currently houses the law and chancery courts for City as well as offices for the circuit court clerk and clerk and master; and

WHEREAS, County was given control of those spaces occupied by the Deputy Trustee's Office and the Deputy County Court Clerk's offices and City was given control of the remainder of the building; and

WHEREAS, administrative offices for the City and offices for the county clerk and trustee have relocated to alternate sites, leaving only the law and chancery courts and offices of the law court clerk and clerk and master; and

WHEREAS, currently the building is largely unoccupied and City desires to have the building serve a greater public purpose through use of the unoccupied space; and

WHEREAS, certain not for profit entities have expressed an interest in leasing space in the building which will serve the public interest through use of the building for purposes that will benefit the public; and

WHEREAS, in light of the projected use of the building City anticipates leasing the space for a nominal fee.

NOW, THEREFORE, in consideration of the mutual promises and benefits to be derived by each party here from, the County and City agree as follows:

SECTION I

A) This agreement is entered into pursuant to the Tennessee Interlocal Cooperation Act, Tennessee Code Annotated §12-9-101, et seq.

B) The purpose of this agreement is to secure County's consent for City to lease the presently unoccupied space in the Building.

C) Upon becoming effective, this agreement shall remain in full force and effect for the duration of the lease term of twelve months beginning on the execution of the lease and any subsequent renewals of the lease. This agreement shall terminate upon termination of the lease with the lessee(s)

D) Pursuant to state law, including the Governmental Tort Liability Act, each party hereto will be responsible for its own acts. No provision of this Agreement shall act as or be deemed a waiver by any party of any immunity, its rights or privileges as a sovereign entity, or of any provision of the Tennessee Governmental Tort Liability Act, T.C.A. section 29- 20101- et. seq.

E) Except as otherwise set forth herein, County and City shall be bound by all terms and conditions regarding maintenance, management, use, and control, as set forth in the Deed entered into on the 9th day of April, 1962, recorded at Deed Book 224A, Page No. 435

SECTION II

COUNTY'S ACKNOWLEDGMENTS

A) County hereby consents to lease of unoccupied space in the Building by City.

B) County authorizes City to establish lease terms as deemed appropriate by the City, authorizes City to select lessees which City deems appropriate, and to enter into and administer lease agreements with lessee(s) on such terms and conditions as City deems appropriate to include authorization of sub-lease agreements that are contingent upon City approval.

C) County acknowledges lessees will be not for profit corporations authorized to operate within the state of Tennessee and which are acknowledge as tax exempt pursuant to Title 26, Chapter 1, Subchapter F of the United States Code.

D) County acknowledges space will be rented at a nominal rate and waives any right, claim, title, or interest in lease payments made to City.

E) County agrees that should it require use of any space in the City-County Administrative Building it will provide written notice to City no less than 150 days prior to the date occupancy is required and will negotiate with City in good faith to determine County's need and mitigate impacts on lessees then occupying space within the building.

SECTION III

CITY'S ACKNOWLEDGMENTS

A) City shall establish lease terms as it deems appropriate and select lessees which it deems suitable.

- B) City shall require documentation of lessees not for profit and tax exempt status and demand other documentation as City deems necessary to ensure lessees operate for a public benefit.
- C) City shall administer all leases and ensure lessees comply with all applicable lease terms.
- D) City shall ensure leased spaces are kept clean and orderly, either through city staff or through requirements imposed upon lessees.
- E) City shall maintain the exterior areas of the property, common areas of the interior of the building, and maintain the mechanical systems of the building.

**SECTION IV
TERMINATION AND/OR EXPIRATION**

This Agreement will terminate upon the expiration of the term of the lease or upon termination of the lease agreement, whichever occurs first

**SECTION V
AMENDMENT**

No amendment to this Interlocal Agreement will be made except upon the written consent of the parties.

**SECTION VI
ENFORCEABILITY**

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

**SECTION VII
DISPUTE OR DISAGREEMENT**

Upon the occurrence of an alleged default, or a dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement or, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties will engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it will be to meet for the purpose of attempting to resolve such Dispute. The designated officers will meet as often as the parties deem to be reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this paragraph, and in the event that either of the parties concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the parties may mutually agree to submit to nonbinding mediation. If the matter is not resolved by mediation either party will have the right, at its sole option, without further demand or notice, to take whatever action at law or in equity may appear necessary or desirable to enforce its rights including, but not limited to, the suspension or termination of this agreement.

**SECTION VIII
EFFECTIVE DATE**

This Agreement shall take effect upon execution by the authorized representative of each party after approval of the governing body of each party, and shall remain in full force and effect until terminated or expiration of the term.

IN WITNESS WHEREOF, the parties have affixed their respective signatures by their authorized officers.

[Acknowledgements Deleted for Inclusion in This Resolution]

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

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

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

ADOPTED this the 3rd day of December, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



AGENDA ACTION FORM

Consideration of a Resolution to Renew a Lease Agreement with Create Appalachia and to Allow the Mayor to Sign all Documents Necessary and Proper as they Pertain to the Lease

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

Action Form No.: AF-329-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: Steven Bower
Presentation By: Steven Bower

Recommendation:
Approve the Resolution.

Executive Summary:
Create Appalachia is a non-profit organization that offers entrepreneurs access to private offices, artist studios, temporary co-working desks, conference rooms and hi-speed internet. In addition to office space, they provide a video studio, motion-capture equipment, and 3D printing capabilities. They have leased the space, 225 W Center Street since January 3, 2021 referenced in AF-325-2021, and in that time have made significant investments to the improvement of the space and are now over 75% occupancy.

The renewal shall be twelve (12) months beginning at the time all documents are executed with a twelve (12) month option for renewal. After the final twelve (12) months, the lease would operate on a month to month basis. The tenant will be responsible for their space, as defined in the lease, and will make a rental payment of one dollar (\$1.00) per month.

- Attachments:**
- 1. Resolution
 - 2. Lease Agreement
 - 3. Create Appalachia Letter

	<u>Y</u>	<u>N</u>	<u>O</u>
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayes	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

Item X17.

RESOLUTION NO. _____

A RESOLUTION APPROVING RENEWAL OF A LEASE AGREEMENT WITH CREATE APPALACHIA AGREEMENT FOR THE USE OF SPACE AT 225 W. CENTER STREET AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, on November 16, 2021, the board adopted Resolution No. 2022-092 approving a lease agreement with Create Appalachia, a Tennessee not for profit tax exempt organization, leasing city property consisting of the first and second floor and office space on first floor formerly occupied by the Mayor and City Managers offices located at 225 W. Center Street; and

WHEREAS, Create Appalachia is a not for profit charitable organization as defined by Tenn. Code Ann. §§ 6-54-111 and 48-51-101 et seq. providing recreational and educational opportunities to citizens; and

WHEREAS, Create Appalachia continues to make good use of the space, from which it provides valuable benefits and services to citizens; and

WHEREAS, the terms will be for 12 months with the right to renew for an additional 12 months, and also a 90 day termination for convenience clause; and

WHEREAS, Create Appalachia desires and the board finds it beneficial to renew the lease with Create Appalachia.

Now therefore,

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

SECTION I. That renewal of a Lease Agreement between the City of Kingsport and Create Appalachia for space located at 225 W. Center Street, is approved subject to approval of the Interlocal Agreement by the County Commission.

SECTION II. That the mayor or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the a Lease Agreement between the City of Kingsport and Create Appalachia for space located at 225 W. Center Street, to deliver the Agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said agreement being as follows:

LEASE

THIS LEASE (herein "Lease") is made and entered into as of the last date entered with the signatures below, by and between CITY OF KINGSPORT, TENNESSEE, a municipal corporation of the State of Tennessee, (herein "Lessor") and CREATE APPALACHIA, a public benefit not for profit corporation chartered under the laws of the State of Tennessee (herein "Lessee").

WITNESSETH:

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

SECTION 1. PREMISES. Lessor in consideration of the rents to be paid and the covenants and agreements to be performed and observed by the Lessee and the restrictions contained herein does hereby lease to the Lessee and the Lessee does hereby lease and take from the Lessor the following described property (herein "Premises") and all improvements located thereon:

a.) Approximately 4,026 square feet of office/general space which makes up the first floor, northeastern wing, of the City/County Administrative building as further depicted by the first floor plan prepared by Allen N. Dryden dated May 15, 1961.

b.) Approximately 4,026 square feet of office/general spaces which makes up the second floor, northeastern wing, of the City/County Administrative building as further depicted by the second floor plan prepared by Allen N. Dryden dated May 15, 1961.

c.) Approximately 725 square feet of conference/meeting space identified as the Council Room, (room 202) by the second floor plan prepared by Allen N. Dryden dated May 15, 1961

And being portions of the structure referred to as the City-County Administrative Building in the Deed dated May 12, 1966 and recorded in Deed Book 224A Page 435, Sullivan County Register of Deed's office; situated on the property acquired by Lessor through a deed dated November 21, 1946 and recorded in Deed Book 87A, Page 519 in the Sullivan County Register of Deed's office.

SECTION 2. LEASE TERM. The term of this Lease (herein "Initial Term") shall be twelve (12) months beginning on last date entered with the signatures below, at noon and terminating the ending on the same day and month twelve (12) months thereafter, at noon, unless sooner terminated as herein provided. Provided Lessee is not in default, Lessor grants to Lessee the right to extend this Lease for one (1) additional consecutive twelve (12) month term (herein "Renewal Term") upon the terms, covenants and conditions contained herein. Lessee may exercise such right to extend the Initial Term upon written notice to Lessor at least ninety (90) days prior to the expiration of the Initial Term of the Lease. In no event will the Initial Term and Renewal Term extend beyond three years, except on written agreement of the parties.

SECTION 3. RENT. Lessee shall pay to Lessor, as rent, without demand or deduction, as rent One Dollar (\$1.00) per month with the first payment due on the date of the beginning of the Initial Term and on the same day each month thereafter during the Initial Term, and likewise for the Renewal Term without offset or deduction. All payments shall be made to Lessor at City of Kingsport, Tennessee, 415 Broad Street, Kingsport, Tennessee 37660, Attention: Lisa Winkle or designee, or at such other place as is designated in writing by Lessor. It is the intention of the Lessor and Lessee that utilities described in Section 5 shall be paid by Lessee and the Lessor shall be indemnified by Lessee and is hereby so indemnified by Lessee against such costs, charges, expenses, and obligation. In addition to the rent provided herein, Lessee must pay to Lessor any and all real estate taxes, assessments, and other governmental levies and charges, general and special, ordinary or extraordinary, unforeseen or foreseen, of any kind which are assessed against or imposed in respect of the Premises.

SECTION 4. USE OF PREMISES. Lessee shall use the Premises for the purpose for office requirements, parking, and storage, and for no other purpose. Lessee agrees not to use the Premises in any way that may be unlawful, improper, noisy, offensive, or contrary to any applicable statute, regulation, ordinance or bylaw. Lessee hereby acknowledges the Law Court and Chancery Court for the Second Judicial District conduct proceedings within the structure and Lessee's activities shall not interfere with court proceedings. Lessee shall not permit the sale, service, use, consumption, display, storage, or presence of alcoholic beverages, wine, or beer, including brown bagging, on the Premises at any time.

SECTION 5. UTILITIES. During the Initial Term or Renewal Term, Lessee shall be solely responsible for the payment of garbage collection, telephone, cable, internet, and any service fees required for the installation of these utilities. Costs for water/sewer bills, power bills and natural gas bills shall be Lessee's responsibility on a pro rata basis determined by square footage occupied by Lessee.

SECTION 6. CLEAN AND SANITARY CONDITION. During the Initial Term and Renewal Term, Lessee shall keep and maintain the Premises in a clean and sanitary condition at all times, free of all garbage and debris. All garbage and similar debris shall be deposited by Lessee in facilities specifically for garbage collection. Lessee shall further comply with all local ordinances and regulations imposed by Lessor relating to maintaining the Premises in a clean and sanitary condition and collection of garbage and similar debris. Lessee shall be responsible for janitorial services and pest control for the Premises.

SECTION 7. LESSEE'S MAINTENANCE. Except as otherwise stated in this Lease it shall be Lessee's sole responsibility to keep and maintain the entire Premises, and every part thereof, in good condition and repair at all times during the Initial Term or Renewal Term. Lessee shall maintain the Premises in compliance with the laws of the state of Tennessee and in accordance with all directions, rules and regulations of the health officer, fire marshal, building inspector, or other proper officials of the governmental agencies having jurisdiction. Lessee shall comply with all requirements of law,

ordinance and otherwise, affecting the Premises. If Lessee refuses or neglects to commence and to complete repairs promptly and adequately, Lessor may declare the Lessee in breach of this Lease. Lessee shall, upon the expiration or termination of this Lease, surrender the Premises in good condition, broom clean, reasonable wear and tear excepted.

SECTION 8. LESSOR'S MAINTENANCE. Except for any repairs necessitated by the negligent act or omission of Lessee, its agents, servants, or invitees, or by any unusual use of the Premises by Lessee, Lessor shall, upon receipt of notice in writing from Lessee when such repairs are necessary, repair and maintain in good order and condition the roof, maintain the sewer, water lines, and other matters related to plumbing, maintain the HVAC systems in the building, and be responsible for all other items of maintenance not specifically assigned to the Lessee. Additionally, prior to occupancy by Lessee, Lessor will broom clean the Premises including the removal of loose items on the office floor, clean the area of the Premises outside the building including the removal of any trash and debris, and ensure all light bulbs and ballasts in the Premises are in good and working condition as of the lease commencement date, after which point Lessee will be responsible for all light bulbs and ballasts.

SECTION 9. COMPLIANCE WITH APPLICABLE LAWS. Throughout the Initial Term or Renewal Term, Lessee shall comply with all present and future laws, statutes, codes, ordinances, rules and regulations of the federal government, state of Tennessee, or City of Kingsport, restrictive covenants and all orders, decrees and like actions of any court of competent jurisdiction which may be applicable to the Premises.

SECTION 10. ALTERATIONS. The Lessee shall have the right, at its sole expense, from time to time, to maintain security of Lessee's material and equipment inside the Premises, including the right to restrict access to the Premises through the installation of security devices (locks, cameras, card readers, door buzzers, intercom, and door alarms) to install an independent computer network within the Premises, and redecorate the Premises and to make such non-structural alterations and changes in such parts thereof as Lessee shall deem expedient or necessary for its purposes; provided, however, that such alterations and changes shall neither impair the structural soundness nor diminish the value of the Premises and shall otherwise comply with the requirements of this Lease. Lessee agrees to pay promptly when due the entire cost of any work performed by it upon the Premises so that the Premises at all times shall be free of liens for labor and materials. Lessee further agrees that in doing such work that it shall employ materials of good quality and comply with all governmental requirements, and perform such work in a good and workmanlike manner. Lessee agrees that it shall procure all necessary permits for making any repairs, alterations, or other improvements for installations, when applicable.

SECTION 11. SURRENDER OF PREMISES. On the expiration or earlier termination of this Lease pursuant to its terms, Lessee shall peaceably and quietly leave and surrender the Premises to the Lessor, in good order, condition and repair, broom clean, reasonable wear and tear excepted and free and clear of all liens.

SECTION 12. CONDITION OF PREMISES. Lessee has examined the Premises and accepts the same "AS IS" and "WHERE IS" in its present state and condition without any representations or warranties, express or implied, in fact or in law, by Lessor as to the nature, condition or usability thereof, or as to the use or uses to which the Premises may be put.

SECTION 13. FIRE, CASUALTY, EMINENT DOMAIN. Should a substantial portion of the Premises, be substantially damaged by fire or other casualty, or be taken by eminent domain, Lessor may elect to terminate this Lease. When such fire, casualty or taking renders the Premises substantially unsuitable for its intended use, a proportionate abatement of rent shall be made, and Lessee may elect to terminate this Lease if: (a) Lessor fails to give written notice within 30 days after a fire, casualty or taking of its intention to restore the Premises; or (b) Lessor fails to restore the Premises to a condition substantially suitable for its intended use within 90 days after a fire, casualty or taking. Notwithstanding the foregoing, in the event of damage by fire or other casualty resulting from the carelessness, negligence, intentional, or other improper conduct of Lessee, its agents, employees, contractors, or others acting on its behalf, or from the carelessness, negligence, intentional, or other conduct of Lessee's customers, guest, or visitors, Lessee shall have the full liability and responsibility for repairing and/or rebuilding from such casualty loss and for other damages and losses incurred by Lessor. Lessor reserves all rights for damages or injury to the Premises for any taking by eminent domain, except for damage to Lessee's property or equipment.

SECTION 14. FIRE INSURANCE. Lessee shall not permit any use of the Premises which shall adversely affect or make voidable any insurance on the property of which the Premises are a part, or on the contents within the property, or which shall be contrary to any law, regulation or recommendation made by the state fire prevention agency, local fire department, Lessor's insurer or any similar entity. Lessee shall not vacate the Premises or permit same to be unoccupied other than during Lessee's customary non-business days or hours, or cause or allow the utilities serving the

Premises to be terminated.

SECTION 15. SIGNS. Any sign on the Premises shall conform to all applicable laws. The cost for all signs shall be borne by Lessee. Lessor grants Lessee permission to place a sign on the side and front of the building, provided it complies with the requirements of this Section 15

SECTION 16. ASSIGNMENT OR SUBLEASE. Lessee may, subject to the approval of Lessor, sublet the Premises, to allow another entity or individual to occupy the a part of the Premises. Lessor's prior consent to any sublease may be withheld for any or no reason. Lessee shall notify Lessor of its intention to sublease no less than 90 days prior to commencement of any sublease. A sublease shall only be approved for entity's which are not for profit corporations under the laws of the State of Tennessee. Furthermore, Lessee shall not sublease more than 50% of the Premises. If Lessee assigns this Lease or sublets the Premises without prior approval of Lessor, Lessor shall have the option to terminate this Lease, at an effective date to be determined by Lessor, upon written notice to Lessee.

SECTION 17. LESSOR'S ACCESS. Lessor, its agents and designates, may examine and inspect the Premises at reasonable times and Lessee shall provide Lessor, if not already available, with a set of keys for the purpose of such examination, provided that Lessor shall not thereby unreasonably interfere with the conduct of Lessee's business. Lessee shall permit Lessor to enter the Premises to inspect such repairs, improvements, alterations, or additions thereto as may be required under the provisions of this Lease. Lessor, its agents and designates, may at any reasonable time enter to show the Premises to others without creating any obligation or liability for Lessor. In the event of any emergency, Lessor, its agents and other representatives, may enter at any time, without notice and without the presence of Lessee. No compensation shall be asked or claim made by Lessee by reason of any inconvenience or annoyance arising from anything that may be done in repairing, altering, working on, or protecting the Premises or building, however the necessity may arise. Nothing in this Section 17 shall be construed as imposing any duty on Lessor to make any repairs, alterations or additions. A city police officer shall accompany Lessor, or its agents or designees, when entering the Premises pursuant to this Section 17.

SECTION 18. LIABILITY. Lessee shall, and does hereby, assume all risk of loss or injury to the property or person of all persons at any time coming upon the Premises during the Initial Term or Renewal Term. Lessee shall be solely responsible, as between Lessor and Lessee, for deaths or personal injuries to all persons and damage to any property, including damage by fire or other casualty, occurring in or on the Premises and arising out of the use, control, condition, or occupancy of the Premises by Lessee, except for death, personal injuries or property damage to the extent resulting from the negligence or willful misconduct of Lessor or Lessor's employees, agents, or representatives. Lessee agrees to indemnify and hold harmless Lessor from any and all liability, including but not limited to out of pocket costs, expenses, damages, causes of action, claims, judgments and reasonable attorney fees to the extent caused by or arising out of any of the aforesaid matters.

SECTION 19. INSURANCE. Lessee shall, during the initial term and any subsequent renewals, keep in full force and effect at its own expense the following types of insurance with, at least, the limits specified herein. :

All policies shall be from insurers that have a Certificate of Authority issued by or are otherwise eligible to operate in the State of Tennessee. Each insurer shall have a rating of A or better by AM Best or its equivalent as determined by the City. A Certificate of Insurance is required upon award and shall include the following language: "The City of Kingsport, Tennessee, its governing body, elected officials, officers, volunteers, agents, and employees as additional insureds for the full limits of all policies listed herein or otherwise applicable on a primary and noncontributory basis." And, "Should any of the above described policies be canceled before the expiration date, the issuing company shall mail thirty (30) days written notice to the certificate holder." Lessee's insurance policies shall include appropriate clauses waiving all rights of subrogation against Lessor with respect to losses payable under such policies.

The Lessee shall promptly provide a complete certified copy of any policy including all endorsements and exclusions upon request.

The limits of liability for the insurance required shall provide coverage for not less than the following amounts, or greater where required by law:

(a) Commercial General Liability Coverage issued on an Insurance Services Office (ISO) Special Coverage Form or its equivalent for Bodily Injury, Property Damage, and Contractual coverages in the amount of \$1,000,000 per occurrence and \$2,000,000 in a general aggregate. The policy shall have no sublimits and sufficient a fire legal liability limit to reimburse for any fire damage to Lessee's or other leased and unleased spaces. Should the Lessee contract for any services or sub-lease any portion of the premises, those parties shall have the same or greater requirements as the Lessee including listing the Lessor as an additional insured.

(b) Property Insurance. Lessor may maintain, for its sole use and benefit property insurance coverage insuring the building. The Lessee is responsible for insuring any of its property located within the Premises.

(c) Lessee hereby releases Lessor from any and all liability and responsibility to anyone claiming any loss or damage to property arising from a risk insured against under the insurance required to be carried by Lessee. Proceeds from any insurer shall first be applied to the repair or restoration of the building, leased premises, and satisfaction of this lease before payment is made to benefit the Lessee.

SECTION 20. DEFAULT AND ACCELERATION OF RENT. In the event that (a) any assignment for the benefit of creditors, trust mortgage, receivership, or other insolvency proceeding shall be made or instituted with respect to Lessee or Lessee's property or (b) Lessee shall default in the observance or performance of any of Lessee's covenants, agreements, or obligations hereunder and such default shall not be corrected within 10 days after written notice thereof, then Lessor shall have the right thereafter, while such default continues and without demand or further notice, to re-enter and take possession of the Premises, to declare the Initial Term or Renewal Term ended, and/or to remove Lessee's effects, without being guilty of trespass or conversion, and without prejudice to any remedies which might be otherwise used for arrears of rent or other default or breach of the Lease. If Lessee defaults in the payment of the rent, or substantial invoice from Lessor or Lessor's agent, and such default continues for 10 days after written notice thereof, and because both parties agree that nonpayment of those sums when due is a substantial breach of the Lease, and, because the payment of rent in monthly installments is for the sole benefit and convenience of Lessee, then, in addition to any other remedies, the net present value of the entire balance of rent due hereunder as of the date of Lessor's notice, using the published prime rate then in effect, shall immediately become due and payable as liquidated damages. No actions taken by Lessor under this Section 20 shall terminate Lessor's obligation to pay rent under this Lease, as liquidated damages or otherwise. Any sums received by Lessor from or on behalf of Lessee at any time shall be applied first to offset any unpaid invoice or other payment due to Lessor and then to unpaid rent. Lessee shall also pay Lessor interest at the rate of 18 percent per annum on any past due payment. In addition to the foregoing, if after default, a debt collector or an attorney is employed or directed to collect or enforce the monetary or other obligations evidenced by this Lease or to assist Lessor in connection with its exercise of any right, power, privilege, or remedy referred to herein, the parties hereby agree that the Lessee shall pay promptly all costs incurred by Lessor with respect to collection or enforcement including reasonable attorney fees and court costs.

SECTION 21. TERMINATION FOR CONVENIENCE. In addition to the termination rights otherwise set forth in this Lease Lessor may terminate this Lease for its convenience at any time by giving written notice to Lessee at least thirty (30) days prior to the date when such termination shall become effective. Should Lessor exercise its right to terminate for convenience, Lessee shall fulfill those obligations set forth in this agreement regarding the surrender of the premises.

SECTION 22. WASTE OR NUISANCE. Lessee shall not commit or suffer to be committed any waste upon the Premises, and Lessee shall not use or permit the use of any medium that might constitute a nuisance.

SECTION 23. NOTICE. Any notice from Lessor to Lessee relating to the Premises or this Lease shall be deemed duly served when served by constable, or delivered to Lessee by certified or registered mail, return receipt requested, postage prepaid, or by recognized courier service with a receipt therefor, addressed to Lessee at:

City of Kingsport
Attn: Steve Bower, Economic Development Director
415 Broad Street
Kingsport, TN 37660

With a copy to:
City of Kingsport
Office of the City Attorney
415 Broad Street
Kingsport, TN 37660

Any notice from Lessee to Lessor relating to the Premises or this Lease shall be deemed duly served when served by constable, or delivered to Lessor by certified or registered mail, return receipt requested, postage prepaid, or by recognized courier service with a receipt therefor, addressed to Lessor at 225 W Center Street, Kingsport, Tennessee 37660, Attention: Lisa Winkle or designee, or at Lessor's last designated address. No oral notice or representation shall have any force or effect. Time is of the essence in the service of any notice.

SECTION 24. OCCUPANCY. If Lessee continues to occupy, control, or encumber all or any part of the Premises after termination of this Lease without the written permission of Lessor, Lessee shall

be liable to Lessor for any and all loss, damages or expenses incurred by Lessor resulting from the continued occupancy by Lessee and Lessee shall be considered subject to immediate eviction.

SECTION 25. FIRE PREVENTION. Lessee agrees to use reasonable precaution against fire, to provide and maintain approved, labeled fire extinguishers, emergency lighting equipment and exit signs, and to complete any other modifications within the Premises as required or recommended by the Insurance Services Office (or successor organization), OSHA, TNOSHA, the local fire department, fire marshal, insurer of Lessor, regulatory, safety, or any similar entity.

SECTION 26. ENVIRONMENTAL MATTERS. The term "hazardous substances", as used herein shall mean pollutants, contaminants, toxic or hazardous wastes or any other substances the use and/or the removal of which is restricted, prohibited, or penalized by an "environment law", which term shall mean any federal, state or local law, ordinance, or other statute of a governmental authority relating to pollution or protection of the environment. Lessee hereby agrees that (a) no activity shall be conducted on the Premises that shall produce any hazardous substance; (b) the Premises shall not be used in any manner for the storage of any hazardous substances; (c) Lessee shall not install or place upon the Premises any underground or aboveground tanks of any type and shall not store, or allow the storage law, on the Premises any gasoline, oil, diesel fuel or other petroleum products; (d) Lessee shall not allow any surface or subsurface conditions to exist or come into existence that constitutes or with the passage of time may constitute a public or private nuisance; and (e) Lessee shall not permit any hazardous substances to be brought onto the Premises. If at any time during or after of the Initial Term or Renewal Term, the Premises are found to be in violation of any of the covenants set forth in this Section 24 due to acts or occurrences during the occupancy of Lessee, or caused by Lessee, then Lessee shall diligently institute proper and thorough cleanup and remediation procedures at Lessee's sole cost. Lessee agrees to indemnify and hold Lessor harmless from all claims, demands, actions, liabilities, costs and expenses (including Lessor's reasonable attorney fees), damages and obligations of any nature to the extent arising from or as a result of the use of the Premises by Lessee. The foregoing indemnification and the responsibilities of Lessee shall survive the termination or expiration of this Lease. Lessee shall not use the Premises so as to interfere in any way with the use and enjoyment of other portions of the same or neighboring buildings by reason of odors, smoke, exhaust, smells, vibrations, noise, pets, accumulation of garbage or trash, vermin or other pests, or otherwise, and shall at its expense employ a professional pest control service if determined necessary by Lessor. Lessee agrees to maintain effective devices for preventing damage to plumbing and heating equipment from de-ionized water and chemicals which may be present at the Premises.

SECTION 27. SURRENDER. On or before the termination of this Lease, Lessee shall remove all of Lessee's goods and effects from the Premises, and shall deliver to Lessor actual and exclusive possession of the Premises and all keys and locks thereto, all fixtures, equipment and workstations of any type connected therewith, and all alterations, additions and improvements made to or upon the Premises, whether completed by Lessee, Lessor or others, including but not limited to any offices, window blinds, floor coverings, computer floors, plumbing and plumbing fixtures, heating, ventilating and air conditioning equipment, ductwork, exhaust fans, water coolers, security, surveillance and fire protection systems, telecommunications and data wiring, telephone equipment, air and gas distribution piping, compressors, hoists, cabinets, counters, shelving, signs, electrical work, including but not limited to lighting fixtures of any type, wiring, conduit, EMT, transformers, generators, distribution panels, bus ducts, raceways, outlets and disconnects, and furnishings and equipment which have been bolted, welded, nailed, screwed, glued or otherwise attached to any wall, floor, ceiling, roof, pavement or ground, or which have been directly wired or plumbed to any portion of any building or other system serving the Premises, including but not limited to water supply, drainage, venting or air or gas distribution systems. Notwithstanding the foregoing, it is understood that cabinets, sinks, removable floor covering, shelving and other equipment and furnishings provided by Lessee remain the personal property of Lessee as long as such items are removed upon termination of the Lease without damage to the Premises. Notwithstanding the foregoing, prior to termination of this Lease, Lessee shall, if requested by Lessor, remove or tag for future use any and all wiring and cabling installed and/or used by Lessee. Lessee shall deliver the Premises fully sanitized from any chemicals or other contaminants, broom clean, and in at least the same condition as they were at the commencement of the Lease or any prior lease between the parties for the Premises, or as they were modified during the Initial Term or Renewal Term with Lessor's written consent, reasonable wear and tear only excepted, and Lessee shall be deemed to be encumbering the Premises until it delivers the Premises to Lessor in the condition required under this Lease. Any of Lessee's property that remains in the Premises upon termination of the Lease shall be deemed abandoned and shall be disposed of as Lessor sees fit, with no liability to Lessee for loss or damage thereto, and at the sole risk of Lessee. Lessor may remove and store any such property at Lessee's expense; retain the same under Lessor's control; sell the same at public or private sale (without notice) and apply the net

proceeds of such sale to the payment of any sum due hereunder; or destroy same. In no case shall the Premises be deemed surrendered to Lessor until the termination date provided herein or such other date as may be specified in a written agreement between the parties, notwithstanding the delivery of any keys to Lessor.

SECTION 28. HOLDING OVER. In the event Lessee occupies the Premises after the expiration or termination of this Lease with the consent of the Lessor, express or implied, such possession shall be considered to be a tenancy from month to month, terminable on 30 days advance written notice by either party. Lessee shall continue to pay all charges as provided in this Lease, and shall be bound by all of the other terms and conditions of this Lease as if it were still in full force and effect.

SECTION 29. LOSS AND DAMAGE TO LESSEE'S PROPERTY. Lessor shall not be responsible or liable to Lessee for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part adjacent to the Premises or any part, or for any loss or damages resulting to the Lessee or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes or for any damage or loss of property within the Premises from any cause whatsoever, except to the extent due to the negligence or willful misconduct of Lessor or Lessor's employees, agents, or representatives.

SECTION 30. NOTICE BY LESSEE. Lessee shall give immediate notice to Lessor in case of fire or accidents in the Premises or in the building on the Premises or of defects therein or in any fixtures or equipment.

SECTION 31. SUCCESSORS. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the parties, except that Lessor shall only be liable for obligations occurring while it is the owner of the Premises. No rights, however, shall inure to the benefit of any assignee of Lessee unless the assignment to such assignee has been approved by Lessor in writing as provided in Section 16 herein.

SECTION 32. GENERAL. The following shall apply to this Lease:

(a) The invalidity or unenforceability of any clause or provision of this Lease shall not affect or render invalid or unenforceable any other clause or provision hereof;

(b) Any action or proceeding arising out of the subject matter of this Lease shall be brought by Lessee within one year after the cause of action has occurred and only in a state court in Kingsport, Tennessee;

(c) This Lease is made and delivered in the state of Tennessee, and shall be interpreted, construed, and enforced in accordance with the laws thereof;

(d) This Lease is the result of negotiations between parties of equal bargaining strength, and when executed by both parties shall constitute the entire agreement between the parties, superseding all prior oral and written agreements, representations, statements and negotiations relating in any way to the subject matter herein. This Lease may not be extended or amended except by written agreement signed by both parties, or as otherwise provided herein, and no other subsequent oral or written representation shall have any effect hereon;

(e) Notwithstanding any other statements herein, Lessor makes no warranty, express or implied, concerning the suitability of the Premises for Lessee's intended use;

(f) Lessee agrees that if Lessor does not deliver possession of the Premises as herein provided for any reason, Lessor shall not be liable for any damages to Lessee for such failure, but Lessor agrees to use reasonable efforts to deliver possession to Lessee at the earliest practical date. A proportionate abatement of rent, excluding the cost of any amortized improvements to the Premises, for such time as Lessee may be deprived of possession of the Premises shall be Lessee's sole remedy, except where a delay in delivery is caused in any way by Lessee;

(g) Neither the submission of this Lease or any amendment hereof shall constitute a reservation of or option for the Premises, or an offer to lease, it being expressly understood and agreed that neither this Lease nor any amendment shall bind either party in any manner whatsoever unless and until it has been executed by both parties;

(h) Subject to the provisions of Section 23, neither Lessor nor Lessee shall be liable for any special, incidental, indirect or consequential damages, including but not limited to lost profits or loss of business, arising out of or in any manner connected with performance or nonperformance under this Lease, even if any party has knowledge of the possibility of such damages;

(i) The headings and captioned in this Lease are for convenience only and shall not be considered part of the terms hereof;

(j) No restriction, condition or other endorsement by Lessee on any check, nor Lessor's deposit of any full or partial payment, shall bind Lessor in any way or limit Lessor's rights under this Lease;

(k) Lessee shall conform to all rules and regulations now or hereafter made by Lessor for parking, for the care, use or alteration of the building, its facilities and approaches, and for the administration of this Lease, and shall not permit any employee or visitor to violate this or any other covenant or

obligation of Lessee;

(l) Lessee's covenants under this Lease shall be independent of Lessor's covenants, and Lessor's failure to perform any of its covenants under this Lease, including a covenant constituting a significant inducement to Lessee to enter into this lease, shall not excuse the payment of rent or any other charges by Lessee or allow Lessee to terminate this Lease; and

(m) Lessor and Lessee hereby waive any and all rights to a jury trial in any proceeding in any way arising out of the subject matter of this Lease.

SECTION 33. WAIVERS, ETC. No consent or waiver, express or implied, by Lessee or Lessor to or of any breach of any covenant, condition, or duty of the other party shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty. If Lessee is several persons, corporations, or other legal entities, or a partnership, or some combination thereof, Lessee's obligations are joint and several. Unless repugnant to the context, "Lessor" and "Lessee" mean the person or persons, natural or corporate, named above as Lessor and as Lessee respectively, and their respective heirs, executors, administrators, successors and assigns.

SECTION 34. TIME. Time is of the essence in this Lease.

SECTION 35. SURVIVAL OF TERMS. Wherever in this Lease either Lessee or Lessor shall have agreed or promised to perform certain acts or otherwise where the context of this Lease would require such performance to occur after the termination or expiration of the Lease, then those agreements and covenants shall survive the termination or expiration of the Lease and continue to bind Lessee and Lessor.

IN WITNESS WHEREOF, the Parties hereto have executed this Lease in duplicate originals.

[Acknowledgements Deleted for Inclusion in This Resolution]

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

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

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

ADOPTED this the 3rd day of December, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

15 November 2024

Steven Bower
Economic Development Director
City of Kingsport

RE: Two-Year Extension of Current Lease for Create Appalachia

Dear Steven:

This letter is a formal request for a two-year extension of Create Appalachia's current lease at 225 W Center Street in Downtown Kingsport. We hope that the City will see fit to give us another two years here to continue building our presence and making a difference as part of Kingsport's Innovation Village.

As I reported during our last meeting, we are beginning to pick up steam and grow—over 75% occupancy in our office suites attest to that, as well as having held a number of classes and programs for entrepreneurs and digital makers of all ages.

We appreciate the support that the City of Kingsport has given us over the past two years, and we look forward to extending and expanding this partnership.

Gratefully,



Katie Hoffman
Executive Director, Create Appalachia
katie@createappalachia.org
423-329-4742



AGENDA ACTION FORM

Consideration of a Resolution to Execute Agreement with Kimley-Horn and Associates, INC. for the Creation of the Kingsport Comprehensive Plan and Land Use Map

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

Action Form No.: AF-330-2024
Work Session: December 2, 2024
First Reading: n/a
Final Adoption: December 3, 2024
Staff Work By: Jessica Harmon
Presentation By: Jessica Harmon

Recommendation:

Approve the Resolution

Executive Summary:

If approved, this resolution would execute an agreement with Kimley-Horn to create a Comprehensive Plan for the City of Kingsport as well as a new Land Use Map to be used by the Planning Department. Request for Qualifications were received and opened on October 3, 2024. All submittals were reviewed and scored with Kimley-Horn being the highest scored submittal.

This goal of this project is to create a comprehensive plan and future land use map that incorporates the City's existing plans and strategies into an overarching vision for the community. The current Land Use Plan for the City of Kingsport was adopted in 2010 and is set to expire 2030.

This new document will provide the framework for staff to plan for Kingsport's future growth and provide strategies related to current issues such as housing, economic development and quality of life. Throughout this process, public input will be key to the success of the plan. Various stakeholder interviews, steering committee meetings and public events will be scheduled to gather feedback as the plan is developed. Kimley-Horn will also be performing a diagnostic review of our Zoning Code to ensure that we are clear, concise and providing a direct link to the Future Land Use Map and Comprehensive Plan that is developed.

As part of the plan, Housing being a key component. Housing has been a key focus for us for a few years. This plan will help us to develop goals, objectives and actions for housing in our city and will include recommended policies, projects and programs to deliver housing that is affordable for our community.

Funding for this plan comes from American Rescue Plan dollars that have been set aside to be used for projects benefiting the community. This plan will touch every corner of our community. The total cost for the project will be \$214,000 and is identified in NC2213.

Attachments:

- 1. Resolution
- 2. Agreement

Item X18.

	<u>Y</u>	<u>N</u>	<u>O</u>
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayes	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH KIMLEY - HORN AND ASSOCIATES, INC., FOR THE CREATION OF THE KINGSPORT COMPREHENSIVE PLAN AND LAND USE MAP AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, the city would like to enter into an agreement with Kimley-Horn and Associates, Inc., for the creation of a Comprehensive Plan for the City of Kingsport as well as a new Land Use Map to be used by the Planning Department; and

WHEREAS, this project is to create a comprehensive plan and future land use map that incorporates the City's existing plans and strategies into an overarching vision for the community, and this new document will provide the framework for staff to plan for Kingsport's future growth and provide strategies related to current issues such as housing, economic development and quality of life; and

WHEREAS, this plan will help the city develop goals, objectives and actions for housing in our city and will include recommended polices, projects and programs to deliver housing that is affordable for our community; and

WHEREAS, throughout the process, various stakeholder interviews, steering committee meetings and public events will be scheduled to gather feedback as the plan is developed; and

WHEREAS, the current Land Use Plan for the City of Kingsport was adopted in 2010 and is set to expire 2030.

WHEREAS, the total cost for the project will be an amount not to exceed \$214,000.00, and funding is identified in NC2213.

Now therefore,

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

SECTION I. That the agreement with Kimley-Horn and Associates, Inc., for the creation of a Comprehensive Plan for the City of Kingsport as well as a new Land Use Map to be used by the Planning Department, 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 Kimley-Horn and Associates, Inc., for the creation of a Comprehensive Plan for the City of Kingsport as well as a new Land Use Map to be used by the Planning Department, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution as set out below:

AGREEMENT BETWEEN CLIENT AND
KIMLEY-HORN AND ASSOCIATES, INC. FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 29 day of October, 2024, by and between The City of Kingsport ("Client") and KIMLEY-HORN AND ASSOCIATES, INC. ("Consultant").

NAME OF PROJECT: "Kingsport Comprehensive Plan and Land Use Map"

The Client and the Consultant agree as follows:

1) Scope of Services and Additional Services. The Consultant will perform only the services specifically described in Exhibit A, which is made a part of this Agreement ("Services"). Any services that are not set forth in the scope of Services described in Exhibit A will constitute additional services ("Additional Services"). If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

2) Client's Responsibilities. In addition to other responsibilities herein or imposed by law, the Client shall:

a) Designate in writing a person to act as the Client's representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.

b) Provide all criteria and information as to the Client's requirements, objectives, and expectations for the Project, and all standards of development, design, or construction.

c) Provide the Consultant all available studies, plans, or other documents pertaining to the Project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.

d) Arrange for access to the site and other property as required for the Consultant to provide its services.

e) Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.

f) Furnish approvals and permits for all government authorities having jurisdiction over the Project and approvals and consents from other parties as may be necessary.

g) Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by the Client.

h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services, or any defect or nonconformance in any aspect of the Project.

3) Period of Services. Unless otherwise stated herein, the Consultant shall begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting orderly and continuous progress of the Project through completion of the Services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months, the Consultant's compensation shall be renegotiated.

4) Compensation for Services.

a) The Consultant's compensation shall be as stated herein, unless otherwise provided in Exhibit A. The Client shall pay the Consultant an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

b) If the Consultant's compensation is on an hourly basis, the parties may have estimated in Exhibit A costs and expenses for the various portions of the scope of Services. Services undertaken or expenses incurred by the Consultant exceeding any estimates shall be the liability of the Client.

c) In no event however, shall Consultants fees for services, costs, and expenses exceed \$250,000 unless agreed to in writing by the Parties.

5) Method of Payment.

a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 30 days of receipt. As a tax exempt entity Client shall not be responsible for the payment of sales taxes and shall upon request provide Consultant with a copy of its tax exempt certificate. Consultant shall bear the burden of providing its suppliers with a copy of Client's tax exemption certificate and Vendor shall assume all liability for such applicable Sales and Use Taxes, if any, that should be incurred. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 30 days at the maximum rate allowed by law. If the Client fails to make any payment due the Consultant under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are

paid in full.

b) The Client will remit all payments electronically to:
Account Name: KIMLEY-HORN AND ASSOCIATES, INC.
Bank Name and Address: WELLS FARGO BANK, N.A., SAN FRANCISCO, CA 94104
Account Number: 2073089159554
ABA#: 121000248

c) The Client will send the project number, invoice number and other remittance information by e-mail to payments@kimley-horn.com at the time of payment.

d) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.

e) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 25 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.

f) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

6) Use of Deliverables. All documents, data, and other deliverables prepared by the Consultant are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this Project or on any other project. Any modifications by the Client to any of the Consultant's deliverables, or any reuse of the deliverables without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the deliverables prepared by the Consultant, the hardcopy shall govern.

7) Intellectual Property. Consultant may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Consultant or its affiliates ("Intellectual Property") in the performance of this Agreement. Intellectual Property, for purposes of this section, does not include deliverables specifically created for Client pursuant to the Agreement and use of such deliverables is governed by section 6 of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Consultant maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Consultant and its affiliates. If Consultant's services include providing Client with access to or a license for Consultant's (or its affiliates') proprietary software or technology, Client agrees to the terms of the Software License Agreement set forth at <https://www.kimley-horn.com/khts-software-license-agreement> ("the License Agreement") updated as of March 22, 2022 and accessed as of November 20, 2024 (7:15 p.m.) which terms are incorporated herein by reference except that the provisions of Sections 5, 6(c), 8, 9(d), 10, 16(b), 16(c), shall not apply to the extent those provisions are in conflict with any provision contained herein or Tennessee law.

8) Opinions of Cost. Because the Consultant does not control the cost of labor, materials, equipment, or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry.

The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If at any time the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

9) Termination. The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the

convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination.

10) Standard of Care. The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

11) LIMITATION OF LIABILITY. In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs, attorneys' fees, or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section shall require the Client to indemnify the Consultant.

12) Mutual Waiver of Consequential Damages. In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

13) Construction Costs. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed or unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.

14) Certifications. All requests for the Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to the Consultant at least 14 days prior to the requested date of execution. The Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

15) Dispute Resolution. All claims arising out of this Agreement shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by the Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

16) Construction Phase Services.

a) If the Consultant prepares construction documents and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.

b) The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, equipment maintenance and inspection, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of observing construction and reporting to the Client whether the contractors' work generally conforms to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

c) The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

17) Hazardous Substances. Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant shall notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

18) Assignment and Subcontracting This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

19) Confidentiality. The Client consents to the Consultant's use and dissemination of photographs of the Project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material. As to Client's obligations, the parties acknowledge and agree that any records produced or created in conjunction herewith which qualify as public records pursuant to the Tennessee Public Records Act codified at Tenn. Code Ann. § 10-7-503, *et. seq.* are not confidential, and are subject to disclosure in whole or in part to any citizen of Tennessee, without regard to any provision contained in the Agreement, including those terms incorporated herein by reference, declaring information confidential. Client must, upon proper request by a citizen of Tennessee, release public documents and records without the requirement to disclose such request to Consultant or provide Consultant with notice or the time to obtain a protective order. Client does not have the burden of establishing that information is not confidential information or that its release is authorized pursuant hereto.

20) Miscellaneous Provisions.

a) This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties, and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. If Client requires Consultant to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Consultant or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision or affect the enforceability of that provision or the remainder of this Agreement.

b) Article II, Section 29 of the Tennessee Constitution prohibits Client, as a municipal corporation formed pursuant to the laws of the State of Tennessee, from lending its credit to private entities and, therefore, prohibits an agreement by Client to indemnify Consultant or agree to a limitation of liability provision. Any indemnity or hold harmless provision contained in the Agreement, including any terms incorporated by reference, requiring Client to indemnify or hold harmless Consultant or any other person or entity and any limitation of liability is enforceable only to the extent permitted by Tennessee law, provided Client's monetary limits of liability under any such provision is limited to the monetary limits of liability as provided for in the Tennessee Governmental Tort Liability Act. (Tenn. Code Ann. § 29-20-101 *et. seq.*) No provision of the Agreement shall act or be deemed a waiver by Client of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act. Because Tennessee law may not allow Client to agree to the disclaimer of warranties any such disclaimer of warranties shall be enforceable only to the extent permitted by Tennessee law. Client reserves all rights afforded to local governments under law for all general and implied warranties.

c) Any dispute which may arise between the parties that cannot be resolved by mutual agreement shall be brought in the state courts in Kingsport, Sullivan County, Tennessee or the Federal court for the Eastern District of Tennessee. The parties waive their right to a jury trial. Mandatory and exclusive venue and jurisdiction for any disputes shall be in the state court located in

Kingsport, Sullivan County, Tennessee or the Federal court for the Eastern District of Tennessee to which the parties waive any objection and expressly agree to the jurisdiction and venue thereof. Furthermore, the parties waive their right to a jury trial.

d) The terms of this agreement and the rights and obligations of the parties shall be governed by the laws of the State of Tennessee, without regards to its conflict of laws principles.

e) To the extent software is a component of the project interface or a deliverable Consultant warrants that the software conforms to the accessibility guidelines, including, but not limited to, supporting assistive software or devices such as large-print interfaces, text-to-speech output, refreshable braille displays, voice-activated input, and alternate keyboard or pointer interfaces, *etc.*, established by the World Wide Web Consortium's Web Content Accessibility Guidelines 2.2 (WCAG 2.2) [the new WCAG 2.2 goes into effect in June 2021], and the accessibility guidelines established by Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and implementing regulations set forth in 36 C.F.R. Part 1194. Consultant shall provide Client a current completed Voluntary Product Accessibility Template 2.4 (VPAT 2.4) detailing compliance with federal Section 508 standards. Consultant shall promptly respond to and resolve any complaint regarding accessibility of its products or services. Consultant further agrees to indemnify and hold harmless Client from any claims arising out of Consultant's failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of the Agreement.

f) The provisions of Sections 19 and 20 shall survive the completion of or any termination of this Agreement.

[Acknowledgements Deleted for Inclusion in this Resolution]

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

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

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

ADOPTED this the 3rd day of December, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



AGENDA ACTION FORM

Consideration of a Resolution Authorizing the City Manager to Execute a Purchase Order for a Centegix Safety Platform and CrisisAlert System from Central Technologies for Kingsport City Schools

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

Action Form No.: AF-310-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: Committee
Presentation By: David Frye

Recommendation:
Approve the Resolution.

Executive Summary:
The Board of Education recommends utilizing the TIPS-USA Cooperative Purchasing Agreement to purchase the Centegix Safety Platform and CrisisAlert System from Central Technologies (TIPS-USA Contract 240101). The total cost of the system, which covers fourteen sites is \$700,560.00.

The Centegix Safety Platform with CrisisAlert equips school staff with wearable alert devices, allowing them to activate an emergency alert instantly with the push of a button. These badges provide a discreet, reliable way for staff to request immediate assistance, whether for medical needs, behavior issues, or lockdown situations, ensuring that help arrives quickly. When an alert is triggered, administrators and responders receive precise location information, allowing for targeted, efficient responses. The platform also includes audio-visual signals to inform everyone in the building of the alert, enhancing coordination.

Kingsport City Schools benefits from using cooperative purchasing contracts with the confidence we are receiving competitive pricing and knowing the products awarded have already been through the procurement process of the lead agency. Also, utilizing cooperative procurement agreements often leads to increased efficiency by decreasing the amount of time it takes from requisition entry to product receipt.

Funding will be from School General Purpose Funds.

- Attachments:**
1. Resolution
2. Quote
3. Centegix Acknowledgement

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayer	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

Item X19.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO CENTRAL TECHNOLOGIES FOR A FOURTEEN SITE CENTEGIX SAFETY PLATFORM AND CRISISALERT SYSTEM FOR KINGSPORT CITY SCHOOLS AND AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, the city entered into an agreement with The Interlocal Purchasing System (TIPS) for cooperative purchasing in December, 2022; and

WHEREAS, T.C.A. § 12-3-1205(b)(1) authorizes any local government of the state may participate in a cooperative purchasing agreement with one or more out-of-state governmental entities to the extent allowed by the other state's laws for the procurement of goods, supplies, services, or equipment or with an agency of the United States, to the extent allowed by federal law, in accordance with an agreement entered into between or among the participants. Such goods, supplies, services, or equipment must be procured in a manner that constitutes competitive bidding and are advertised, evaluated, and awarded by a governmental entity and made available for use by other governmental entities.; and

WHEREAS, TIPS Purchasing Cooperative's lead agency is Region 8 Education Service Center in Texas; and

WHEREAS, by utilizing the TIPS agreement 240101 with Central Technologies, the city can purchase the Centegix Safety Platform and CrisisAlert System for a total cost of \$700,560.00; and

WHEREAS, the Board of Education approved this action on November 12, 2024; and

WHEREAS, funding for this project will be from the School General Purpose Funds budget.

Now therefore,

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

SECTION I. That the City Manager is authorized to execute a purchase order to Central Technologies for a fourteen site Centegix Safety Platform and CrisisAlert System for a total cost of \$700,560.00, which will be funded by the School General Purpose Funds budget and the Mayor is authorized to execute any and all documents necessary and proper to effectuate the purpose of this resolution.

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 December 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



We have prepared a quote for you

Centegix - 14 sites

Quote # 024163
Version 1

Prepared for:

Kingsport City Schools

Andy Arnold
ayarnold@k12k.com

Item XI9.

Products

Description	Price	Qty	Ext. Price
CrisisAlert Platform Fees Centegix Safety Platform w/ CrisisAlert (5 year term)	\$40,000.00	14	\$560,000.00
Centegix Safety Blueprint - CrisisAlert Safety Blueprint with CrisisAlert	\$0.00	14	\$0.00
Centegix Visitor Management - CrisisAlert Visitor Management with CrisisAlert	\$0.00	14	\$0.00
Centegix Wireless Backup - CrisisAlert Centegix Wireless Backup - CrisisAlert (5 year term)	\$1,000.00	14	\$14,000.00
Centegix Implementation Centegix Implementation (one-time - schools)	\$2,000.00	14	\$28,000.00
Centegix Maintenance & Support Centegix Maintenance & Support (one-time - schools)	\$1,000.00	14	\$14,000.00
Centegix Shipping Centegix Shipping (one-time)	\$400.00	14	\$5,600.00
Centegix On-Site Responder Training Centegix On-Site Responder Training (one-time)	\$1,000.00	14	\$14,000.00
Remote Installation & Remote Training Remote Installation & Remote Training - Safety Blueprint	\$0.00	14	\$0.00
Remote Installation & Remote Training (VM Only) Remote Installation & Remote Training (VM Only)	\$0.00	14	\$0.00
Centegix Visitor Starter Kit Visitor Starter Kit	\$140.00	14	\$1,960.00
Centegix Install Centegix Installation & Setup (one-time - schools)	\$4,000.00	14	\$56,000.00

Item XI9.




Products

Description	Price	Qty	Ext. Price
CAT6DROP-BLUE CAT6 DROP - BLUE	\$250.00	28	\$7,000.00

Subtotal: \$700,560.00

Purchasing Vehicle

Description	Qty
TIPS-USA CONTRACT - 240101 TIPS-USA CONTRACT - 240101 - Technology Solutions	1

 Statement of Work

1. Dobyys-Bennett High School & Palmer Early Learning Center (same subnet)
2. John Sevier Middle School
3. Ross N Robinson Middle School
4. Adams Elementary
5. Jackson Elementary
6. Jefferson Elementary
7. Johnson Elementary
8. Kennedy Elementary
9. Lincoln Elementary
10. Roosevelt Elementary
11. Washington Elementary
12. Cora Cox Academy & Maintenance & Custodial Services Department (same subnet)
13. V.O. Dobbins Community Center
14. Administrative Support Center & DB-Excel (same subnet)

Item XI9.

Centegix - 14 sites



Prepared by:

Knoxville HQ

Brandon Calhoun
615-812-5566
brandon@centralinc.com

Prepared for:

Kingsport City Schools

400 Clinchfield Street
Suite 200
Kingsport, TN 37660
Andy Arnold
(423) 341-3621
ayarnold@k12k.com

Quote Information:

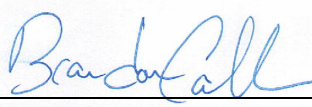
Quote #: 024163

Version: 1
Delivery Date: 09/16/2024
Expiration Date: 12/15/2024

Quote Summary

Description	Amount
Products	\$700,560.00
Total: \$700,560.00	

Knoxville HQ

Signature: 
Name: Brandon Calhoun
Title: Account Manager
Date: 09/16/2024

Kingsport City Schools

Signature: _____
Name: Andy Arnold
Date: _____

Acknowledgement

Customer:	City of Kingsport for its Kingsport City Schools
Location:	400 Clinchfield Street, Ste. 200, Kingsport, TN 37660
Project:	Centegix Safety Platform Deployment
Customer Purchase Order Number:	

Customer acknowledges and agrees that its use of the CrisisAlert Equipment and Software is subject to the terms located here: <https://www.centegix.com/legal-tc2/>.

END CUSTOMER & CENTEGIX RESPONSIBILITIES

Project Planning	
CUSTOMER	<ul style="list-style-type: none"> Designate a core team that has primary responsibility for overseeing the CENTEGIX Safety Platform™ implementation, policy, and all communication. Provide a detailed map of each site (as outlined in the Safety Blueprint section below) showing all buildings and rooms where the Safety Platform will be installed. Be responsible for distributing all badges, which are delivered to a central location, to the individual site locations.
CENTEGIX	<ul style="list-style-type: none"> Provide an install schedule for each solution for all site locations provided that all maps have been loaded to the application and approved/signed off by the customer. The schedule is subject to change. Customer will accommodate adjustments for the project to remain on track.

Gateway	
CUSTOMER	<ul style="list-style-type: none"> Provides network information for the CrisisAlert Gateway(s) to be configured. If required, two (2) Power-Over-Ethernet (POE) drops at exterior locations defined by CENTEGIX. Connecting the Gateway(s) that CENTEGIX will monitor.

CENTEGIX	<ul style="list-style-type: none"> ● All gateways/wireless back-up equipment must be installed and confirmed online by the CENTEGIX Command Center for all locations before a target install date for the rest of the solution can be confirmed.
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Visitor Management (if applicable)

CUSTOMER	<ul style="list-style-type: none"> ● Purchases or provides compatible scanner(s), printer(s), and consumables for use at entry points and all computers on which the system will be used. ● Provide network information for the Visitor Management System to be connected. ● Maintain computers and all other peripherals. Computers will need to be connected to either the WiFi or network before installation. ● Perform all required OS, driver, and browser updates for all computers, scanners, and printers used with Visitor management.
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Safety Blueprint

CUSTOMER	<ul style="list-style-type: none"> ● Provide scaled floor plan drawings of the facility buildings to be mapped in Safety Blueprint in either a PDF or DWG format. Drawings must include rooms, walls, and doors. Drawings with room numbers labeled are highly preferred. ● Provide an assets list to identify on the Safety Blueprint map, if purchased. ● Verifying the accuracy of the Safety Blueprint map including the final floor plan drawings and asset locations.
CENTEGIX	<ul style="list-style-type: none"> ● Review the customer’s submitted floorplan drawings for approval and render the floorplans in Blueprint.

Intercom Integration (if applicable)

CUSTOMER	<ul style="list-style-type: none"> ● Customer and its third-party intercom provider(s) are responsible for the operation of the intercom system(s). ● Provide a site-specific URL or other API for each message for sites that have IP-based intercom systems with virtual triggers. ● Provide network information for the CrisisAlert Intercom Integration Device to be programmed. Customer will ensure its intercom system(s) is/are connected to the device.
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Additional 3 rd Party Software Integration (if applicable)	
CUSTOMER	<ul style="list-style-type: none"> Customer and its third-party software provider(s) are responsible for the operation of the additional software capabilities. Provide a site-specific URL or other API for sites that have 3rd party software integrations that CENTEGIX supports.
CENTEGIX	<ul style="list-style-type: none"> Integrations (if applicable) purchased through CENTEGIX are supported by CENTEGIX and our third-party partners.

Onsite Access	
CUSTOMER	<ul style="list-style-type: none"> Provide 2 sets of district/organization-wide master keys per site. Provide evening and weekend access to sites for install team flexibility. Override the security system when the installation team is onsite. Provide guest Wi-Fi information if available. If CENTEGIX installation team is unable to access a room or building, or a map is inaccurate causing a delay in the installation, the Customer will incur a minimum revisit fee of \$500/site per revisit, dependent upon remaining work. If CENTEGIX installation team is unable to locate a suitable stationary element to install exterior equipment, the Customer will need to install a pole or other suitable structure for this equipment to be located.
CENTEGIX	<ul style="list-style-type: none"> The installation team designated by CENTEGIX will install hardware equipment at each facility/site purchased.

Software	
CUSTOMER	<ul style="list-style-type: none"> Deploy the CrisisAlert Desktop Application software to supported equipment, including laptops, desktops, tablets, and mobile equipment using the files provided by the CENTEGIX Onboarding Specialist. Allow Public DNS for the CENTEGIX Wireless Back-up equipment.

Implementation and Training	
CUSTOMER	<ul style="list-style-type: none"> Provide the information necessary to enable Active Directory syncing (if applicable).

	<ul style="list-style-type: none"> ● Responsible for the configuration of the Safety Platform™ system (including CrisisAlert, Safety Blueprint, and if utilized Visitor Management) with reasonable guidance from CENTEGIX. ● Conduct site testing, with guidance from CENTEGIX to ensure the system is functioning properly. Both parties will sign-off in agreement that site testing has been verified. ● Identifying individuals who can deliver end-user training for its organization on how to use the CrisisAlert badge (and Visitor Management badge if applicable), including requiring each staff member with a badge to complete a "Badge Training" session in which they, at minimum, activate a badge alert. ● Assist CENTEGIX to obtain the necessary support from the selected public safety answering point (PSAP) agency, if applicable.
CENTEGIX	<ul style="list-style-type: none"> ● Provide remote training for system configuration. ● Provide onsite training for Responders and Badge Managers unless opted out on the quote (CrisisAlert) ● Provide training for school administrators and front office staff based on the training method purchased (Visitor Management). ● Provide the requirements for user access to the Safety Blueprint map features. ● Provide remote training for Safety Blueprint asset and map management. ● Recommend other optional services are available to assist with deployment

Communications	
CUSTOMER	<ul style="list-style-type: none"> ● Share communications with your stakeholders (Parents, Teachers, Staff, and Students) during the different stages of your CrisisAlert process. You can do so via internal emails, district-wide newsletters, school communications, morning announcements, creating a webpage on your website, and on social media. ● During sign-up: Inform all stakeholders about the decision to implement CrisisAlert. ● During installation: Keep stakeholders updated on the progress. Staff will want to know what to expect during this process. Students may wonder why new equipment is now appearing throughout the building. ● Operational Phase: Your community will want to see how your CrisisAlert solution works. One way to do this is by hosting a demo day where you can invite speakers to participate, provide answers to frequently asked questions, and demonstrate how your new solution works.

	<ul style="list-style-type: none"> ● Ongoing Communication: Keep your stakeholders informed by communicating with them on how you have utilized your CrisisAlert solution and how it has impacted your school community.
CENTEGIX	<ul style="list-style-type: none"> ● Provide a communications kit to help customers communicate with their communities about CrisisAlert. Customer will coordinate a call between CENTEGIX point of contact and the Communications Director for the customer to review best practices for communicating about CrisisAlert.

Post Implementation	
CUSTOMER	<ul style="list-style-type: none"> ● Provide general troubleshooting of the system and its equipment with the site. District technical support can escalate an issue to be addressed through their account manager or support manager. ● Managing and maintaining all users and their permissions for the software through the term of the contract. ● Providing Badge Training and training documentation to new users of the system ● Conducting test drills of CrisisAlert at the beginning of each semester. ● Managing and maintaining all Visitor Management hardware through the term of the contract. ● Managing and maintaining all Visitor Management hardware through the term of the contract. ● Report structural changes to the building floorplans and layout to Centegix.
CENTEGIX	<ul style="list-style-type: none"> ● Onsite assistance is available to assist the customer regarding all purchased solutions. Contact CENTEGIX Support at support@centegix.com for more information.

Acceptance of Acknowledgement

IN WITNESS WHEREOF, the Parties hereto agree to be so bound as to these terms and have executed this Agreement by affixing their signatures below as of the date first written above.

34ED, LLC	[CUSTOMER NAME]
_____ Signature <u>Brent Cobb</u> Chief Executive Officer	_____ [Name] [Title]

APPROVED AS TO FORM:

Rodney B. Rowlett, III, City Attorney

ATTEST:

CITY RECORDER

TIPS VENDOR AGREEMENT

TIPS RFP 240101 Technology Solutions, Products, and Services

The following Vendor Agreement (“Agreement”) creates a legal agreement between The Interlocal Purchasing System (“TIPS”), a government purchasing cooperative and Department of Texas Region 8 Education Service Center and (INSERT ENTITY NAME):

Central Knox dba Central Technologies Inc

(ENTER ENTITY NAME]

its owners, agents, subsidiaries, and affiliates (together, “Vendor”) (individually, “Party”, and collectively the “Parties”) and this agreement shall exclusively govern the contractual relationship (“Agreement”) between the Parties.

TIPS, a governmental entity and a national purchasing cooperative seeks to provide a valuable and necessary solution to public entities and qualifying non-profits by performing the public procurement solicitation process and awarding compliant contracts to qualified vendors. Then, where the law of a customer’s jurisdiction allows, instead of public entities and qualifying non-profits expending time, money, and resources on the extensive public procurement process, the use of TIPS allows public entities to quickly select and purchase their preferred products or services from qualified, competitively evaluated vendors through cooperative purchasing.

1. **Purpose.** The purpose of this Agreement is to identify the terms and conditions of the relationship between TIPS and Vendor. Public entities and qualifying non-profits that properly join or utilize TIPS (“TIPS Members”) may elect to “piggyback” off of TIPS’ procurements and agreements where the laws of their jurisdiction allow. TIPS Members are not contractual parties to this Agreement although terms and conditions of this Agreement may ensure benefits to TIPS Members.
2. **Authority.** The Parties agree that the signatories below are individual authorized to enter into this Agreement on behalf of their entity and that they are acting under due and proper authority under applicable law.
3. **Definitions.**
 - a. **TIPS Pricing:** The specific pricing, discounts, and other pricing terms and incentives which Vendor submitted and TIPS approved for each respective TIPS Contract awarded to Vendor and all permissible, subsequent pricing updates submitted by Vendor and accepted by TIPS, if any.
 - b. **Authorized Reseller:** A reseller or dealer authorized and added by a Vendor through their online TIPS Vendor Portal to make TIPS sales according to the terms and conditions herein.
4. **Entire Agreement.** This Agreement resulted from TIPS posting a “TIPS Solicitation” (RFP, RCSP, RFQ, or other) and Vendor submitting a proposal in response to that posted TIPS Solicitation for evaluation and award. The Parties agree that this Agreement consists of the provisions set forth herein and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor’s entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, pricing, accepted responses to questions, and accepted written clarifications of Vendor’s proposal, and; any properly included attachments to this Agreement. All documentation and information listed is hereby incorporated by reference as if set forth herein verbatim. In the event of conflict between the terms herein and one of the incorporated documents the terms and conditions herein shall control.
5. **Vendor’s Specific Warranties, Terms, and License Agreements.** Because TIPS serves public entities and non-profits throughout the nation all of which are subject to specific laws and policies of their jurisdiction, as a matter of standard practice, TIPS does not typically accept a Vendor’s specific “Sale Terms” (warranties, license agreements, master agreements, terms and conditions, etc.) on behalf of all TIPS Members. TIPS may permit Vendor to attach those to this Agreement to display to interested customers what terms may apply to their Supplemental Agreement with Vendor (if submitted by Vendor for that purpose). However, unless this term of the Agreement is negotiated and modified to state otherwise, those specific Sale Terms are not accepted by TIPS on behalf of all TIPS Members and each Member may choose whether to accept, negotiate, or reject those specific Sale Terms, which must be reflected in a separate agreement between Vendor and the Member in order to be effective.

- 6. Vendor Identity and Contact Information.** It is Vendor's sole responsibility to ensure that all identifying vendor information (name, EIN, d/b/a's, etc.) and contact information is updated and current at all times within the TIPS eBid System and the TIPS Vendor Portal. It is Vendor's sole responsibility to confirm that all e-correspondence issued from tips-usa.com, ionwave.net, and tipsconstruction.com to Vendor's contacts are received and are not blocked by firewall or other technology security. Failure to permit receipt of correspondence from these domains and failure to keep vendor identity and contact information current at all times during the life of the contract may cause loss of TIPS Sales, accumulating TIPS fees, missed rebid opportunities, lapse of TIPS Contract(s), and unnecessary collection or legal actions against Vendor. It is no defense to any of the foregoing or any breach of this Agreement that Vendor was not receiving TIPS' electronic communications issued by TIPS to Vendor's listed contacts.
- 7. Initiation of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Once verified, Vendor must include the TIPS Contract Number on all purchase communications and sales documents exchanged with the TIPS Member.
- 8. TIPS Sales and Supplemental Agreements.** The terms of the specific TIPS order, including but not limited to: shipping, freight, insurance, delivery, fees, bonding, cost, delivery expectations and location, returns, refunds, terms, conditions, cancellations, order assistance, etc., shall be controlled by the purchase agreement (Purchase Order, Contract, Invoice, etc.) (hereinafter "Supplemental Agreement") entered into between the TIPS Member Customer and Vendor only. TIPS is not a party to any Supplemental Agreement. All Supplemental Agreements shall include Vendor's Name, as known to TIPS, and TIPS Contract Name and Number. Vendor accepts and understands that TIPS is not a legal party to TIPS Sales and Vendor is solely responsible for identifying fraud, mistakes, unacceptable terms, or misrepresentations for the specific order prior to accepting. Vendor agrees that any order issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. When Vendor accepts or fulfills an order, even when processed through TIPS, Vendor is representing that Vendor has carefully reviewed the order for legality, authenticity, and accuracy and TIPS shall not be liable or responsible for the same. In the event of a conflict between the terms of this TIPS Vendor Agreement and those contained in any Supplemental Agreement, the provisions set forth herein shall control unless otherwise agreed to and authorized by the Parties in writing within the Supplemental Agreement.
- 9. Right of Refusal.** Vendor has the right not to sell to a TIPS Member under the awarded agreement at Vendor's discretion unless otherwise required by law.
- 10. Reporting TIPS Sales.** Vendor must report all TIPS Sales to TIPS. If a TIPS sale is initiated by Vendor receiving a TIPS Member's purchase order from TIPS directly, Vendor may consider that specific TIPS Sale reported. Otherwise, with the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either: (1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at tipspo@tips-usa.com with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or; (2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement. No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com.
- 11. TIPS Administration Fees.** The collection of administrative fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The administration fee ("TIPS Administration Fee") is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of the amount paid by the TIPS Member for each TIPS Sale, less shipping cost, bond cost, and taxes if applicable and identifiable, which is legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding solicitation and is incorporated herein by reference. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. Upon receipt of payment for a TIPS Sale, including partial payment (which renders TIPS Administration Fees immediately due), Vendor shall issue to TIPS the corresponding TIPS Administration Fee payment as soon as possible but not later than thirty-one calendar days following Vendor's receipt of payment. Vendor shall pay TIPS via check unless otherwise agreed to by the Parties in writing. Vendor shall include clear documentation with the issued payment dictating to which sale(s) the amount should be applied. Vendor may create a payment report within their TIPS Vendor Portal which is the preferred documentation dictating to which TIPS Sale(s) the amount should be applied. Failure to pay all TIPS Administration Fees pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion as well as the initiation of collection and legal actions by TIPS against Vendor to the extent permitted by law. Any overpayment of participation fees to TIPS by Vendor will be refunded to the Vendor

within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date that TIPS received the payment will render the overpayment non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect TIPS Administration Fees due to TIPS pursuant to this Agreement.

- 12. Term of the Agreement.** This Agreement with TIPS is for approximately five years with a one-year, consecutive option for renewal as described herein. Renewal options are not automatic and shall only be effective if offered by TIPS at its sole discretion. If TIPS offers a renewal option, the Vendor will be notified via email issued to Vendor's then-listed Primary Contact. The renewal option shall be deemed accepted by Vendor unless Vendor notifies TIPS of its objection to the renewal option in writing and confirms receipt by TIPS.

Actual Effective Date: Agreement is effective upon signature by authorized representatives of both Parties. The Effective Date does not affect the "Term Calculation Start Date."

Term Calculation Start Date: To keep the contract term consistent for all vendors awarded under a single TIPS contract, Vendor shall calculate the foregoing term as starting on the last day of the month that "Award Notifications" are anticipated as published in the Solicitation, regardless of the actual Effective Date.

Example of Term Calculation Start Date: If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023, in this example.

Contract Expiration Date: To keep the contract term consistent for all vendors awarded under a single TIPS contract, the term expiration date shall be five years from the Term Calculation Start Date.

Example of Contract Expiration Date: If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023, and the Contract Expiration Date of the resulting initial "five-year" term, (which is subject to an extension(s)) will be May 31, 2028 in this example.

Option(s) for Renewal: Any option(s) for renewal shall begin on the Contract Expiration Date, or the date of the expiration of the prior renewal term where applicable, and continue for the duration specified for the renewal option herein.

Example of Option(s) for Renewal: In this example, if TIPS offers a one-year renewal and the Contract Expiration Date is May 31, 2028, then the one-year renewal is effective from May 31, 2028 to May 31, 2029.

TIPS may offer to extend Vendor Agreements to the fullest extent the TIPS Solicitation resulting in this Agreement permits.

- 13. TIPS Pricing.** Vendor agrees and understands that for each TIPS Contract that it holds, Vendor submitted, agreed to, and received TIPS' approval for specific pricing, discounts, and other pricing terms and incentives which make up Vendor's TIPS Pricing for that TIPS Contract ("TIPS Pricing"). Vendor confirms that Vendor will not add the TIPS Administration Fee as a charge or line-item in a TIPS Sale. Vendor hereby certifies that Vendor shall only offer goods and services through this TIPS Contract if those goods and services are included in or added to Vendor's TIPS Pricing and approved by TIPS. TIPS reserves the right to review Vendor's pricing update requests as specifically as line-item by line-item to determine compliance. However, Vendor contractually agrees that all submitted pricing updates shall be within the original terms of the Vendor's TIPS Pricing (scope, proposed discounts, price increase limitations, and other pricing terms and incentives originally proposed by Vendor) such that TIPS may accept Vendors price increase requests as submitted without additional vetting at TIPS discretion. Any pricing quoted by Vendor to a TIPS Member or on a TIPS Quote shall never exceed Vendor's TIPS Pricing for any good or service offered through TIPS. TIPS Pricing price increases and modifications, if permitted, will be honored according to the terms of the solicitation and Vendor's proposal, incorporated herein by reference.

- 14. Indemnification of TIPS.** VENDOR AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND TIPS, TIPS MEMBERS, TIPS OFFICERS, TIPS EMPLOYEES, TIPS DIRECTORS, AND TIPS TRUSTEES (THE "TIPS INDEMNITEES") FROM AND AGAINST ALL CLAIMS AND SUITS BY THIRD-PARTIES FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGES, LOSSES, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES, ARISING OUT OF OR RELATING TO VENDOR'S PERFORMANCE UNDER THIS AGREEMENT (INCLUDING THE PERFORMANCE OF VENDOR'S OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES), REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION CAUSES OF ACTION BASED UPON COMMON, CONSTITUTIONAL, OR STATUTORY LAW OR BASED IN

WHOLE OR IN PART UPON ALLEGATIONS OF NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS ON THE PART OF VENDOR, ITS OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES. NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED TO BY TIPS. APART FROM THIS INDEMNIFICATION PROVISION REQUIRING INDEMNIFICATION OF THE TIPS INDEMNITEES' ATTORNEY'S FEES AS SET FORTH ABOVE, RECOVERY OF ATTORNEYS' FEES BY THE PREVAILING PARTY IS AUTHORIZED ONLY IF AUTHORIZED BY TEX. EDUC. CODE § 44.032(F).

15. **Indemnification and Assumption of Risk – Vendor Data.** VENDOR AGREES THAT IT IS VOLUNTARILY PROVIDING DATA (INCLUDING BUT NOT LIMITED TO: VENDOR INFORMATION, VENDOR DOCUMENTATION, VENDOR'S PROPOSALS, VENDOR PRICING SUBMITTED OR PROVIDED TO TIPS, TIPS CONTRACT DOCUMENTS, TIPS CORRESPONDENCE, VENDOR LOGOS AND IMAGES, VENDOR'S CONTACT INFORMATION, VENDOR'S BROCHURES AND COMMERCIAL INFORMATION, VENDOR'S FINANCIAL INFORMATION, VENDOR'S CERTIFICATIONS, AND ANY OTHER VENDOR INFORMATION OR DOCUMENTATION, INCLUDING WITHOUT LIMITATION SOFTWARE AND SOURCE CODE UTILIZED BY VENDOR, SUBMITTED TO TIPS BY VENDOR AND ITS AGENTS) ("VENDOR DATA") TO TIPS. FOR THE SAKE OF CLARITY, AND WITHOUT LIMITING THE BREADTH OF THE INDEMNITY OBLIGATIONS IN SECTION 14 ABOVE, VENDOR AGREES TO PROTECT, INDEMNIFY, AND HOLD THE TIPS INDEMNITEES HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, ACTIONS, DEMANDS, ALLEGATIONS, SUITS, JUDGMENTS, COSTS, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES AND ALL OTHER LIABILITY OF ANY NATURE WHATSOEVER ARISING OUT OF OR RELATING TO: (I) ANY UNAUTHORIZED, NEGLIGENT OR WRONGFUL USE OF, OR CYBER DATA BREACH INCIDENT AND VIRUSES OR OTHER CORRUPTING AGENTS INVOLVING, VENDOR'S DATA, PRICING, AND INFORMATION, COMPUTERS, OR OTHER HARDWARE OR SOFTWARE SYSTEMS, AND; (II) ALLEGATIONS OR CLAIMS THAT ANY VENDOR DATA INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD-PARTY OR VENDOR.
16. **Procedures Related to Indemnification.** In the event that an indemnity obligation arises, Vendor shall pay all amounts set forth in Section 14 and 15 above (including any settlements) and – if it has accepted its indemnity obligation without qualification – control the legal defense to such claim or cause of action, including without limitation attorney selection, strategy, discovery, trial, appeal, and settlement, and TIPS shall, at Vendor's cost and expense (with respect to reasonable out of pocket costs and expenses incurred by TIPS which shall be reimbursed to TIPS by Vendor), provide all commercially reasonable assistance requested by Vendor. In controlling any defense, Vendor shall ensure that all assertions of governmental immunity and all applicable pleas and defenses shall be promptly asserted.
17. **Indemnity for Underlying Sales and Supplemental Agreements.** Vendor shall be solely responsible for any customer claims or any disputes arising out of TIPS Sales or any Supplemental Agreement as if sold in the open-market. The Parties agree that TIPS shall not be liable for any claims arising out of Vendor's TIPS Sales or Supplemental Agreements, including but not limited to: allegations of product defect or insufficiency, allegations of service defect or insufficiency, allegations regarding delivery defect or insufficiency, allegations of fraud or misrepresentation, allegations regarding pricing or amounts owed for TIPS sales, and/or allegations regarding payment, over-payment, under-payment, or non-payment for TIPS Sales. Payment/Drafting, overpayment/over-drafting, under-payment/under-drafting, or non-payment for TIPS Sales between customer and Vendor and inspections, rejections, or acceptance of such purchases shall be the exclusive respective obligations of Vendor/Customer, and disputes shall be handled in accordance with the terms of the underlying Supplemental Agreement(s) entered into between Vendor and Customer. Vendor acknowledges that TIPS is not a dealer, subcontractor, agent, or reseller of Vendor's goods and services and shall not be responsible for any claims arising out of alleged insufficiencies or defects in Vendor's goods and services, should any arise.
18. **Confidentiality of Vendor Data.** Vendor understands and agrees that by signing this Agreement, all Vendor Data is hereby released to TIPS, TIPS Members, and TIPS third-party administrators to effectuate Vendor's TIPS Contract except as provided for herein. The Parties agree that Vendor Data is accessible by all TIPS Members as if submitted directly to that TIPS Member Customer for purchase consideration. If Vendor otherwise considers any portion of Vendor's Data to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code (the "Public Information Act") or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form which is required to be submitted as part of Vendor's proposal resulting in this Agreement and incorporated by reference. The Confidentiality Claim Form included in Vendor's proposal and incorporated herein by reference is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a Public Information Request. If TIPS receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor Data deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion. In the event that TIPS receives a written request for information pursuant to the Public Information Act that affects Vendor's interest in any information or data furnished to TIPS by Vendor, and TIPS requests an opinion from the Attorney General, Vendor may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Public Information Act. Vendor is solely responsible for submitting the memorandum brief and information to the Attorney General

within the time period prescribed by the Public Information Act. Notwithstanding any other information provided in this solicitation or Vendor designation of certain Vendor Data as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's Data, including any information deemed confidential or proprietary, to TIPS Members or as ordered by a Court or government agency, including without limitation the Texas Attorney General. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or as required by law.

- 19. Vendor's Authorized Resellers.** TIPS recognizes that many vendors operate in the open market through the use of resellers or dealers. For that reason, TIPS permits Vendor to authorize Authorized Resellers within its Vendor Portal and make TIPS Sales through the Authorized Reseller(s). Once authorized by Vendor in the Vendor Portal, the Authorized Reseller(s) may make TIPS sales to TIPS Members. However, all purchase documents must include: (1) Authorized Reseller's Name; (2) Vendor's Name, as known to TIPS, and; (3) Vendor's TIPS Contract Name and Number under which it is making the TIPS Sale. Either Vendor or Reseller may report the sale pursuant to the terms herein. However, Vendor agrees that it is legally responsible for all reporting and fee payment as described herein for TIPS Sales made by Authorized Resellers. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. The Parties intend that Vendor shall be responsible and liable for TIPS Sales made by Vendor's Authorized Resellers. Vendor agrees that it is voluntarily authorizing this Authorized Reseller and in doing so, Vendor agrees that it is doing so at its own risk and agrees to protect, indemnify, and hold TIPS harmless in accordance with Sections 14-17 above related to Authorized Reseller TIPS Sales made pursuant to this Agreement or purporting to be made pursuant to this Agreement that may be asserted against Vendor whether rightfully brought or otherwise. The Parties further agree that it is no defense to Vendor's breach of this Agreement that an Authorized Reseller caused Vendor of breach this Agreement.
- 20. Circumvention of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Any request for quote, customer communication, or customer purchase initiated through or referencing a TIPS Contract shall be completed through TIPS pursuant to this Agreement. Any encouragement or participation by Vendor in circumventing a TIPS sale being completed may result in immediate termination of Vendor's TIPS Contract(s) for cause as well as preclusion from future TIPS opportunities at TIPS sole discretion.
- 21. State of Texas Franchise Tax.** By signature hereon, Vendor hereby certifies that Vendor is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Chapter 171 of the Texas Tax Code.
- 22. Termination.**
- A) Termination for Convenience. TIPS may, by written notice to Vendor, terminate this Agreement for convenience, in whole or in part, at any time by giving thirty (30) days' written notice to Vendor of such termination, and specifying the effective date thereof.
 - B) Termination for Cause. If Vendor fails to materially perform pursuant to the terms of this Agreement, TIPS shall provide written notice to Vendor specifying the default. If Vendor does not cure such default within thirty (30) days, TIPS may terminate this Agreement, in whole or in part, for cause. If TIPS terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
 - C) Vendor's Termination. If TIPS fails to materially perform pursuant to the terms of this Agreement, Vendor shall provide written notice to TIPS specifying the default ("Notice of Default"). If TIPS does not cure such default within thirty (30) days, Vendor may terminate this Agreement, in whole or in part, for cause. If Vendor terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
 - D) Upon termination, all TIPS Sale orders previously accepted by Vendor shall be fulfilled and Vendor shall be paid for all TIPS Sales executed pursuant to the applicable terms. All TIPS Sale orders presented to Vendor but not fulfilled by Vendor, prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. TIPS shall submit to Vendor an invoice for any outstanding TIPS Administration Fees and approved expenses and Vendor shall pay such fees and expenses within 30 calendar days of receipt of such valid TIPS invoice. Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS' sole discretion and that any Vendor may be removed from the TIPS program at any time with or without cause. This

termination clause does not affect TIPS Sales Supplemental Agreements pursuant to this term regarding termination and the Survival Clause term.

- E) Vendor hereby waives any and all claims for damages, including, but not limited, to consequential damages or lost profits, that might arise from TIPS' act of terminating this Agreement.

- 23. Survival Clause.** It is the intent of the Parties that this Agreement and procurement method applies to any TIPS Sale made during the life of this Agreement even if made on or near the Contract Expiration Date as defined herein. Thus, all TIPS Sales, including but not limited to: leases, service agreements, license agreements, open purchase orders, warranties, and contracts, even if they extend months or years past the TIPS Contract Expiration Date, shall survive the expiration or termination of this Agreement subject to the terms and conditions of the Supplemental Agreement between Customer and Vendor or unless otherwise specified herein.
- 24. Audit Rights.** Due to transparency statutes and public accountability requirements of TIPS and TIPS Members, Vendor shall at their sole expense, maintain documentation of all TIPS Sales for a period of three years from the time of the TIPS Sale. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Vendor's TIPS Pricing or TIPS Sales with thirty-days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without said notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with Vendor's TIPS Pricing, TIPS shall have the ability to conduct the audit internally or may engage a third-party auditing firm to investigate any possible non-compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format, and at the location acceptable to TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member. These audit rights shall survive termination of this Agreement for a period of one (1) year from the effective date of termination.
- 25. Conflicts of Interest.** The Parties confirm that they have not offered, given, or accepted, nor intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, service to the other in connection with this Agreement. Vendor affirms that, to the best of Vendor's knowledge, this Agreement has been arrived at independently, and is awarded without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement. Vendor agrees that it has disclosed any necessary affiliations with Region 8 Education Service Center and the TIPS Department, if any, through the Conflict of Interest attachment provided in the solicitation resulting in this Agreement.
- 26. Volume of TIPS Sales.** Nothing in this Agreement or any TIPS communication may be construed as a guarantee that TIPS or TIPS Members will submit any TIPS orders to Vendor at any time.
- 27. Compliance with the Law.** The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations applicable to their entity in connection with the programs contemplated under this Agreement.
- 28. Severability.** If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, then such term(s) or provision(s) shall be deemed restated to reflect the original intention of the Parties as nearly as possible in accordance with applicable law and the remainder of this Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such holding causes the obligations of the Parties hereto to be impossible to perform or shall render the terms of this Agreement to be inconsistent with the intent of the Parties hereto.
- 29. Force Majeure.** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement through no fault of its own then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon. Upon delivering such notice, the obligation of the affected party, so far as it is affected by such Force Majeure as described, shall be suspended during the continuance of the inability then claimed but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. In the event that Vendor's obligations are suspended by reason of Force Majeure, all TIPS Sales accepted prior to the Force Majeure event shall be the legal responsibility of Vendor and the terms of the TIPS Sale Supplemental Agreement shall control Vendor's failure to fulfill for a Force Majeure event.
- 30. Immunity.** Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses,

remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

- 31. Insurance Requirements.** Vendor agrees to maintain the following minimum insurance requirements for the duration of this Agreement. All policies held by Vendor to adhere to this term shall be written by a carrier with a financial size category of VII and at least a rating of "A-" by A.M. Best Key Rating Guide. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member. Vendor agrees that when Vendor or its subcontractors are liable for any damages or claims, Vendor's policy, shall be primary over any other valid and collectible insurance carried by the Member or TIPS.

General Liability: \$1,000,000 each Occurrence/Aggregate
Automobile Liability: \$300,000 Includes owned, hired & non-owned
Workers' Compensation: Statutory limits for the jurisdiction in which the Vendor performs under this Agreement. If Vendor performs in multiple jurisdictions, Vendor shall maintain the statutory limits for the jurisdiction with the greatest dollar policy limit requirement.
Umbrella Liability: \$1,000,000 each Occurrence/Aggregate

- 32. Waiver.** No waiver of any single breach or multiple breaches of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting regarding any breach of any provision shall be construed to be a waiver of such breach.
- 33. Binding Agreement.** This Agreement shall be binding and inure to the benefit of the Parties hereto and their respective heirs, legal successors, and assigns.
- 34. Headings.** The paragraph headings contained in this Agreement are included solely for convenience of reference and shall not in any way affect the meaning or interpretation of any of the provisions of this Agreement.
- 35. Choice of Law and Venue.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas. Any proceeding, claim, action, or alternative dispute resolution arising out of or relating to this Agreement or involving TIPS shall be brought in a State Court of competent jurisdiction in Camp County, Texas, or if Federal Court is legally required, a Federal Court of competent jurisdiction in the Eastern District of Texas, and each of the Parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or and contemplated transaction in any other court. The Parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum.
- 36. Relationship of the Parties.** Nothing contained in this Agreement shall be construed to make one Party an agent of the other Party nor shall either party have any authority to bind the other in any respect, unless expressly authorized by the other party in writing. The Parties are independent contractors and nothing in this Agreement creates a relationship of employment, trust, agency or partnership between them.
- 37. Assignment.** No assignment of this Agreement or of any duty or obligation of performance hereunder, shall be made in whole or in part by a Party hereto without the prior written consent of the other Party. Written consent of TIPS shall not be unreasonably withheld.
- 38. Minimum Condition and Warranty Requirements for TIPS Sales.** All goods quoted or sold through a TIPS Sale shall be new unless clearly stated otherwise in writing. All new goods and services shall include the applicable manufacturers minimum standard warranty unless otherwise agreed to in the Supplemental Agreement.

- 39. Minimum Customer Support Requirements for TIPS Sales.** Vendor shall provide timely and commercially reasonable support for TIPS Sales or as agreed to in the applicable Supplemental Agreement.
- 40. Minimum Shipping Requirements for TIPS Sales.** Vendor shall ship, deliver, or provide ordered goods and services within a commercially reasonable time after acceptance of the order. If a delay in delivery is anticipated, Vendor shall notify the TIPS Member as to why delivery is delayed and provide an updated estimated time for completion. The TIPS Member may cancel the order if the delay is not commercially acceptable or not consistent with the Supplemental Agreement applicable to the order.
- 41. Minimum Vendor License Requirements.** Vendor shall maintain, in current status, all federal, state, and local licenses, bonds and permits required for the operation of the business conducted by Vendor. Vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the TIPS Agreement. TIPS and TIPS Members reserve the right to stop work and/or cancel a TIPS Sale or terminate this or any TIPS Sale Supplemental Agreement involving Vendor if Vendor's license(s) required to perform under this Agreement or under the specific TIPS Sale have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.
- 42. Minimum Vendor Legal Requirements.** Vendor shall remain aware of and comply with this Agreement and all local, state, and federal laws governing the sale of products/services offered by Vendor under this contract. Such applicable laws, ordinances, and policies must be complied with even if not specified herein.
- 43. Minimum Site Requirements for TIPS Sales (when applicable to TIPS Sale).**

Cleanup: When performing work on site at a TIPS Member's property, Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by the TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

Preparation: Vendor shall not begin a project for which a TIPS Member has not prepared the site, unless Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in the TIPS Sale Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

Registered Sex Offender Restrictions: For work to be performed at schools, Vendor agrees that no employee of Vendor or a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the TIPS Sale at the TIPS Member's discretion. Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

Safety Measures: Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Smoking: Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes, ordinances, and policies.

- 44. Payment for TIPS Sales.** TIPS Members may make payments for TIPS Sales directly to Vendor, Vendor's Authorized Reseller, or as otherwise agreed to in the applicable Supplemental Agreement after receipt of the invoice and in compliance with applicable payment statutes. Regardless of how payment is issued or received for a TIPS Sale, Vendor is responsible for all reporting and TIPS Administration Fee payment requirements as stated herein.
- 45. Marketing.** Vendor agrees to allow TIPS to use their name and logo within the TIPS website, database, marketing materials, and advertisements unless Vendor negotiates this term to include a specific acceptable-use directive. Any use of TIPS' name and logo or any form of publicity, inclusive of press release, regarding this Agreement by Vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to tips@tips-usa.com. For marketing efforts directed to TIPS Members, Vendor must request and execute a separate Joint Marketing Disclaimer, at marketing@tips-usa.com, before TIPS can release contact information for TIPS Member entities for the purpose of marketing your TIPS contract(s). Vendor must adhere to strict Marketing Requirements once a disclaimer is executed. The Joint Marketing Disclaimer is a supplemental agreement specific to joint marketing efforts and has no effect on the terms of the TIPS Vendor Agreement. Vendor agrees that any images, photos, writing, audio, clip art,

music, or any other intellectual property ("Property") or Vendor Data utilized, provided, or approved by Vendor during the course of the joint marketing efforts are either the exclusive property of Vendor, or Vendor has all necessary rights, license, and permissions to utilize said Property in the joint marketing efforts. Vendor agrees that they shall indemnify and hold harmless TIPS and its employees, officers, agents, representatives, contractors, assignees, designees, and TIPS Members from any and all claims, damages, and judgments involving infringement of patent, copyright, trade secrets, trade or services marks, and any other intellectual or intangible property rights and/or claims arising from the Vendor's (including Vendor's officers', employees', agents', Authorized Resellers', subcontractors', licensees', or invitees') unauthorized use or distribution of Vendor Data and Property.

46. **Tax Exempt Status of TIPS Members.** Most TIPS Members are tax exempt entities and the laws and regulations applicable to the specific TIPS Member customer shall control.
47. **Automatic Renewal Limitation for TIPS Sales.** No TIPS Sale may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.
48. **Choice of Law Limitation for TIPS Sales.** Vendor agrees that if any "Choice of Law" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the TIPS Sale agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.
49. **Venue Limitation for TIPS Sales.** Vendor agrees that if any "Venue" provision is included in any TIPS Sale Agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.
50. **Indemnity Limitation for TIPS Sales.** Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any TIPS sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.
51. **Arbitration Limitation for TIPS Sales.** Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may not require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

In Witness Whereof, the parties hereto, each acting under due and proper authority, have signed this Agreement.

TIPS VENDOR AGREEMENT SIGNATURE

FORM TIPS RFP 240101 Technology Solutions, Products, and Services

Vendor Name: Central Knox dba Central Technologies Inc

Vendor Address: 6101 Industrial Heights Dr NW

City: Knoxville State: TN Zip Code: 37909

Vendor Authorized Signatory Name: Todd Troxler

Vendor Authorized Signatory Title: VP of Sales

Vendor Authorized Signatory Phone: 214-734-9780

Vendor Authorized Signatory Email: todd@centralinc.com

Vendor Authorized Signature: Todd Troxler Date: 2/14/2024

(The following is for TIPS completion only)

TIPS Authorized Signatory Name: Dr. David Fitts

TIPS Authorized Signatory Title: Executive Director

TIPS Authorized Signature: David Wayne Fitts Date: 5/14/2024



240101
Central Technologies Inc
Central Knox
Supplier Response

Event Information

Number: 240101
Title: Technology Solutions, Products, and Services
Type: Request for Proposal
Issue Date: 1/4/2024
Deadline: 2/16/2024 03:00 PM (CT)
Notes: This is a solicitation issued by The Interlocal Purchasing System (TIPS), a department of Texas Region 8 Education Service Center. It is an Indefinite Delivery, Indefinite Quantity ("IDIQ") solicitation. It will result in contracts that provide, through adoption/"piggyback" an indefinite quantity of supplies/services, during a fixed period of time, to TIPS public entity and qualifying non-profit "TIPS Members" throughout the nation. Thus, there is no specific project or scope of work to review. Rather this solicitation is issued as a prospective award for utilization when any TIPS Member needs the goods or services offered during the life of the agreement.

IF YOU CURRENTLY HOLD ANY TIPS CONTRACT IN THE "TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES" CATEGORY, AND YOU ARE SATISFIED WITH IT, THERE IS NO NEED TO RESPOND TO THIS SOLICITATION.

IF YOU HOLD AN EXISTING TIPS "TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES" CONTRACT AND YOU CHOOSE TO RESPOND HEREIN, YOUR EXISTING TIPS "TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES" CONTRACT WILL BE

Item X19.

TERMINATED AND REPLACED BY THIS CONTRACT.

ALSO IF YOU HOLD ANY OTHER TIPS CONTRACT OUTSIDE OF THE "TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES" CATEGORY WHICH COVERS ALL OF YOUR TECHNOLOGY OFFERINGS AND YOU ARE SATISFIED WITH IT, THERE IS NO NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU PREFER TO HOLD BOTH CONTRACTS.

Contact Information

Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477
Email: bids@tips-usa.com

Central Technologies Inc Information

Address: 6101 Industrial Heights Dr NW
Knoxville, TN 37909
Phone: (865) 566-0230
Fax: (865) 312-8190
Toll Free: (800) 315-4132
Web Address: www.centralinc.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Todd Troxler
Signature

todd@centralinc.com
Email

Submitted at 2/14/2024 08:55:06 AM (CT)

Requested Attachments

Alternate or Supplemental Pricing Documents

~~Central Tech Price List TIPS
240101.pdf

Optional. If when completing Pricing Form 1 & Pricing Form 2 you direct TIPS to view additional, alternate, or supplemental pricing documentation, you may upload that documentation.

Vendor Logo (Supplemental Vendor Information Only)

23Centrallnc_Linked-
In_Company_Header.jpg

Optional. If Vendor desires that their logo be displayed on their public TIPS profile for TIPS and TIPS Member viewing, Vendor may upload that logo at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

Disclosure of Lobbying Activities - Standard Form - LLL

No response

Do not upload this form unless Vendor has reportable lobbying activities. There are Attributes entitled, "2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment – Continued." Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Disclosure of Lobbying Activities – Standard Form - LLL must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location.

Required Confidentiality Claim Form

240101 Required Confidentiality
Claim Form-signed.pdf

The Required Confidentiality Claim Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. This is the only way for Vendor to assert confidentiality of any information submitted.

Vendor Agreement

240101 Vendor Agreement.pdf

The Vendor Agreement must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, Vendor Name placed in the line provided at the top, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement, Vendor may assert so in the Attribute Questions and those shall be addressed during evaluation.

Conflict of Interest Questionnaire - Form CIQ

No response

Do not upload this form unless you have a reportable conflict with TIPS. There is an Attribute entitled "Conflict of Interest Questionnaire Requirement" immediately followed by an Attribute entitled "Conflict of Interest Questionnaire Requirement – Form CIQ – Continued." Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Conflict of Interest Questionnaire – Form CIQ must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location.

Current Form W-9

2024 Central Technologies W-9.pdf

Vendor must upload their current IRS Tax Form W-9. The legal name, EIN, and d/b/a's listed should match the information provided herein exactly. This form will be utilized by TIPS to properly identify your entity.

Vendor Agreement Signature Form

240101 Vendor Agreement Signature Form-signed.pdf

The Vendor Agreement Signature Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement, Vendor may leave the signature line of this page blank and assert so in the Attribute Questions and those shall be addressed during evaluation.

Certificates & Licenses (Supplemental Vendor Information Only)

No response

Optional. If Vendor would like to display any applicable certificates or licenses (including HUB certificates) for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

Pricing Form 1

240101 Pricing Form 1.xlsx

Pricing Form 1 must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

Reference Form

240101 Reference Form.xls

The Reference Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. The Reference Form must be uploaded in Excel format.

Pricing Form 2

240101 Pricing Form 2.xlsx

Pricing Form 2 must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

Vendor's Warranties, Terms, and Conditions (Supplemental Vendor Information Only)

No response

Optional. If Vendor would like to display any standard warranties, terms, or conditions which are often applicable to their offerings for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

Supplemental Vendor Information (Supplemental Vendor Information Only)

No response

Optional. If Vendor would like to display or include any brochures, promotional documents, marketing materials, or other Vendor Information for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

Bid Attributes

1 Disadvantaged/Minority/Women Business & Federal HUBZone

Some participating public entities are required to seek Disadvantaged/Minority/Women Business & Federal HUBZone ("D/M/WBE/Federal HUBZone") vendors. Does Vendor certify that their entity is a D/M/WBE/Federal HUBZone vendor?

If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

Item XI9.

2 Historically Underutilized Business (HUB)

Some participating public entities are required to seek Historically Underutilized Business (HUB) vendors as defined by the Texas Comptroller of Public Accounts Statewide HUB Program. Does Vendor certify that their entity is a HUB vendor?

If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

No

3 National Coverage

Can the Vendor provide its proposed goods and services to all 50 US States?

Yes - All 50 States

4 States Served

If Vendor answered "No" to the question entitled "National Coverage," please list all states where vendor can provide the goods and services proposed directly below. Your response may dictate which potential TIPS Member customers consider purchasing your offerings.

No response

5 Description of Vendor Entity and Vendor's Goods & Services

If awarded, this description of Vendor and Vendor's goods and services will appear on the TIPS website for customer/public viewing.

Technology solutions value-added reseller and installer of all things technology.

6 Primary Contact Name

Please identify the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract.

Todd Troxler

7 Primary Contact Title

Primary Contact Title

VP of Sales

8 Primary Contact Email

Please enter a valid email address that will definitely reach the Primary Contact.

todd@centralinc.com

9 Primary Contact Phone

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

Please provide the accurate and current phone number where the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly.

2147349780

10	Primary Contact Fax Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="8653128190"/>
-----------	--

11	Primary Contact Mobile Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="2147349780"/>
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12	Secondary Contact Name Please identify the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract. <input type="text" value="Debbie Troxler"/>
-----------	---

13	Secondary Contact Title Secondary Contact Title <input type="text" value="Inside Sales Manager"/>
-----------	--

14	Secondary Contact Email Please enter a valid email address that will definitely reach the Secondary Contact. <input type="text" value="debbie@centralinc.com"/>
-----------	--

15	Secondary Contact Phone Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). Please provide the accurate and current phone number where the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly. <input type="text" value="8655660230"/>
-----------	--

16	Secondary Contact Fax Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="8653128190"/>
-----------	--

17	Secondary Contact Mobile Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="No response"/>
-----------	--

18	Administration Fee Contact Name Please identify the individual who will be responsible for all payment, accounting, and other matters related to Vendor's TIPS Administration Fee due to TIPS for the duration of the contract. <input type="text" value="Ginger Butcher"/>
-----------	--

19	Administration Fee Contact Email Please enter a valid email address that will definitely reach the Administration Fee Contact. <input type="text" value="ginger@centralinc.com"/>
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Item X19.

20	Administration Fee Contact Phone Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="8655660230"/>
-----------	---

21	Purchase Order and Sales Contact Name Please identify the individual who will be responsible for receiving and processing purchase orders and sales under the TIPS Contract. <input type="text" value="Todd Troxler"/>
-----------	---

22	Purchase Order and Sales Contact Email Please enter a valid email address that will definitely reach the Purchase Order and Sales Contact. <input type="text" value="todd@centralinc.com"/>
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23	Purchase Order and Sales Contact Phone Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="2147349780"/>
-----------	---

24	Company Website Company Website (Format - www.company.com) <input type="text" value="www.centralinc.com"/>
-----------	---

25	Entity D/B/A's and Assumed Names You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9. In this question, please identify all of your entity's assumed names and D/B/A's. Please note that you will be identified publicly by the Legal Name under which you respond to this solicitation unless you organize otherwise with TIPS after award. <input type="text" value="Central Knox Inc"/>
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26	Primary Address Primary Address <input type="text" value="6101 Industrial Heights Dr NW"/>
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27	Primary Address City Primary Address City <input type="text" value="Knoxville"/>
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28	Primary Address State Primary Address State (2 Digit Abbreviation) <input type="text" value="TN"/>
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29	Primary Address Zip Primary Address Zip <input type="text" value="37919"/>
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Item X19.

30 Search Words Identifying Vendor

Please list all search words and phrases to be included in the TIPS database related to your entity. **Do not** list words which are not associated with the bid category/scope (See bid title for general scope). This will help users find you through the TIPS website search function. You may include product names, manufacturers, specialized services, and other words associated with the scope of this solicitation.

technology, devices, laptops, chromebooks, computers, servers, televisions, interactive, flat panels, boxlight, avigilon, HPE, Dell, Acer, Asus, Lenovo, surveillance, cameras, audio enhancement, teachlogic, classroom audio, wireless, wlan, lan, aruba, extreme, firewall, network, networking, palo alto, fortinet, sonicwall, knowbe4, cortex, malwarebytes, end point, zspace, triplite, APC, battery backup, access control, verkada, anywhere cart, barracuda, check point, CEF, centegix, emergency response, contentkeeper, linewize, securly, filtering, decept10, scinary, epson, gaggle, filewave, hovercam, goguardian, loop, padcaster, samsung, sonos, screenbeam, intercom, threesixty, galaxy, ubiquiti, veeam, viewsonic, vmware, valcom, halo, vape, crisis alert

31 Certification of Vendor Residency (Required by the State of Texas)

Does Vendor's parent company or majority owner:

(A) have its principal place of business in Texas; **or** (B) employ at least 500 persons in Texas?

Texas Education Code Section 44.031 requires that this information be considered in evaluation for certain contracts. However, Vendor response does not affect points, scoring, or potential award.

No

32 Vendor's Principal Place of Business (City)

In what city is Vendor's principal place of business located?

Knoxville

33 Vendor's Principal Place of Business (State)

In what state is Vendor's principal place of business located?

TN

34 Vendor's Years in Business

How many years has the business submitting this proposal been operating in its current capacity and field of work?

12

35 Certification Regarding Entire TIPS Agreement

Vendor agrees that, if awarded, Vendor's final TIPS Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract.

Does Vendor agree?

Yes, Vendor agrees

**3
6** Minimum Percentage Discount Offered to TIPS Members on all Goods and Services (READ CAREFULLY)

Please read thoroughly and carefully as an error on your response can render your contract award unusable.

TIPS Members often turn to TIPS Contracts for ease of use and to receive discounted pricing.

What is the minimum percentage discount that you can offer TIPS Members off of all goods and service pricing (whether offered through Pricing Form 1, Pricing Form 2, or in another accepted format) that you offer? Only limited goods/services specifically identified and excluded from this discount in Vendor's original proposal may be excluded from this discount.

Vendor must respond with a percentage from 0%-100%. The percentage discount that you input below will be applied to your "Catalog Pricing", as defined in the solicitation, for all TIPS Sales made during the life of the contract. You cannot alter this percentage discount once the solicitation legally closes. You will always be required to discount every TIPS Sale by the percentage included below with the exception of limited goods/services specifically identified and excluded from this discount in Vendor's original proposal. If you add goods or services to your "Catalog Pricing" during the life of the contract, you will be required to sell those new items with this discount applied.

Example: In this example, you enter a 10% minimum percentage discount below. In year-one of your TIPS Contract, your published "Catalog Pricing" (website/store/published pricing) for "Tablet A" is \$100 and for "Tablet Set-Up Service" is \$100. In this example, you must sell those items under the TIPS Contract at the proposed 10% discounted price of: "Tablet A" - \$90, "Tablet Set-Up Service" - \$90. In year two of your TIPS Contract, you update your "Catalog Pricing" with the market. You add "Tablet B" to your "Catalog Pricing" for \$200 and have increased the price of "Tablet A" to \$110 and the price of "Tablet Set-Up Service" to \$110. In this example, after the "Catalog Pricing" update, you must still sell those items under the TIPS Contract at the proposed 10% discounted price of: "Tablet A" - \$99, "Tablet Set-Up Service" - \$99, and "Tablet B" - \$180.00.

With the exception of limited goods/services specifically identified and excluded from this discount in Vendor's original proposal, if you cannot honor the discount on all goods and items now included or which may be added in the future with certainty, then you should offer a lesser discount percentage below.

What is the minimum percentage discount that you can offer TIPS Members off of all goods and service pricing (whether offered through Pricing Form 1, Pricing Form 2, or in another accepted format) that you offer?

**3
7** Honoring Vendor's Minimum Percentage Discount

Vendor is asked in these Attribute Questions to provide a Minimum Percentage Discount offered to TIPS Members on all goods and services sold under the TIPS Contract. Points will be assigned for your response and scoring of your proposal will be affected. A "YES" answer will be awarded the maximum 10 points and a "NO" answer will be awarded 0 points.

Does Vendor agree to honor the Minimum Percentage Discount off of their TIPS "Catalog Pricing" that Vendor proposed for all TIPS Sales made for the duration of the TIPS Contract?

**3
8** Volume and Additional Discounts

In addition to the Minimum Percentage Discount proposed herein, does Vendor ever expect and intend to offer additional, greater, or volume discounts to TIPS Members?

Point(s) may be assigned for your response in the category of "Pricing" during scoring and evaluation.

3
9

"Catalog Pricing" and Pricing Requirements

This is a requirement of the TIPS Contract and is non-negotiable.

In this solicitation and resulting contract, "Catalog Pricing" shall be defined as:

"The then available list of goods or services, in the most current listing regardless of date, that takes the form of a catalog, price list, price schedule, shelf-price or other viewable format that:

- A. is regularly maintained by the manufacturer or Vendor of an item; and
- B. is either published or otherwise available for review by TIPS or a customer during the purchase process;
- C. to which the Minimum Percentage Discount proposed by the proposing Vendor may be applied.

If awarded on this TIPS Contract, for the duration of the contract, Vendor agrees to provide, upon request, their then current "Catalog Pricing." Or, in limited circumstances where Vendor has proposed the Percentage Mark-Up method of pricing in this proposal, proof of Vendor's "cost" may be accepted by TIPS in place of catalog pricing.

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0

EXCEPTIONS & DEVIATIONS TO TIPS STANDARD TERMS AND CONDITIONS

Vendor agrees that, if awarded, Vendor's final TIPS Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract. In the event of conflict between the terms of the finalized Vendor Agreement and one of the incorporated documents the terms and conditions which are in the best interest of governmental/qualifying non-profit TIPS Members shall control at TIPS sole discretion.

If Vendor responds, "No, Vendor does not agree" to this Attribute, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration. This is the only proper way to submit proposed deviations for TIPS consideration. TIPS reserves the right to accept, decline, or modify Vendor's requested negotiated terms. For this reason, answering "No, Vendor does not agree" may ultimately delay or prevent award.

Does Vendor agree with TIPS standard terms and conditions as presented in the TIPS solicitation document (RFP, RCSP, RFQ, or other) and the TIPS Vendor Agreement document?

4
1 **TIPS Sales Reporting Requirements**

This is a requirement of the TIPS Contract and is non-negotiable.

By submitting this proposal, Vendor certifies that Vendor will properly report all TIPS sales. With the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either:

(1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at tipspo@tips-usa.com with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or;

(2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement.

No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion.

4
2 **TIPS Administration Fee Requirement and Acknowledgment**

This is a requirement of the TIPS Contract and is non-negotiable.

The collection of fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The TIPS Administration Fee is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of each TIPS Sale legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding RFP or RCSP document. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale.

By submitting a proposal, Vendor agrees that it has read, understands, and agrees to the published TIPS Administration Fee amount, calculation, and payment requirements. By submitting a proposal Vendor further confirms that all TIPS Pricing includes the TIPS Administration Fee and Vendor will not show adding the TIPS Administration Fee as a charge or line-item in any TIPS Sale.

4
3 **TIPS Member Access to Vendor Proposal & Documentation**

This is a requirement of the TIPS Contract and is non-negotiable.

Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's express consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation to TIPS Members or by TIPS Members. By submitting this proposal, Vendor certifies the foregoing.

4 Non-Collusive Bidding Certificate

4 This is a requirement of the TIPS Contract and is non-negotiable.

By submission of this proposal, the Vendor certifies that:

- 1) This proposal has been independently arrived at without collusion with any other entity, bidder, or with any competitor;
- 2) This proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other bidder, competitor or potential competitor;
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to modify, submit, or not to submit a bid or proposal; and
- 4) The person signing this bid or proposal certifies that they are duly authorized to execute this proposal/contract on behalf of Vendor and they have fully informed themselves regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the bidder as well as to the person signing in its behalf;

4 Antitrust Certification Statements (Tex. Government Code § 2155.005)

5 This is a requirement of the TIPS Contract and is non-negotiable.

By submission of this bid or proposal, Vendor certifies under penalty of perjury of the laws of the State of Texas that:

- (1) I am duly authorized to execute this proposal/contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Vendor) identified herein;
- (2) In connection with this proposal, neither I nor any representative of Vendor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- (3) In connection with this proposal, neither I nor any representative of the Vendor has violated any federal antitrust law;
- (4) Neither I nor any representative of Vendor has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

4 Limitation on Out-of-State Litigation - Texas Business and Commerce Code § 272

6 This is a requirement of the TIPS Contract and is non-negotiable.

Texas Business and Commerce Code § 272 prohibits a construction contract, or an agreement collateral to or affecting the construction contract, from containing a provision making the contract or agreement, or any conflict arising under the contract or agreement, subject to another state's law, litigation in the courts of another state, or arbitration in another state. If included in Texas construction contracts, such provisions are voidable by a party obligated by the contract or agreement to perform the work.

By submission of this proposal, Vendor acknowledges this law and ***if Vendor enters into a construction contract with a Texas TIPS Member*** under this procurement, Vendor certifies compliance.

4
7

Required Confidentiality Claim Form

This is a requirement of the TIPS Contract and is non-negotiable.

TIPS provides the required TIPS Confidentiality Claim Form in the "Attachments" section of this solicitation. Vendor must execute this form by either signing and waiving any confidentiality claim, or designating portions of Vendor's proposal confidential. If Vendor considers any portion of Vendor's proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form.

If TIPS receives a public information act or similar request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor documents deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion.

Notwithstanding any other Vendor designation of Vendor's proposal as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's agreement that proper execution of the required TIPS Confidentiality Claim Form is the only way to assert any portion of Vendor's proposal as confidential.

4
8

Non-Discrimination Statement and Certification

This is a requirement of the TIPS Contract and is non-negotiable.

In accordance with Federal civil rights law, all U.S. Departments, including but not limited to the USDA, USDE, FEMA, are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by federal funds (not all bases apply to all programs).

Vendor certifies that Vendor will comply with applicable Non-Discrimination and Equal Opportunity provisions set forth in TIPS Member Customers' policies and other regulations at the local, state, and federal levels of governments.

Yes, I certify

4
9

Limitation of Vendor Indemnification and Similar Clauses

This is a requirement of the TIPS Contract and is non-negotiable.

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, is prohibited from indemnifying third-parties (pursuant to the Article 3, Section 52 of the Texas Constitution) except as otherwise specifically provided for by law or as ordered by a court of competent jurisdiction. Article 3, Section 52 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " and the Texas Attorney General has opined that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Thus, contract clauses which require TIPS to indemnify Vendor, pay liquidated damages, pay attorney's fees, waive Vendor's liability, or waive any applicable statute of limitations must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas."

Does Vendor agree?

Yes, I Agree

50

Alternative Dispute Resolution Limitations

This is a requirement of the TIPS Contract and is non-negotiable.

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, does not agree to binding arbitration as a remedy to dispute and no such provision shall be permitted in this Agreement with TIPS. Vendor agrees that any claim arising out of or related to this Agreement, except those specifically and expressly waived or negotiated within this Agreement, may be subject to non-binding mediation at the request of either party to be conducted by a mutually agreed upon mediator as prerequisite to the filing of any lawsuit arising out of or related to this Agreement. Mediation shall be held in either Camp or Titus County, Texas. Agreements reached in mediation will be subject to the approval by the Region 8 ESC's Board of Directors, authorized signature of the Parties if approved by the Board of Directors, and, once approved by the Board of Directors and properly signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Does Vendor agree?

51

No Waiver of TIPS Immunity

This is a requirement of the TIPS Contract and is non-negotiable.

Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

Does Vendor agree?

Yes, Vendor agrees

52

Payment Terms and Funding Out Clause

This is a requirement of the TIPS Contract and is non-negotiable.

Vendor agrees that TIPS and TIPS Members shall not be liable for interest or late-payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Funding-Out Clause: Vendor agrees to abide by the applicable laws and regulations, including but not limited to Texas Local Government Code § 271.903, or any other statutory or regulatory limitation of the jurisdiction of any TIPS Member, which requires that contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

Does Vendor agree?

Yes, Vendor agrees

53

Certification Regarding Prohibition of Certain Terrorist Organizations (Tex. Gov. Code 2270)

Vendor certifies that Vendor is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.

Does Vendor certify?

5
4

Certification Regarding Prohibition of Boycotting Israel (Tex. Gov. Code 2271)

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any agreement with a TIPS Member under this procurement has value of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Vendor certifies, where applicable, that neither the Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any, boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory but does not include an action made for ordinary business purposes.

When applicable, does Vendor certify?

Yes, Vendor certifies

5
5

Certification Regarding Prohibition of Contracts with Certain Foreign-Owned Companies (Tex. Gov. Code 2274)

Certain public entities are prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant Vendor direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by a customer for product warranty and support purposes.

Vendor certifies that neither it nor its parent company nor any affiliate of Vendor or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country.

For purposes of this certification, "critical infrastructure" means "a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility." Vendor certifies that Vendor will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

When applicable, does Vendor certify?

Yes, Vendor certifies

5 Certification Regarding Prohibition of Discrimination Against Firearm and Ammunition Industries (Tex. Gov. Code 2274)

If (a) Vendor is not a sole proprietorship; (b) Vendor has at least ten (10) full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities have a value of at least \$100,000 that is paid wholly or partly from public funds; (d) the Agreement is not excepted under Tex. Gov. Code 2274 and (e) the purchasing public entity has determined that Vendor is not a sole-source provider or the purchasing public entity has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association.

For purposes of this Agreement, "discriminate against a firearm entity or firearm trade association" shall mean, with respect to the entity or association, to: "(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association."

"Discrimination against a firearm entity or firearm trade association" does not include: "(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association."

When applicable, does Vendor certify?

Yes, Vendor certifies

5 Certification Regarding Termination of Contract for Non-Compliance (Tex. Gov. Code 552.374)

If Vendor is not a governmental body and (a) this Agreement or any Supplemental Agreement with a public entity has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities; or (b) this Agreement or any Supplemental Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities in their fiscal year, the following certification shall apply; otherwise, this certification is not required.

As required by Tex. Gov. Code 552.374, the following statement is included in the RFP and the Agreement (unless the Agreement is (1) related to the purchase or underwriting of a public security; (2) is or may be used as collateral on a loan; or (3) proceeds from which are used to pay debt service of a public security of loan): "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this solicitation and Agreement and the Vendor agrees that this Agreement and any applicable Supplemental Agreement can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter."

Pursuant to Chapter 552 of the Texas Government Code, Vendor certifies that Vendor shall: (1) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member for the duration of the Agreement; (2) promptly provide to TIPS or the purchasing TIPS Member any contracting information related to the Agreement that is in the custody or possession of Vendor on request of TIPS or the purchasing TIPS Member; and (3) on completion of the Agreement, either (a) provide at no cost to TIPS or the purchasing TIPS Member all contracting information related to the Agreement that is in the custody or possession of Vendor, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member.

When applicable, does Vendor certify?

Yes, Vendor certifies

Item X19.

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Certification Regarding Prohibition of Boycotting Certain Energy Companies (Tex. Gov. Code 2274)

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities has a value of \$100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, do not boycott energy companies and will not boycott energy companies during the term of the Agreement or any applicable Supplemental Agreement.

For purposes of this certification the term "company" shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit.

The term "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a)." (See Tex. Gov. Code 809.001).

When applicable, does Vendor certify?

Yes, Vendor certifies

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Felony Conviction Notice - Texas Education Code 44.034

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states, "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Subsection (b) states, "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

Subsection (c) states, "This section does not apply to a publicly held corporation.

Vendor certifies one of the following:

- A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable, or;
- B. My firm is not owned nor operated by anyone who has been convicted of a felony, or;
- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony.

If Vendor responds with Option (C), Vendor is required to provide information in the next attribute.

B. My firm is not owned nor operated by felon.

60 Felony Conviction Notice - Texas Education Code 44.034 - Continued

If Vendor selected Option (C) in the previous attribute, Vendor must provide the following information herein:

1. Name of Felon(s)
2. The Felon(s) title/role in Vendor's entity, and
3. Details of Felon(s) Conviction(s).

No response

61 Conflict of Interest Questionnaire Requirement

Vendor agrees that it has looked up, read, and understood the current version of Texas Local Government Code Chapter 176 which generally requires disclosures of conflicts of interests by Vendor hereunder if Vendor:

- (1) has an employment or other business relationship with a local government officer of our local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of our local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of our local governmental entity.
- (4) Any other financial, commercial, or familial relationship with our local government that may warrant reporting under this statute.

Does Vendor certify that it has NO reportable conflict of interest?

Yes, Vendor certifies - VENDOR HAS NO CONFLICT

62 Conflict of Interest Questionnaire Requirement - Form CIQ - Continued

If you responded "No, Vendor does not certify - VENDOR HAS CONFLICT" to the Conflict of Interest Questionnaire question above, you are required by law to fully execute and upload the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ." If you accurately claimed no conflict above, you may disregard the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ."

Have you uploaded this form if applicable?

Not Applicable

63 Upload of Current W-9 Required

Vendors are required by TIPS to upload a current, accurate W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

64 Regulatory Good Standing Certification

Does Vendor certify that its entity is in good standing will all government entities and agencies, whether local, state, or federal, that regulate any aspect of Vendor's field of work or business operations?

If Vendor selects "No", Vendor must provide explanation on the following attribute question.

Yes, Vendor certifies

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5 **Regulatory Good Standing Certification - Explanation - Continued**

If Vendor responded to the prior attribute that "No", Vendor is not in good standing, Vendor must provide an explanation of that lack of good standing here for TIPS consideration.

No response

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6 **Instructions Only - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**
Instructions for Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

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

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

6 **Suspension or Debarment Certification**

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Read the instructions in the attribute above and then answer the following accurately.

Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Does Vendor certify?

Yes, Vendor certifies

6 **Vendor Certification of Criminal History - Texas Education Code Chapter 22**

8

Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district pursuant to this law.

DEFINITIONS

Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students.

Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

Vendor certifies:

NONE (Section A): None of the employees of Vendor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Vendor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided under this procurement.

OR

SOME (Section B): Some or all of the employees of Vendor and any subcontractor are covered employees. If this box is checked, I further certify that: (1) Vendor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history; (2) If Vendor receives information that a covered employee subsequently has a reported criminal history, Vendor will immediately remove the covered employee from contract duties and notify the purchasing entity in writing within 3 business days; (3) Upon request, Vendor will provide the purchasing entity with the name and any other requested information of covered employees so that the purchasing entity may obtain criminal history record information on the covered employees; (4) If the purchasing entity objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Vendor agrees to discontinue using that covered employee to provide services at the purchasing entity.

Which option does Vendor certify?

Yes, I certify - NONE (Section A)

6 **Certification Regarding "Choice of Law" Terms with TIPS Members**

9 Vendor agrees that if any "Choice of Law" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the sales agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

Yes, Vendor agrees

7 **Certification Regarding "Venue" Terms with TIPS Members**

0 Vendor agrees that if any "Venue" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution is shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

Yes, Vendor agrees

7 **Certification Regarding "Automatic Renewal" Terms with TIPS Members**

1 Vendor agrees that no TIPS Sale may incorporate an "Automatic Renewal" clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing a Supplemental Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

Yes, Vendor agrees

**7
2 Certification Regarding "Indemnity" Terms with TIPS Members**

Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

Yes, Vendor agrees

**7
3 Certification Regarding "Arbitration" Terms with TIPS Members**

Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may **not** require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

Yes, Vendor agrees

**7
4 2 CFR PART 200 AND FEDERAL CONTRACT PROVISIONS EXPLANATION**

TIPS and TIPS Members will sometimes seek to make purchases with federal funds. In accordance with 2 C.F.R. Part 200 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (sometimes referred to as "EDGAR"), Vendor's response to the following questions labeled "2 CFR Part 200 or Federal Provision" will indicate Vendor's willingness and ability to comply with certain requirements which may be applicable to TIPS purchases paid for with federal funds, if accepted by Vendor.

Your responses to the following questions labeled "2 CFR Part 200 or Federal Provision" will dictate whether TIPS can list this awarded contract as viable to be considered for a federal fund purchase. **Failure to certify all requirements labeled "2 CFR Part 200 or Federal Provision" will mean that your contract is listed as not viable for the receipt of federal funds. However, it will not prevent award.**

If you do enter into a TIPS Sale when you are accepting federal funds, the contract between you and the TIPS Member will likely require these same certifications.

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2 CFR Part 200 or Federal Provision - Vendor Willingness to Accept Federal Funds

This certification is not required by federal law. However, TIPS Members are public entities and qualifying non-profits which often receive federal funding and grants (ESSER, CARES Act, EDGAR, etc.) **Accepting such funds often requires additional required certifications and responsibilities for Vendor.** The following attribute questions include these required certifications. Your response to this questions, the following certifications, and other factors will determine whether your contract award will be deemed as eligible for federal fund expenditures by TIPS Members.

If awarded, is Vendor willing to accept payment for goods and services offered under this contract paid for by a TIPS Member with federal funds?

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2 CFR Part 200 or Federal Provision - Contracts

Contracts for more than the simplified acquisition threshold currently set at \$250,000 (2 CFR § 200.320), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

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2 CFR Part 200 or Federal Provision - Termination

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The Vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?

7 **2 CFR Part 200 or Federal Provision - Clean Air Act**

8 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.

Does vendor agree?

Yes, Vendor agrees

7 **2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment**

9 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Does Vendor agree?

Yes, Vendor agrees

8 0 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does Vendor certify that it has NOT lobbied as described herein?

Yes, Vendor certifies - NO Reportable Lobbying

8 1 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued

If you answered "No, Vendor does not certify - Lobbying to Report" to the above attribute question, you must download, read, execute, and upload the attachment entitled "Disclosure of Lobbying Activities - Standard Form - LLL", as instructed, to report the lobbying activities you performed or paid others to perform.

8 2 2 CFR Part 200 or Federal Provision - Federal Rule

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify compliance?

Yes, Vendor certifies

Item XI9.

8 **2 CFR Part 200 or Federal Provision - Procurement of Recovered Materials**

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A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with these provisions?

Yes, Vendor certifies

8 **2 CFR Part 200 or Federal Provision - Rights to Inventions**

4

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.

Does vendor certify?

Yes, Vendor certifies

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2 CFR Part 200 or Federal Provision - Domestic Preferences for Procurements and Compliance with Buy America Provisions

As appropriate and to the extent consistent with law, TIPS Member Customers, to the greatest extent practicable under a Federal award, may provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Vendor agrees that the requirements of this section will be included in all subawards including all contracts and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. For purposes of 2 CFR Part 200.322, "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition. For purposes of 2 CFR Part 200.322,

"Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

"Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

Does Vendor Certify?

Yes, Vendor certifies

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2 CFR Part 200 or Federal Provision - Ban on Foreign Telecommunications

ESC 8 and TIPS Members are prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that use "covered telecommunications" equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications" equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and physical security surveillance of critical infrastructure and other national security purposes, and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 CFR § 200.216.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor certify?

Yes, Vendor certifies

8 7 2 CFR Part 200 or Federal Provision - Contract Cost & Price

For contracts more than the simplified acquisition threshold currently set at \$250,000, a TIPS Member may, in very rare circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). Under those circumstances, Vendor agrees to provide information and negotiate with the TIPS Member regarding profit as a separate element of the price. However, Vendor certifies that the total price charged by the Vendor shall not exceed the Vendor's TIPS pricing and pricing terms proposed.

Does Vendor certify?

Yes, Vendor certifies

8 8 2 CFR Part 200 or Federal Provision - Equal Employment Opportunity

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

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members on any federally assisted construction contract, the equal

opportunity clause is incorporated by reference here.

Does Vendor Certify?

Yes, Vendor certifies

8 9 2 CFR Part 200 or Federal Provision - Davis Bacon Act Compliance

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

Pursuant to state and federal requirements, Vendor certifies that it will be in compliance with all applicable Davis-Bacon Act provisions if/when applicable.

Does Vendor certify?

Yes, Vendor certifies

9 2 CFR Part 200 or Federal Provision - Contract Work Hours and Safety Standards

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award for all contracts resulting from this procurement process, Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does Vendor certify?

Yes, Vendor certifies

9 2 CFR Part 200 or Federal Provision - FEMA Fund Certification & Certification of Access to Records

If and when Vendor accepts a TIPS purchase paid for in full or part with FEMA funds, Vendor certifies that:

(1) Vendor agrees to provide the TIPS Member, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Contractor which are directly pertinent to this contract, or any contract resulting from this procurement, for the purposes of making audits, examinations, excerpts, and transcriptions. This right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents. Vendor agrees to provide the FEMA Administrator or an authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this contract or the contract with the TIPS Member is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(2) The Vendor shall not use the Department of Homeland Security's seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(3) The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(4) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

(5) The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract.

Does Vendor certify?

Yes, Vendor certifies

9 2 CFR Part 200 or Federal Provision - Certification of Compliance with the Energy Policy and Conservation Act

When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any state mandatory standards and policies relating to energy efficiency which are contained in applicable state energy conservation plans issued in compliance with the Act.

Does Vendor certify?

Yes, Vendor certifies

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2 CFR Part 200 or Federal Provision - Certification of Compliance with Never Contract with the Enemy

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$50,000.00, within the period of performance, and which are performed outside of the United States, including U.S. territories, are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. Per 2 CFR part 183, in the situation specified, ESC 8 and TIPS Members shall terminate any contract or agreement resulting from this procurement which violates the Never Contract with the Enemy regulation in 2 CFR part 183, including if Vendor is actively opposing the United States or coalition forces involved in a contingency operation in which members of the the Armed Forces are actively engaged in hostilities. Vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIIS) for any contract terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply.

Does Vendor certify?

Yes, Vendor certifies

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2 CFR Part 200 or Federal Provision - Certification of Compliance with EPA Regulations

For contracts resulting from this procurement, in excess of \$100,000.00 and paid for with federal funds, Vendor certifies that Vendor will comply with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does Vendor certify?

Yes, Vendor certifies

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2 CFR Part 200 or Federal Provision - Record Retention Requirements

For contracts resulting from this procurement, paid for by ESC 8 or TIPS Members with federal funds, Vendor certifies that Vendor will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after final expenditure or financial reports, as applicable, and all other pending matters are closed.

Does Vendor certify?

Yes, Vendor certifies

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2 CFR Part 200 or Federal Provision - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

If you respond "Yes", you must respond to the following attribute question accurately. If you respond "No", you may skip the following attribute question.

YES

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2 CFR Part 200 or Federal Provision - If "Yes" Response to Above Attribute - Continued - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

Only respond to this question if you responded "Yes" to the attribute question directly above. Skip this question if you responded "No" to the attribute question directly above.

Does Vendor certify that it will follow the following affirmative steps? Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

Does Vendor certify?

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ACKNOWLEDGMENT & BINDING CORPORATE AUTHORITY

By submitting this proposal, the individual(s) submitting on behalf of the Vendor certify that they are authorized by Vendor to complete and submit this proposal on behalf of Vendor and that this proposal was duly submitted on behalf of Vendor by authority of its governing body, if any, and within the scope of its corporate powers.

Vendor further certifies that it has read, examined, and understands all portions of this solicitation including but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement(s). Vendor certifies that, if necessary, Vendor has consulted with counsel in understanding all portions of this solicitation.

TIPS 240101 Technology Solutions, Products, and Services	Central Knox dba Central Technologies Inc
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TIPS REFERENCE FORM

All requested information must be typed and uploaded in Excel format. Do not handwrite or upload in any format other than Excel. Emails provided must be current and active. Do not include TIPS/Region 8 employees as a reference. The entities that you provide must be paying customers, not affiliates/partners/manufacturers/resellers, etc.

You must provide below at least three (3) references from three different entity customers, preferably government or non-profit entities, who have purchased goods or services from your vendor entity within the last three years.

Customer Entity Name	Customer Contact Name	Valid Contact Email	Valid Contact Phone
Example: ABC University	Director John Doe	jdoe@abcuniversity.edu	800-111- 2222
Milan Special School District	Craig Rogers	rogersc@milanssd.org	731-686-0844
McMinn County Schools	Darren McCracken	dmccracken@mcmminnschools.com	423-745-1612
Sevier County Schools	Buster Flynn	busterflynn@sevier.org	865-453-4671

REQUIRED CONFIDENTIALITY CLAIM FORM

(VENDOR MUST COMPLETE THE FOLLOWING VENDOR INFORMATION)

Vendor Entity Name: Central Knox dba Central Technologies Inc

Vendor Authorized Signatory Name: Todd Troxler

Vendor Authorized Signatory Title: VP of Sales

Vendor Authorized Signatory Email: todd@centralinc.com

Vendor Address: 6101 Industrial Heights Dr NW

City: Knoxville State: TN Zip Code: 37909

Vendor agrees that it is voluntarily providing its data (including but not limited to: Vendor information, Vendor documentation, Vendor’s proposal, Vendor pricing submitted or provided to TIPS, TIPS contract documents, TIPS correspondence, Vendor logos and images, Vendor’s contact information, Vendor’s brochures and commercial information, Vendor’s financial information, Vendor’s certifications, and any other Vendor information or documentation submitted to TIPS by Vendor and its agents) (Hereinafter, “Vendor Data”) to TIPS. Vendor understands and agrees that TIPS is a government entity subject to public information laws including but not limited to Texas Government Code (TGC) Chapter 552. Vendor agrees that regardless of confidentiality designations herein, Vendor’s submission of a proposal constitutes Vendor’s consent to the disclosure and release of Vendor’s Data and comprehensive proposal, including any information deemed confidential or proprietary herein, to and by TIPS Members.

Notwithstanding the foregoing permissible release to TIPS Members, if Vendor considers any portion of Vendor’s proposal to be otherwise confidential and not subject to public disclosure pursuant to public information laws, including but not limited to TGC Chapter 552, Vendor must properly execute **Option 1 only** below, attach to this PDF all documents and information that Vendor deems confidential, and upload the consolidated documentation. Regardless of the Option selected below, this form must be completed and uploaded to the “Response Attachments” section of the eBid System entitled “Required Confidentiality Claim Form.” Execution and submission of this form is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a request, a Public Information Request, or subpoena. If TIPS receives a request, any responsive documentation not deemed confidential by you through proper execution of Option 1 of this form will be automatically released. For information deemed confidential by you through proper execution of Option 1 of this form, TIPS will follow procedures of controlling statute(s) regarding withholding that documentation and shall not be liable for any release of information required by law, including Attorney General opinion or court order.

(VENDOR MUST COMPLETE ONE OF THE TWO OPTIONS AND UPLOAD IN THE EBID SYSTEM)

OPTION 1 – DESIGNATING CONFIDENTIAL MATERIALS – YES, VENDOR HAS ATTACHED CONFIDENTIAL MATERIALS

(Confirm each bullet point and sign below)

- Vendor claims some Vendor Data confidential to the extent permitted by TGC Chapter 552 and other applicable law.
- Vendor attached to this PDF all potentially confidential Vendor Data and listed the number of attached pages below.
- Vendor’s authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

Number of pages attached deemed confidential: _____

Authorized Signature: _____

OPTION 2 – WAIVER OF CONFIDENTIALITY – NO, VENDOR HAS NOT ATTACHED CONFIDENTIAL MATERIALS

(Confirm each bullet point and sign below)

By signing for Option 2 below, Vendor expressly waives any confidentiality claim for all Vendor Data submitted in relation to this proposal and resulting contract. Vendor confirms that TIPS may freely release Vendor Data submitted in relation to this proposal or resulting contract to any requestor. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of Vendor Data by TIPS or TIPS Members.

- Vendor’s authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

Authorized Signature: Todd Troxler Digitally signed by Todd Troxler
Date: 2024.02.14 08:26:52 -06'00'

Item X19.

Standard Terms and Conditions

These Standard Terms and Conditions (the “**Standard Terms**”) govern the rights and obligations of Customer and 34ED, LLC, a Delaware limited liability company doing business as CENTEGIX (“**CENTEGIX**”) with respect to the CENTEGIX Safety Platform™ or CrisisAlert™ Platform and any other products and services acquired from CENTEGIX as set forth on the applicable Order (collectively, the “**Service**”). Capitalized terms used and not otherwise defined in these Standard Terms have the meanings assigned in Section 12 below.

1. Subscription Terms.

1.1 CENTEGIX will provide the Service for the term specified in the Order Acknowledgement (the “**Initial Term**”). Customer has the right to access and use the Service during the Term pursuant to these Standard Terms. The fee for the Service (the “**Service Fee**”) is specified in the applicable Order Acknowledgement.

1.2 Customer is not acquiring any right or interest in the Service or any of the tangible components delivered to Customer as part of and solely for use with the Service and listed on the applicable Order Acknowledgement (the “**Equipment**”) other than the right to access and use the Service and the Equipment during the Term subject to these Standard Terms. CENTEGIX reserves all rights not expressly granted to Customer in these Standard Terms and retains all right, title and interest (including all intellectual property rights) in and to the Service and the Equipment (other than the Accessories) under all applicable laws of the United States and any other applicable state, federal, or foreign law. For purposes of these Standard Terms, all references to the Service include the Equipment unless otherwise expressly stated in these Standard Terms.

1.3 Except as expressly permitted by these Standard Terms, Customer will not: (A) sublicense, transfer, or otherwise assign its rights, in whole or in part, in or to the Service to any third-party nor allow any third-party to access or use the Service; (B) modify, create derivative works of, translate, reverse engineer, de-compile, or disassemble the Service to develop any other device or program or for any other reason; or (C) copy the software portions of the Service, in whole or in part, without the prior written consent of CENTEGIX. Customer must retain all logos, legends, and notices relating to CENTEGIX ownership of the Service and the Equipment and the intellectual property rights of CENTEGIX therein.

1.4 CENTEGIX warrants that the Service will conform to the description of the Service in the Documentation. Except as a provided in the preceding sentence, **CENTEGIX EXPRESSLY DISCLAIMS ALL WARRANTIES REGARDING THE SERVICE AND THE EQUIPMENT, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.**

Notwithstanding anything in this Agreement to the contrary, Article II, Section 29 of the Tennessee prohibits cities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. Any indemnity or hold harmless provision contained in the Agreement [including, but not limited to, all attachments, exhibits, Terms of Service and Conditions, *etc.*] requiring City to indemnify or hold harmless Vendor or any other person or entity and any limitation of liability [in favor of Vendor] is enforceable only to the extent permitted by Tennessee law, provided City’s monetary limits of liability under any such provision is limited to the monetary limits of liability as provided for in the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101 *et seq.* No provision of the Agreement shall act or be deemed a waiver by City of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act. Because Tennessee law may not allow City to agree to the disclaimer of warranties any such disclaimer of warranties shall be enforceable only to the extent permitted by Tennessee law. City reserves all rights afforded to local governments under law for all general and implied warranties.

2. Provisions Specific to the Equipment.

2.1 Customer acknowledges that CENTEGIX owns the Equipment, and that the Equipment is specially programmed for Customer and the Site at which the Equipment is initially installed.

2.2 Customer acknowledges title to and risk of loss with respect to the Accessories passes to Customer on delivery to Customer. The Accessories are provided ‘as-is’ and Customer is responsible for all replacement and maintenance of the Accessories at all times.

2.3 In connection with the use of the Equipment, from time-to-time CENTEGIX will require Customer to take certain actions (e.g., reboot a component) for purposes of the continued operation of the Service and Customer will promptly comply with such directions. CENTEGIX is responsible for the continued operation of the Equipment except to the extent the Equipment is damaged as a result of the acts or omissions of Customer or its employees or agents.

2.4 Upon the expiration of the Term or other earlier termination of the Service, (A) the Equipment will be inoperable; and (B) Customer must decommission the Equipment and return the Equipment to CENTEGIX or an authorized recycler. Customer must return all Equipment in the condition as when such Equipment was provided to Customer, normal wear and tear excepted. Customer shall deliver the Equipment free from all Electronic Devices and media on which the Software is then resident. Within thirty (30) days following termination of the applicable Order Acknowledgement, Customer

shall certify to CENTEGIX in writing that it has complied with the preceding sentence. CENTEGIX will assist Customer in the decommissioning of the Equipment upon mutually agreed terms. In no event shall Customer resell or transfer the Equipment to a third party.

3. Installation, Implementation, and Other Professional Services.

3.1 Generally. If specified on the applicable Order Acknowledgement, CENTEGIX will perform installation

services and implementation services at each Site, for the fees stated in the applicable Order Acknowledgement (the “**Installation Fee**” and the “**Implementation Fee**” and a shipping fee, respectively). CENTEGIX warrants that such Installation, Implementation, and other professional services (collectively, the “**Professional Services**”) shall be performed in a workmanlike, professional manner by qualified personnel.

3.2 Customer Point of Contact. Customer shall designate one or two individuals as the representatives of Customer (the “**Customer Representatives**”), whose names are set forth on each Order, and who shall be authorized to make decisions, approve plans, grant requests on behalf of Customer, and receive notices from CENTEGIX. Customer hereby authorizes CENTEGIX to rely on all communications from and decisions of the Customer Representatives.

3.3 Configuration Information. The Customer Representatives shall promptly complete the required information (the “Install Sheets”) for each Site, assist CENTEGIX in scheduling Installation at each Site, and perform the other obligations of Customer as outlined in the Order Acknowledgement. Customer acknowledges and agrees that the schedule for Installation and Implementation as mutually agreed by the Customer Representatives and CENTEGIX is dependent upon the prompt and accurate completion of Install Sheets and the other obligations of Customer as outlined in the Order Acknowledgement. Customer is responsible for any out-of-pocket costs incurred by CENTEGIX as a result of delays in the timely and accurate performance of Customer Responsibilities outlined in the Order Acknowledgement and these Standard Terms.

4. Customer Data.

4.1 Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use the data, information, and/or material that Customer submits to the Service in the course of using the Service (“**Customer Data**”).

4.2 Customer hereby grants CENTEGIX an irrevocable, perpetual, worldwide license to: (A) use Customer Data to provide the Service during the Term, and (B) process Customer Data to create a deidentified subset of Customer Data (the “**CENTEGIX Compiled Data**”). Customer acknowledges and agrees that: (x) CENTEGIX owns the CENTEGIX Compiled Data and all intellectual property rights in and to the CENTEGIX Compiled Data, and (y) that CENTEGIX is free to use CENTEGIX Compiled data for any lawful purpose including without limitation creation of statistical analysis, trend analysis, creation of data models, and creation of statistical rules, for resale. CENTEGIX does not own or have any right to use the Customer Data except as described in these Standard Terms.

4.3 CENTEGIX shall use commercially reasonable precautions to preserve the security and integrity and prevent any corruption, loss, damage, or destruction of the Customer Data. Customer is responsible for maintaining current backups of all Customer Data and securing Customer Data stored and processed at the Sites.

5. FEES AND PAYMENT

5.1 Invoicing. The applicable fees will be invoiced in accordance with the terms set forth in the applicable Order Acknowledgement. For any Renewal Term, the Service Fee will be invoiced on each anniversary of the Anniversary Date. In the event of pre-payment, invoicing will be adjusted to reflect prepayments of the Service Fee.

5.2 Payment Terms. Unless otherwise provided in the applicable Order Acknowledgement, all amounts are billed in US Dollars. Invoices are payable in full without deduction or setoff, in US Dollars on net 30 day terms or such later date as may be specified in the Order Acknowledgement (the “**Due Date**”). Interest shall accrue from the Due Date on all undisputed amounts unpaid more than 30 days after the Due Date at the rate of one percent (1%) per month. Customer may withhold payment of amounts disputed in good faith so long as Customer notifies CENTEGIX of all disputed amounts included in any invoice prior to the applicable Due Date, identifying in reasonable detail the nature and amount of any such dispute. The parties will use commercially reasonable efforts to promptly resolve any such disputes.

5.3 Taxes. If applicable, Customer is responsible for, and must pay, any and all federal, state, or local taxes (other than taxes based on CENTEGIX’s income), including sales and/or use taxes imposed in connection with the use of the Service and the Professional Services. CENTEGIX will not invoice Customer, and Customer will not pay, for sales, use, or excise taxes if Customer provides CENTEGIX with certificates or other evidence supporting the applicable tax exemptions. Customer will promptly reimburse CENTEGIX for the amount of any taxes that CENTEGIX is required to pay as a result of Customer’s failure to pay such amount.

5.4 Prevailing Wages. For any work performed under this contract that is subject to prevailing wage laws, the contractor shall pay its employees the prevailing wage rates as determined by the applicable laws and regulations. The cost of the prevailing wage, including any additional benefits and contributions required by law, shall be passed through to the customer and included in the contract price.

- (i) Both parties acknowledge and agree that compliance with prevailing wage laws is a shared responsibility and shall be carried out in accordance with the applicable laws, regulations, and guidelines. The contractor shall maintain accurate records of wages paid and provide necessary documentation to demonstrate compliance with prevailing wage requirements. In the event of any changes or updates to the prevailing wage rates during the term of this contract, the contractor and the customer shall mutually agree on any necessary adjustments to the contract price to reflect the updated prevailing wage rates.

5.5 Performance Bond (or any other bond thereof). In the event that a performance bond is required for this contract, the cost of the performance bond shall be passed through to the customer and included in the contract price. The contractor shall provide the necessary documentation and proof of the performance bond to the customer upon request.

- (i) Any costs associated with obtaining the performance bond, including premiums or fees, shall be the responsibility of the customer. The contractor shall provide a detailed breakdown of the performance bond costs upon request.

6. INDEMNIFICATION

6.1 By Centegix. CENTEGIX shall indemnify, defend, and hold harmless Customer and its officers, directors, employees and agents (collectively, the “**Customer Indemnitees**”) against any losses, liabilities, damages, and expenses, including reasonable attorneys’ fees (collectively, “**Losses**”) arising out of or related to any third party claim that is based upon or alleges that the use of the Service as permitted under these Standard Terms infringes any patent, or a copyright, tradeseecret, trademark or other proprietary right of a third party (an “**IP Claim**”).CENTI

6.2 By Customer. If and to the extent permitted by applicable Tennessee law, Customer shall indemnify, defend, and hold harmless CENTEGIX and its Affiliates, and its and their respective directors, managers, officers, employees, members, and shareholders (collectively, the “**CENTEGIX Indemnitees**”) from and against all Losses arising out of or related to any third party claim that is based upon or alleges personal injury or property damage in any way related to Customer’s use of, or the failure of, the Service (a “**Customer Indemnifiable Claim**”).

6.3 Indemnification Definitions. “**Claim**” means, as applicable, any IP Claim and any Customer Indemnifiable Claim. “**Indemnitor**” means a party that is required to provide indemnification pursuant to these Standard Terms. “**Indemnitee**” means a party seeking indemnification pursuant to these Standard Terms and includes Customer Indemnitees and CENTEGIX Indemnitees.

6.4 Procedures for Claims. Indemnitee agrees to give Indemnitor prompt written notice of any Claim for which Indemnitee seeks indemnification, *provided however*, any failure by Indemnitee to timely provide such notice will not relieve Indemnitor of its indemnification obligations except to the extent Indemnitor can demonstrate actual prejudice as a result of such failure. Within thirty (30) days after receiving Indemnitee’s notice of a Claim, but no later than ten (10) days before the date on which any formal response to the Claim is due, Indemnitor will notify Indemnitee in writing acknowledging its indemnification obligation and assuming control of the defense and settlement of the Claim (a “**Notice of Election**”). If Indemnitor delivers a timely Notice of Election to Indemnitee, Indemnitor shall have sole control over the defense and settlement of the Claim. Indemnitee shall cooperate with Indemnitor in the defense of the Claim. Indemnitee will have the right to participate with Indemnitor in the defense or appeal of any Claim, at Indemnitee’s option and at Indemnitee’s own expense (such expense not being indemnified by Indemnitor), but Indemnitor will have sole control and authority with respect to any such defense, compromise, settlement, appeal, or similar action, provided that Indemnitor obtains Indemnitee’s prior written consent to any settlement that requires Indemnitee to make any admission of fault or pay any amounts in connection with such settlement. If Indemnitor does not deliver a timely Notice of Election or does not conduct the defense of a Claim after delivering a timely Notice of Election, Indemnitee may defend and/or settle the Claim in such manner as it may deem appropriate, at the cost and expense of Indemnitor, including payment of any settlement, judgment or award and the costs of defending or settling the Claim. Indemnitor will promptly reimburse the Indemnitee upon demand for all Losses suffered or incurred as a result of or in connection with the applicable Claim.

6.5 IP Claims. In the event of an IP Claim, in addition to its obligations as the Indemnitor, CENTEGIX may, at CENTEGIX’s option, (i) modify or replace the Service so that it performs comparable functions without infringement; *or* (ii) obtain a royalty-free license for Customer to use the Service. If neither alternative (i) or (ii) is available to CENTEGIX on commercially reasonable terms, CENTEGIX may terminate all Orders upon a refund to Customer of an amount equal to the Service Fee paid for the unexpired portion of the then current Term. THIS SECTION 6.5 STATES CENTEGIX’S ENTIRE OBLIGATION TO CUSTOMER AND CUSTOMER’S EXCLUSIVE REMEDY FOR ANY IP CLAIM.

7. INSURANCE

CENTEGIX will maintain in full force and effect: (a) Commercial general liability insurance, with coverage limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million dollars (\$2,000,000) general aggregate for bodily injury and property damage; (b) Errors and Omissions liability insurance with limits of at least One Million Dollars (\$1,000,000) per claim; and (c) workers' compensation and Employer's liability coverage as required under applicable state law.

8. LIMITATION OF LIABILITY

IN NO EVENT WILL EITHER PARTY, ITS AFFILIATES OR ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES OR ITS OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUE, BUSINESS INTERRUPTION, LOSS OF DATA, OR LOSS OF USE, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES, IN ANY WAY RELATED TO THESE STANDARD TERMS, THE PERFORMANCE OF ANY SERVICES PURSUANT TO THESE STANDARD TERMS, OR USE OF THE EQUIPMENT, WHETHER IN AN ACTION IN CONTRACT, BREACH OF WARRANTY OR TORT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF, OR COULD HAVE REASONABLY FORESEEN, THE POSSIBILITY OF SUCH DAMAGES.

8.1 CENTEGIX SHALL NOT BE LIABLE FOR ANY CLAIMS, ACTIONS, SUITS, LIABILITIES, DAMAGES OR LOSSES RELATED TO OR ASSOCIATED WITH THE PERSONAL INJURY, DEATH, OR REAL OR PERSONAL PROPERTY DAMAGE ARISING FROM OR RELATED TO ANY EMERGENCY SITUATION OR ANY OTHER USE OF THE SERVICE WHETHER IN TORT, CONTRACT, ARISING FROM A COURSE OF CONDUCT, USAGE IN TRADE OR OTHERWISE. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE FEES CHARGED FOR THE SERVICE ARE ESTABLISHED AS A RESULT OF THE ALLOCATIONS OF RISK AND RESPONSIBILITY DESCRIBED IN THIS SECTION (LIMITATION OF LIABILITY) AND THAT CENTEGIX WOULD NOT HAVE PROVIDED THE SERVICE WITHOUT CUSTOMER'S AGREEMENT TO THE ALLOCATION OF RISK AND RESPONSIBILITY SET FORTH IN THIS SECTION (LIMITATION OF LIABILITY).

8.2 IN NO EVENT SHALL THE AGGREGATE LIABILITY OF CENTEGIX FOR ANY CLAIM, LOSS, OR DAMAGE IN CONNECTION WITH THESE STANDARD TERMS OR CUSTOMER'S USE OF THE SERVICE EXCEED THE AMOUNT PAID TO CENTEGIX PURSUANT TO AN ORDER ACKNOWLEDGEMENT FOR THE PARTICULAR SERVICE WHICH GAVE RISE TO THE CLAIM DURING THE SIX MONTH PERIOD ENDED ON THE DATE THE CLAIM AROSE. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO THE OBLIGATIONS OF CENTEGIX IN SECTION 6.1 (INDEMNIFICATION).

8.3 THE LIMITATION UPON DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THESE STANDARD TERMS AND CONDITIONS HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

Notwithstanding anything in this Agreement to the contrary, any limitation of liability provision is enforceable only to the extent permitted by Tennessee law. No provision of the Agreement shall act or be deemed a waiver by City of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act, T.C.A. section 29-20-101 et seq.

9. Confidentiality

9.1 Confidential Information. Except as may be provided by state or federal law, including open records requests made pursuant to the open records law of the jurisdiction of Customer, and requests made pursuant to the Freedom of Information Act (FOIA) (U.S.C. §522 *et seq.*), each recipient of Confidential Information (the "**Recipient**") agrees that it will not disclose, provide, or otherwise make available any Confidential Information of the other party (the "**Disclosing Party**") during the Term and for a period of 7 years thereafter, and in the case of Confidential Information that constitutes a trade secret under applicable law, for as long as such Confidential Information remains a trade secret. Each Recipient agrees that it will obtain a written confidentiality agreement from each third party (consultant or any other person) not governed by these Standard Terms who is provided access to the Confidential Information of the Disclosing Party. In addition, each Recipient agrees that it will *not*:

(i) use the Disclosing Party's Confidential Information for any purpose beyond the scope of these Standard Terms;

(ii) Copy any part of the Disclosing Party's Confidential Information or disclose any part of the Disclosing Party's Confidential Information to any person other than Recipient's employees or consultants who need the Disclosing Party's Confidential Information to perform their duties;

(iii) Authorize or permit any such employee or consultant to use or disclose any part of the Disclosing Party's Confidential Information Item X19. of these Standard Terms;

(iv) Reverse engineer, de-compile, or disassemble any of the Disclosing Party's Confidential

Notwithstanding anything the Agreement is a public record, and it, along with all documents or materials, in any format, including, but not limited to, paper, electronic, or virtual, that are public records pursuant to the Tennessee Open Records Act, set out in Tenn. Code Ann. §10-7-503 *et seq.*, are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, City must, upon proper request, release public documents and records as defined by Tenn. Code Ann. §10-7-503 *et seq.*, including, but not limited to, the Agreement and all records created and maintained related to the Agreement, without any requirement to disclose such request to Vendor or provide Vendor with notice or the time to obtain a protective order. City does not have the burden of establishing that information is not confidential information or that its release is authorized to release the records. This Section 6 serves to meet such burden and authorization of disclosure.

de-compiling, or disassembling the Software; or

(v) Produce any product nor offer any service of any nature whatsoever based in whole or in part on the Disclosing Party's Confidential Information nor cause or assist any other Person in doing so.

9.2 Exclusions. The Recipient's obligations under these Standard Terms will not apply to any portion of the Disclosing Party's Confidential Information that:

- (i) At the time of disclosure to Recipient, was in the public domain or subsequently becomes a part of the public domain through no breach of these Standard Terms
- (ii)
- (iii) Recipient had in its possession at the time of disclosure by the Disclosing Party, as established by written documentation in existence at that time, and that was not acquired directly or indirectly from the Disclosing Party or with knowledge of confidentiality restrictions;
- (iv) Recipient subsequently acquires by lawful means from a third-party who is under no obligation of confidentiality or non-use owed to Disclosing Party;
- (v) Recipient subsequently independently develops without any use of or reference to the Disclosing Party's Confidential Information; or
- (vi) Becomes a part of CENTEGIX Compiled Data.

9.3 Disclosure Pursuant to Legal Process. If Recipient is legally compelled (including pursuant to open records requests and FOIA requests) to disclose any portion of the Disclosing Party's Confidential Information, Subject to the time constraints of open records requests and FOIA requests, Recipient will give Disclosing Party prompt notice of that fact, including in its notice the legal basis for the required disclosure and the nature of the Disclosing Party's Confidential Information that must be disclosed. Recipient will disclose only that portion of the Disclosing Party's Confidential Information that is legally required to be disclosed.

9.4 Enforcement. Recipient acknowledges that Disclosing Party may have no adequate remedy at law should Recipient breach its obligations under this Section 7 and agrees that Disclosing Party will be entitled to enforce its rights under this Section 8 by seeking appropriate equitable relief including a temporary restraining order and an injunction. No delay or failure by Disclosing Party in exercising any right under these Standard Terms will be construed to be a waiver of that right or of the right to assert a claim with respect to any future breach of these Standard Terms.

9.5 Return or Destruction of Confidential Information. Upon request by the Disclosing Party, the Recipient will destroy the Disclosing Party's Confidential Information, including all copies of the Disclosing Party's Confidential Information, and all abstracts, summaries or documents produced using the Disclosing Party's Confidential Information and, upon request, will certify to the Disclosing Party in writing that all copies, abstracts, summaries, and documents have been destroyed. Notwithstanding any provision of these Standard Terms to the contrary, no provision of these Standard Terms shall require the destruction of (i) Confidential Information required to be retained by the Recipient's document retention policy and (ii) copies of any computer records or files containing Confidential Information that have been created pursuant to automatic archiving and back-up procedures which cannot reasonably be deleted.

10. TERM; TERMINATION

10.1 Term. Customer may use the Service during the Initial Term. Customer may renew the right to use the Service by paying a renewal invoice or by submitting an Order for a renewal term (each, a "**Renewal Term**," and, with the Initial Term, the "**Term**"). Customer acknowledges that failure to renew the applicable Term will terminate Customer's access to and use of the Service.

10.2 Termination. Each of CENTEGIX and Customer has the right to terminate these Standard Terms, the affected Order Acknowledgement(s) and the Service if the other party breaches or is in default of any material obligation under these Standard Terms, when such a breach or default (i) is incapable of cure; or (ii), being capable of cure, has not been cured within thirty (30) days after receipt from the other party of written notice of the breach or default.

10.3 Effect of Termination. Within thirty (30) days of the termination of an Order Acknowledgement for any reason, the affected Sites will be decommissioned and CENTEGIX will cease provision of the Service. Upon termination, Customer will use reasonable efforts to notify all users of the Service that the Service have been terminated. Except as expressly set forth in these Standard Terms, amounts paid to CENTEGIX for Equipment, Service, and Professional Services are non-refundable.

10.4 Auto-Renewal. This agreement shall automatically renew for successive renewal terms of one – year unless either party provides written notice of termination to the other party at least 30 (thirty) days prior to the expiration of the then-current term. The terms and conditions of this agreement shall remain in full force and effect during each renewal term.

- (i) In the event that either party wishes to terminate this agreement, written notice must be provided to the other party within the specified time frame. Failure to provide such notice shall result in the automatic renewal of this agreement for the specified number of renewal terms.
- (ii) During each renewal term, the terms and conditions stated in this agreement shall continue to apply, unless otherwise agreed upon by both parties in writing. This includes any obligations, responsibilities, and rights outlined in the original agreement.

11. GENERAL.

11.1 Independent Contractor. The parties are and shall be independent contractors. Neither party is, nor will be deemed to be, an agent, legal representative, joint venture, employee, or partner of the other party for any purpose. Neither party shall have any authority to act for or to bind the other party in any respect, nor shall either party hold itself out as having such authority.

11.2 Limitations. The Safety Platform including CRISIS ALERT System is not a life-saving system, and no part of the Safety Platform including CRISIS ALERT System is a life safety device. The Safety Platform including CRISIS ALERT System is a communications system designed to allow Customer personnel to signal an alert if there is an emergency at a Site or provide other safety and security functions. Emergencies and the resulting confusion, errors in judgment, interruption of power and communications, and other issues surrounding emergencies may result in the failure of systems or in inappropriate or less than optimal actions or inactions by persons reacting or responding to emergencies. The Safety Platform including CRISIS ALERT System may not be operational or work properly as a result of environmental factors and weather conditions beyond human control, unmaintained, stolen, or damaged equipment, the failure of the internet and other communications systems, or the failure of electrical grid, therefore CENTEGIX does not represent, warrant, or guarantee that the Safety Platform including CRISIS ALERT System will be operational or work properly if or when an emergency occurs.

11.3 Assignment. Neither Party has the right to assign or transfer its rights and obligations under these Standard Terms without prior written approval of the other and any attempted assignment shall be void, except that either Party may assign these Standard Terms to an Affiliate of such Party or to any successor to all or substantially all of such Party's business and assets upon written notice to the other Party.

11.4 Force Majeure. Neither Party shall be in default by reason of any failure in performance of these Standard Terms if such failure arises, directly or indirectly, out of causes reasonably beyond the direct control or foreseeability of such Party, including but not limited to, acts of God or of the public enemy, U.S. or foreign governmental acts in either a sovereign or contractual capacity, fire, flood, epidemic, restrictions, strikes, and/or freight embargoes. A force majeure event shall not excuse performing duties that are unrelated to the force majeure event, including, without limitation, discharging financial obligations.

11.5 No Waiver. Any failure by either Party to detect, protest, or remedy any breach of these Standard Terms shall not constitute a waiver or impairment of any such term or condition, or the right of such Party at any time to avail itself of such remedies as it may have for any breach or breaches of such term or condition. A waiver may only occur pursuant to the prior written express permission of an authorized officer of the other Party.

11.6 Notices. All notices, communications, and deliveries under these Standard Terms (other than routine support calls) must be made in writing, signed by the Party making the same, must specify the Section under these Standard Terms pursuant to which it is given or being made (if applicable), and will be given or made to the address(s) specified as the "Address for Notices" on the signature page to these Standard Terms.

11.7 Severability. If any provision hereof is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of these Standard Terms will continue in full force and effect.

11.8 Governing Law.

- (i) These Standard Terms and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to conflicts of laws provisions thereof.
- The

Parties expressly exclude all application of the United Nations Convention on the International Sale of Goods to these Standard Terms.

(ii) No actions, regardless of the form, arising out of these Standard Terms may be brought by the Customer more than one (1) year after the occurrence of the events that gave rise to the cause of actions.

(iii) Any dispute, controversy, or claim arising out of, in connection with, or relating to, these Standard Terms, the breach or alleged breach these Standard Terms, or the termination, enforcement, interpretation, or validity of these Standard Terms, including extra-contractual claims and any determination of the scope or applicability of this provision to arbitrate, shall, upon the request of any party involved, be submitted to, and settled by, arbitration in the City of Atlanta, State of Georgia, before one (1) arbitrator. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures. Any award rendered shall be final and conclusive upon the parties and a judgment thereon may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, *provided* that each Party shall pay for and bear the cost of its own experts, evidence, and counsel's fees, and *provided further*, that in the discretion of the arbitrator, the arbitrator may, in the award, allocate all or part of the costs of the arbitration, including the fees of the arbitrators and the reasonable attorneys' fees of the prevailing party. This clause shall not preclude Parties from seeking provisional remedies for breach of intellectual property rights pending the conclusion of arbitration.

(iv) Notwithstanding any other provision in the Agreement to the contrary, arbitration is not permitted and if a dispute arises between the parties concerning any aspect of the Agreement and it cannot be resolved by mutual agreement, any party may resort to resolution of the dispute by litigation in the state courts in Kingsport, Tennessee or the Federal court for the Eastern District of Tennessee. The parties waive their right to a jury trial. Mandatory and exclusive venue and jurisdiction for any disputes shall be in the state court located in Kingsport, Sullivan County, Tennessee or the Federal court for the Eastern District of Tennessee.

11.9 Entire Agreement.

These Standard Terms together with the applicable Order constitutes the complete and entire understanding between the parties with respect to the Service and supersede all previous written or oral agreements, proposals, RFP's, RFP responses, and representations. No document, purchase order, or any handwritten or typewritten text which purports to alter or amend the printed text of these Standard Terms shall alter or amend any provision of these Standard Terms or otherwise control, unless the parties both specify in writing that such terms or conditions shall control. Additionally, the parties acknowledge that there are no contemporaneous agreements, side-letters, or oral or other arrangements that contradict, alter, or modify any of these Standard Terms. Customer acknowledges and agrees that Customer has not relied on the potential availability of any future product, functionality, or feature, or any statement or representation by CENTEGIX or its employees concerning the potential availability of any future product, functionality, or feature, in placing Orders. These Standard Terms may be modified only in a writing which expressly references these Standard Terms and is executed by both of the Parties to these Standard Terms. These Standard Terms may be executed in several counterparts, all of which taken together will constitute one single Agreement between the Parties. These Standard Terms has been accepted by CENTEGIX in Atlanta, GA

11.10 Interpretation. The following rules of interpretation must be applied in interpreting these Standard Terms:

- (i) This section and subsection headings used in these Standard Terms are for reference and convenience only, and will not enter into the interpretation of these Standard Terms, (b) all references to Sections and Exhibits are to the Sections in these Standard Terms and Exhibits to these Standard Terms, as the case may be, (c) the provisions of the Exhibits are incorporated in these Standard Terms, and (d) as used in these Standard Terms, the term "including" will always be deemed to mean "including without limitation."

12. Definitions

The following capitalized terms are used in these Standard Terms with the meanings thereafter ascribed.

"**Accessory**" means the items identified as such on the applicable Order which are provided to enhance the functionality of the Safety platform functionalities.

"**Affiliate**" means any entity directly or indirectly controlling, controlled by, or under common control with Customer, where "control" means ownership of at least 50% of the equity or beneficial interests of such entity or the right to vote for or appoint a majority of the board of directors or other governing body of such entity.

"**Anniversary Date**" means 120 days after the early ~~of the PO~~ Date (if applicable) or signed Order Acknowledgement.

"**Confidential Information**" means all business or technical information of the Disclosing Party that is not generally known

to the public and that derives value from not being generally known, whether such information is disclosed orally or in writing. Confidential Information may include any software, documentation, flow-chart, logic diagram, design proposal, screen shot, screen shot concept, algorithm, device, compilation of information, method, technique, or process. The Service constitute Confidential

Information of CENTEGIX and its licensors.

“**Contractor**” means an independent contractor performing services for Customer or an Affiliate.

“**Customer**” means the person or entity that issued an Order the receipt of which by CENTEGIX has been acknowledged by an Order Acknowledgement of Centegix.

“**Documentation**” means the on-line information and materials, relating to the use of the Service and the Equipment made available to Customer in connection with the license of the Software.

“**Electronic Device**” means each computer or other device into which the Software is downloaded and/or installed.

“**Equipment**” has the meaning assigned in Section 1.2 of these Standard Terms.

“**Implementation**” means the services performed by CENTEGIX for Software configuration, the loading of a standard set of IT protocols, and training.

“**Initial Term**” has the meaning assigned in Section 1.1 of these Standard Terms.

“**Installation**” means placement and configuration of Equipment at the Site.

“**Order**” means the Order Acknowledgement and Customer’s Purchase Order identified in an Order Acknowledgement (if

“**Order Detail Attachment**” means *Exhibit A* to the Order Acknowledgement which lists Equipment provided to Customer.

“**Party**” means CENTEGIX or Customer, individually, and “**Parties**” means CENTEGIX and Customer, collectively.

“**Person**” means any individual, general partnership, limited liability partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, or any foreign trust or foreign business organization, and the heirs, executors, administrators, legal representatives, successors, and assigns of such Person where the context so permits.

“**Professional Services**” has the meaning assigned in Section 3.1 of these Standard Terms.

“**Site**” means each physical location specified by Customer prior to the commencement of Installation at which Equipment will be placed and the Service will be used.

“**Special Terms**” means the terms and provisions on *Exhibit B* to an Order Acknowledgement, if an *Exhibit B* initialed by CENTEGIX is attached to an Order Acknowledgement, which supplement or modify these Terms and Conditions.

“**Software**” means the executable software used for the CENTEGIX mobile app, the CENTEGIX background Device crisis app, and the Safety Platform including CrisisAlert Platform.



AGENDA ACTION FORM

Consideration of Approval of Offer for Right-of-Ways and Easements for the Reedy Creek Trunkline Sanitary Sewer Improvement Project – Lovedale to Clinchfield

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

Action Form No.: AF-321-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: R. Trent, W. Stallard
Presentation By: R. McReynolds

Recommendation:
Approve the Offers.

Executive Summary:

The Reedy Creek Trunk Sewer Replacement project is a culmination of efforts to carry out key aspects of the Wastewater System Master Plan developed in 2009. The entire project includes approximately 21,000 linear feet of 36” sewer line replacement beginning at Lovedale Drive and ending near the west side of John B. Dennis Highway (SR 93). The overall project will increase capacity while reducing infiltration and inflow with new infrastructure and will be broken down into several phases.

The first phase of work will start at Lovedale Dr and continue past Clinchfield Dr near Cassell Dr. This phase includes approximately 2,400 linear feet of 36” sewer main and 2,100 linear ft of cast in place lining of an existing 18” sewer main.

In order to proceed with the construction of the Reedy Creek Trunkline Sanitary Sewer Improvement Project, the Utilities Department has requested rights-of-way and easements across affected properties in the first phase. Appraisals have been prepared in accordance with the City of Kingsport’s Real Property Acquisition Policies & Procedures and indicate the fair market value as per the attached property owners.

This project will be funded under #SW2410.

Attachments:

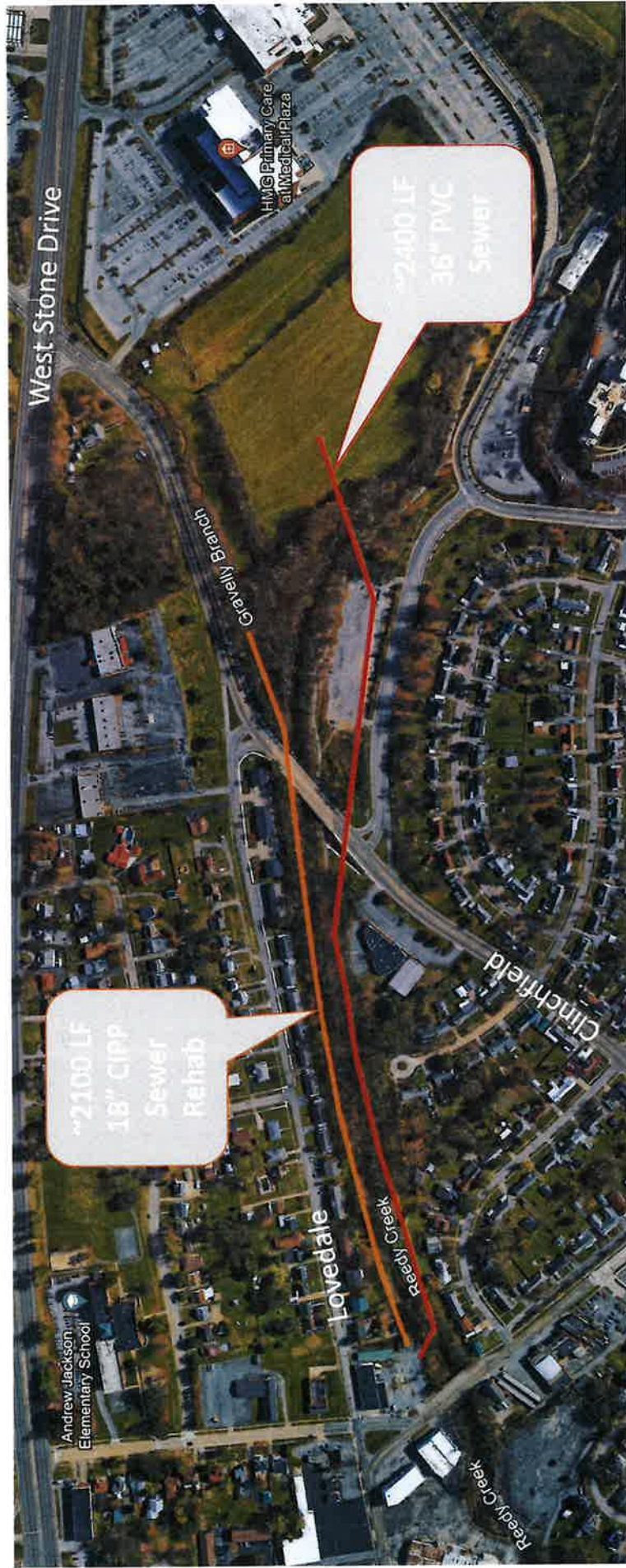
- 1. Property Location Map

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Phillips	—	—	—
Mayes	—	—	—
Montgomery	—	—	—

Item XII.1.

<u>Tax Map & Parcel</u>	<u>Property Owner</u>	<u>Easement Area</u>	<u>Appraised Value</u>
#046B; G-001.00	M. Clyde Groseglose, Jr., etal 925 Mimosa Drive Kingsport, TN 37660	Perm. 34,176 sq. ft. Temp. 16,329 sq. ft.	\$4,375.00 \$1,568.00
#046H; B-006.00	Dennis R. Phillips & Bobbie Marie Phillips Joint Living Trust 2121 Pendragon Road Kingsport, TN 37660	Perm. 724 sq. ft. Temp. 485 sq. ft.	\$371.00 \$150.00
#046H; C-007.00	Oak & Prosper, LLC 1524 Bridgewater Lane, Ste. 102 Kingsport, TN 37660	Perm. 15,611 sq. ft. Temp. 7,332 sq. ft.	\$14,924.00 \$5,257.00
#046H; C-035.00	Luther & Mary Jewell Travis 529 Sequoyah Drive Kingsport, TN 37660	Perm. 48 sq. ft. Temp. 272 sq. ft.	\$28.00 \$118.00
#046H; C-036.00	JHL Investment Group 3657 Crest Road Kingsport, TN 37664	Perm. 2,375 sq. ft. Temp. 1,584 sq. ft.	\$1,377.00 \$689.00
#046H; C-037.00	Elizabeth L. Millsap Life Trust 1081 Cold Comfort Rd Church Hill, TN 37642	Perm. 2,044 sq. ft. Temp. 1,362 sq. ft.	\$1,186.00 \$592.00
#046H; C-038.00	Terry Fields 6626 Mabe Stanleytown Road Duffield, VA 24244	Perm. 1,727 sq. ft. Temp. 746 sq. ft.	\$1,001.00 \$324.00
#046H; C-039.00	Herman & Linda Ketron 708 Dewberry Circle Kingsport, TN 37663	Perm. 47 sq. ft. Temp. 167 sq. ft.	\$27.00 \$73.00

REEDY CREEK TRUNK SEWER REPLACEMENT (Lovedale to Clinchfield)



Item XII.1.



AGENDA ACTION FORM

Consideration of a Resolution to Accept a Donation from The Encounter

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

Action Form No.: AF-319-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: Fire Chief Scott Boyd
Presentation By: Fire Chief Scott Boyd

Recommendation:
Approve the Resolution.

Executive Summary:
The Encounter made a donation to the Kingsport Fire Department in the amount of \$1800.00. The Kingsport Fire Department will use these funds for needs designated by Chief Boyd. It has been determined we will purchase Specialized Rescue Equipment for the Technical Rescue Team. Money to be placed in the Technical Rescue Team budget line item 110-3505-451-3020.

Attachments:
1. Resolution

	<u>Y</u>	<u>N</u>	<u>O</u>
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayer	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A DONATION FROM THE
ENCOUNTER TO THE KINGSPORT FIRE DEPARTMENT

WHEREAS, The Encounter would like to make a donation to the Kingsport Fire Department in the amount of \$1,800.00; and

WHEREAS, at this time the fire department has determined the purchase of Specialized Rescue Equipment for the Technical Rescue Team to be the best use though other needs may be identified by the Fire Chief.

Now therefore,

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

SECTION I. That the donation to the city from The Encounter to the Kingsport Fire Department in the amount of \$1,800.00, is accepted.

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

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

ADOPTED this the 3rd day of December, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



AGENDA ACTION FORM

Consideration of a Resolution Authorizing the Mayor to Sign a Survey & Appraisal Permission Form for Appalachian Power Company

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

Action Form No.: AF-334-2024
Work Session: December 2, 2024
First Reading: N/A
Final Adoption: December 3, 2024
Staff Work By: Committee
Presentation By: Michael T. Borders

Recommendation:
Approve the Resolution.

Executive Summary:
If approved the Mayor will Sign the Survey & Appraisal Permission Form for Appalachian Power Company (APCO) to conduct surveys, tests, real-estate appraisals etc., necessary for potential siting and constructing an electric transmission line, named Allandale Extension, located at 645 Granby Road.

Emerald Energy & Exploration Land Company approached the City of Kingsport on behalf of APCO to begin geo-technical surveys and other due diligence surveys that may be required for the Allandale Extension Project. The surveys will be carried out in the southwestern corner of parcel 045B C 001.00 also know as 645 Granby Drive. The survey will not have a negative impact on Dogwood Park or Hunter Wright Stadium. Property access will be from Deneen Lane.

Currently APCO is in the exploratory phase of the project, no additional information is known at this time.

- Attachments:**
1. Resolution
2. Survey & Appraisal Permission Form
3. Map

	Y	N	O
Baker	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Mayer	—	—	—
Phillips	—	—	—
Montgomery	—	—	—

RESOLUTION NO. _____

A RESOLUTION APPROVING THE EXECUTION OF A SURVEY AND APPRAISAL PERMISSION FORM FOR APPALACHIAN POWER COMPANY AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, Appalachian Power Company (APCO) would like to conduct surveys, tests, real-estate appraisals etc., necessary for potential siting and constructing an electric transmission line, named Allandale Extension, on city-owned property located at 645 Granby Road; and

WHEREAS, execution of the Survey & Appraisal Permission Form by the city will allow APCO to begin geo-technical surveys and other due diligence surveys that may be required for the Allandale Extension project; and

WHEREAS, the surveys will be carried out in the southwest corner of parcel 045B C 001.00 also known as 645 Granby Drive.

Now therefore,

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

SECTION I. That the execution by the city of the Appalachian Power Company (APCO), Survey & Appraisal Permission Form, 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 Appalachian Power Company (APCO), Survey & Appraisal Permission Form, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution.

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 December, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

Item XII.3.

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

Line Name: Allandale Extension
Line Number: _____
Easement Number: _____

State: Tennessee
County: Sullivan
Tract Number: _____

Survey & Appraisal Permission Form

I, City of Kingsport, hereby give to Appalachian Power Company, a unit of American Electric Power, and its affiliates, agents, employees, contractors, and to all appropriate federal, state and local agencies' archeologists, biologists and environmental scientists, permission to enter upon my/our premises to conduct examinations, real estate appraisals, civil surveys, cultural resource surveys and all other surveys and tests, including the right to drill holes for testing soil and bedrock, as necessary or desirable for siting and constructing the proposed electric transmission line identified above. Appalachian Power Company shall have the right to trim or cut vegetation as necessary for the purpose of any examination, survey or test, and will be responsible for any damage done to the premises as a result of such examination, survey or test, and further agrees to pay the prevailing market price for standing timber for any marketable trees cut down in the course of any such examination, survey or test. 082 045B C

Property Location: 00100 000 2024, County of Sullivan, State of Tennessee.

Dated: _____, 20__.

Tract Features (check all that apply):

- Water Wells/Septic Systems
- Springs/Creeks
- Oil /Gas Wells
- Livestock on tract
- Planted Crops
- Residence(s) on tract
- Active Mining on tract
- Existing Access Roads from public road
- Property Corner Markers
- Cemetery/Other Cultural

Features (Describe) _____
 Other (Specify) _____

Survey Condition Requirements: _____

X

Grantor _____ Date _____ Grantor _____ Date _____

City of Kingsport
Print

Print

415 Broad St.
Address
Kingsport, TN 37660

Address

423-229-9400
Phone Number

423-224-2426
Phone Number

Mark Wagner
Agent Name _____ Date _____

Parcel Map



Exploratory Survey Site



Item XII.3.