



BOARD OF MAYOR AND ALDERMEN BUSINESS MEETING AGENDA

Tuesday, November 07, 2023 at 7:00 PM

City Hall, 415 Broad Street, Montgomery-Watterson Boardroom

Board of Mayor and Aldermen

Mayor Patrick W. Shull, Presiding
Vice Mayor Colette George
Alderman Betsy Cooper
Alderman Darrell Duncan

Alderman Paul W. Montgomery
Alderman Tommy Olterman
Alderman James Phillips

Leadership Team

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

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

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE TO THE FLAG

1. New Vision Youth

III. INVOCATION

1. Dr. Randy Frye, First Broad Street United Methodist Church

IV. ROLL CALL

V. RECOGNITIONS AND PRESENTATIONS

VI. APPOINTMENTS

VII. APPROVAL OF MINUTES

- [1.](#) October 16, 2023 - Work Session
- [2.](#) October 17, 2023 - Business Meeting

VIII. PUBLIC HEARINGS

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.

IX. BUSINESS MATTERS REQUIRING FIRST READING

- [1.](#) Consideration of a Resolution to Accept a Private Monetary Donation for the Police K-9 Program and Appropriate the Funds (AF-336-2023) (Chief Phipps)
- [2.](#) Consideration of a Resolution to Accept a Private Monetary Donation for the Kingsport Police Department to be Used for the Purchase of Personal Protective Equipment (PPE) and Appropriate the Funds (AF-338-2023) (Chief Dale Phipps)
- [3.](#) Consideration of a Resolution to Enter Into a Contractual Agreement and Sign All Necessary Documents with the Tennessee Department of Transportation for Reimbursement of Annual Operation Expenses for FY 23-24 (AF-342-2023) (Candace Sherer)
- [4.](#) Consideration of a Budget Adjustment Ordinance for Various Funds in FY24 (AF-344-2023) (John Morris)
- [5.](#) Consideration of an Ordinance to Appropriate Tennessee Department of Health Healthy Built Environment Grant Funds (AF-331-2023) (Michael Borders)

X. BUSINESS MATTERS REQUIRING FINAL ADOPTION

- [1.](#) Consideration of a Budget Ordinance to Appropriate \$28,103 from the Department of Justice, Office of Justice Program's FY '23 Edward Byrne Memorial Justice Assistance Grant Program (AF-313-2023) (Chief Phipps)
- [2.](#) Consideration of a Budget Ordinance to Appropriate \$14,250 from the USDOJ/Office of Justice Programs, FY '23 Bulletproof Vest Partnership Funding (AF-319-2023) (Chief Phipps)

- [3.](#) Consideration of a Budget Ordinance to Appropriate \$200,000 from the Tennessee Law Enforcement Hiring, Training and Recruitment Grant Program for FY '24 (AF-321-2023) (Chief Phipps)
- [4.](#) Consideration of an Ordinance to Amend Zoning of Tax Map 022, Parcel 036.01 Located Along West Stone Drive from the B-3, Highway Oriented Business District to the R-4, Medium Density Apartment District (AF-318-2023) (Jessica McMurray)
- [5.](#) Consideration of an Ordinance to Amend the FY 2024 General Purpose School Fund and the General Project Fund Budgets (AF-325-2023) (David Frye)
- [6.](#) Consideration of an Ordinance to Amend the FY 2024 School Special Projects Fund Budget (AF-326-2023) (David Frye)

XI. OTHER BUSINESS

- [1.](#) Consideration of a Resolution to Purchase One (1) 2024 Autocar ACX64 ASL New Way Refuse Truck from Sourcewell Cooperative Contract (AF-340-2023) (Ryan McReynolds)
- [2.](#) Consideration of a Resolution to Purchase Two (2) 2023 Ram 3500 Mini Dump Trucks from TN State Contract # 80359 (AF-341-2023) (Ryan McReynolds)
- [3.](#) Consideration of a Resolution to Enter an Agreement with CDM Smith Inc. for the South Fork Holston Sewershed Capacity Study (AF-146-2023) (Ryan McReynolds)
- [4.](#) Consideration of a Resolution to Enter into a Facility Encroachment Agreement with CSX Transportation (CSXT) for the Main Street Project Authorizing the Mayor to Sign all Applicable Documents (AF-343-2023) (Ryan McReynolds)
- [5.](#) Consideration of a Resolution Authorizing the Filing and Acceptance of FY 2023 State and Local Cybersecurity Grant Program (SLCGP) (AF-346-2023) (Floyd Bailey)
- [6.](#) Consideration of a Resolution to Reject All Bids for the Water and Sewer Warehouse Renovations Project (AF-145-2023) (Ryan McReynolds)
- [7.](#) Consideration of a Resolution to Purchase 834 W Industry Dr and Enter into a Lease for Same Property (AF-289-2023) (Ryan McReynolds)

- [8.](#) Consideration of a Resolution Approving an Amendment to the Downtown Kingsport Redevelopment Plan Expanding the Project Scope and Extending the TIF Period for the Downtown Kingsport Redevelopment District – Brickyard Village (AF-327-2023) (Chris McCartt, Steven Bower)
- [9.](#) Consideration of a Resolution Authorizing a Financial Contribution if Needed to the Kingsport Economic Development Board Relative to the Fort Henry Mall Redevelopment and Improvements Authorizing the Execution of all Necessary and Proper Documents (AF-345-2023) (Chris McCartt, Steven Bower)

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 a Resolution to Approve an Amendment to the Preston Construction Dome Contract (AF-337-2023) (David Frye)
- [2.](#) Consideration of a Resolution for Approval to Amend the Professional Services Agreement with Thompson & Litton for Services Related to the Lincoln Elementary School HVAC Replacement Project (AF-339-2023) (David Frye)
- [3.](#) Consideration to Approve the Issuance of a Certificate of Compliance for a Retail Food Store to Sell Wine (AF-347-2023) (Angie Marshall)
- [4.](#) Consideration of a Resolution to Ratify the Mayor's Signature and Adopt the ARCH Written Standards and Grievance Policy as a Condition of Receiving the THDA HOME ARP Supportive Services Grant (AF-335-2023) (Michael Price)

XIII. COMMUNICATIONS

1. City Manager
2. Mayor and Board Members

XIV. ADJOURN



BOARD OF MAYOR AND ALDERMEN WORK SESSION MINUTES

Monday, October 16, 2023 at 4:30 PM

City Hall, 415 Broad Street, Montgomery - Watterson Boardroom

Board of Mayor and Aldermen

Mayor Patrick W. Shull, Presiding

Vice Mayor Colette George

Alderman Darrell Duncan

Alderman Paul W. Montgomery

Alderman Tommy Olterman

Alderman James Phillips

I. CALL TO ORDER 4:30 pm by Mayor Shull.

II. ROLL CALL by City Clerk/Deputy City Recorder Angie Marshall. Absent: Alderman Betsy Cooper

III. DISCUSSION ITEMS

IV. REVIEW OF BUSINESS MEETING AGENDA

City staff gave a summary for each item on the October 17, 2023 proposed agenda. The following items were discussed at greater length or received specific questions of concerns.

VIII.1 Consideration of an Ordinance to Amend Zoning of Tax Map 022, Parcel 036.01 Located Along West Stone Drive from the B-3, Highway Oriented Business District to the R-4, Medium Density Apartment District (AF-318-2023) Jessica McMurray presented this item, provided information about the property. and answered questions from the board. She stated this action was being requested by the owner and the purpose is to accommodate a new multi-family development. Alderman Phillips pointed out the road that comes out on to Stone Drive is a private road and not built to accommodate the heavy traffic of 200 plus apartments. He stated this needs to be looked at as the project moves forward, noting the developer is aware of this issue.

BOARD OF MAYOR AND ALDERMEN WORK SESSION MINUTES

Monday, October 16, 2023 at 4:30 PM

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XI.1. Consideration of a Resolution to Purchase Two (2) 2025 Freightliner M2+ (Knuckleboom Yard Waste Trucks) from Sourcewell Contract # 040621-PII (AF-322-2023)

Vice-Mayor George questioned the ordering schedule in regard to the delay in receiving the vehicle after it's been ordered. The city manager provided details and explained how the fleet is managed. Mr. McCartt expressed his appreciation for the establishment of the fleet fund many years ago by a previous board.

XI.6 Consideration of a Resolution Approving an Amendment to the Charter of the Industrial Development Board of the City of Kingsport, Tennessee (AF-316-2023)

Mr. McCartt stated this item sets up the ability for non-city residents to be a part of the Industrial Development Board as a result of a change in state law. He pointed out the language only says it is allowed but not necessarily required.

XI.7 Consideration of a Resolution Declaring Property Surplus and Conveying said Property to KHRA (AF-317-2023)

The City Manager provided details on this item. There was some discussion on how future surplus property can be developed for low income households.

XII.I Consideration of a Resolution Authorizing the Mayor to Execute the Annual Renewal of the Public Library Service Agreement with the Tennessee State Library and Archives (AF-314-2023)

Assistant City Manager Borders commented that the Kingsport library is 7th in the state for digital circulation with 47% of its resources being digital.

V. ITEMS OF INTEREST

1. Projects Status Report

VI. ADJOURN

Seeing no other matters presented for discussion, Mayor Shull adjourned the meeting at 5:00 p.m.

ANGELA MARSHALL
Deputy City Recorder

PATRICK W. SHULL
Mayor



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Alderman Paul W. Montgomery

Alderman Tommy Olterman

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 Shull.
- II. **PLEDGE OF ALLEGIANCE TO THE FLAG** led by New Vision Youth
- III. **INVOCATION** led by Alderman Duncan.
- IV. **ROLL CALL** by City Recorder/Treasurer Lisa Winkle. Absent: Alderman Betsy Cooper.
- V. **RECOGNITIONS AND PRESENTATIONS**
 1. **Proclamation - Domestic Violence Awareness Month** (Vice Mayor George)
- VI. **APPOINTMENTS** None.
- VII. **APPROVAL OF MINUTES** (*These items are approved under one motion.*)

Motion made by Alderman Olterman, Seconded by Alderman Duncan.

1. **October 2, 2023 - Work Session**
2. **October 2, 2023 - Called Business Meeting**
3. **October 3, 2023 - Business Meeting**

Passed: All present voting "aye."

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VIII. PUBLIC HEARINGS

- 1. Consideration of an Ordinance to Amend Zoning of Tax Map 022, Parcel 036.01 Located Along West Stone Drive from the B-3, Highway Oriented Business District to the R-4, Medium Density Apartment District (AF-318-2023) (Jessica McMurray)**

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

AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY LOCATED ALONG WEST STONE DRIVE FROM THE B-3, HIGHWAY ORIENTED BUSINESS DISTRICT TO THE R-4, MEDIUM DENSITY APARTMENT DISTRICT IN THE 1ST CIVIL DISTRICT OF HAWKINS COUNTY AND WITHIN THE CORPORATE LIMITS OF THE CITY OF KINGSFORT; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

COMMENT

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

IX. BUSINESS MATTERS REQUIRING FIRST READING

- 1. Consideration of a Budget Ordinance to Appropriate \$14,250 from the USDOJ/Office of Justice Programs, FY '23 Bulletproof Vest Partnership Funding (AF-319-2023) (Chief Phipps)**

Motion made by Alderman Duncan, Seconded by Alderman Phillips.

AN ORDINANCE TO AMEND THE GENERAL PROJECT/SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE US DEPARTMENT OF JUSTICE FOR THE YEAR ENDING JUNE 30, 2024; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

- 2. Consideration of a Budget Ordinance to Appropriate \$200,000 from the Tennessee Law Enforcement Hiring, Training and Recruitment Grant Program for FY '24 (AF-321-2023) (Chief Dale Phipps)**

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

AN ORDINANCE TO AMEND THE GENERAL PROJECTS- SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE STATE OF TENNESSEE FOR THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

- 3. Consideration of a Budget Ordinance to Appropriate \$28,103 from the Department of Justice, Office of Justice Program's FY '23 Edward Byrne Memorial Justice Assistance Grant Program (AF-313-2023) (Chief Dale Phipps)**

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

AN ORDINANCE TO AMEND THE JUSTICE ASSISTANT GRANT FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE U.S. DEPARTMENT OF JUSTICE FOR THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

- 4. Consideration of an Ordinance to Amend the FY 2024 School Special Project Fund Budget (AF-326-2023) (David Frye)**

Motion made by Alderman Montgomery, Seconded by Alderman Duncan.

AN ORDINANCE TO AMEND THE FY 2024 SCHOOL SPECIAL PROJECTS FUND BUDGET; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

- 5. Consideration of an Ordinance to Amend the FY 2024 General Purpose School Fund and the General Project Funds Budgets (AF-325-2023) (David Frye)**

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

AN ORDINANCE TO AMEND THE GENERAL PURPOSE SCHOOL FUND AND THE GENERAL PROJECT FUND BUDGETS FOR THE FISCAL YEAR ENDING JUNE 30, 2024; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed: All present voting "aye."

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X. BUSINESS MATTERS REQUIRING FINAL ADOPTION

- 1. Consideration of an Ordinance to Amend Zoning for the Jan Way Annexation (AF-309-2023) (Ken Weems)**

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

ORDINANCE NO 7115 AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY LOCATED ALONG JAN WAY FROM COUNTY M-2, HEAVY MANUFACTURING DISTRICT, TO M-1R, LIGHT MANUFACTURING RESTRICTED DISTRICT IN THE 13TH CIVIL DISTRICT OF SULLIVAN COUNTY; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on second reading in a roll call vote: Alderman Duncan Vice Mayor George, Alderman Montgomery, Alderman Olterman, Alderman Phillips, Mayor Shull

- 2. Consideration of an Ordinance to Appropriate Funds for the Tennessee Commission on Aging Grant (AF-303-2023) (Michael Borders)**

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

ORDINANCE NO 7116 AN ORDINANCE TO AMEND THE GENERAL PROJECTS- SPECIAL REVENUE FUND BUDGET FOR THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on second reading in a roll call vote: Alderman Duncan Vice Mayor George, Alderman Montgomery, Alderman Olterman, Alderman Phillips, Mayor Shull

- 3. Consideration of a Budget Adjustment Ordinance for Various Funds in FY24 (AF-302-2023) (John Morris)**

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

ORDINANCE NO 7117 AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on second reading in a roll call vote: Alderman Duncan Vice Mayor George, Alderman Montgomery, Alderman Olterman, Alderman Phillips, Mayor Shull

XI. OTHER BUSINESS

- 1. Consideration of a Resolution to Purchase Two (2) 2025 Freightliner M2+ (Knuckleboom Yard Waste Trucks) from Sourcewell Contract # 040621-PII (AF-322-2023) (Ryan McReynolds)**

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Motion made by Alderman Duncan, Seconded by Alderman Montgomery.

RESOLUTION NO. 2024-089 A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO CMI EQUIPMENT SALES, INC., FOR THE PURCHASE OF TWO 2025 FREIGHTLINER M2+ KNUCKLEBOOM WASTE TRUCKS THROUGH SOURCEWELL COOPERATIVE PURCHASE AGREEMENT NO.: 040621-PII

Passed: All present voting "aye."

2. **Consideration of a Resolution to Purchase Three (3) 2024 Nissan Frontier Crew Cabs 2WD from TN State Contract # 80358** (AF-323-2023) (Ryan McReynolds)

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

RESOLUTION NO. 2024-090 A RESOLUTION AUTHORIZING THE PURCHASE OF THREE 2024 NISSAN FRONTIER CREW CABS FROM ALAN JAY FLEET SALES UTILIZING TENNESSEE STATE CONTRACT NO.: 80358; AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

Passed: All present voting "aye."

3. **Consideration of a Resolution to Enter into a Sponsorship Agreement with the Bays Mountain Park Association on Behalf of the Kingsport Community Foundation for Naming Rights for the "Red Fox Habitat Sponsored by the Kingsport Community Foundation"** (AF-144-2023) (Michael T. Borders)

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

RESOLUTION NO. 2024-091 A RESOLUTION APPROVING A SPONSORSHIP AGREEMENT WITH KINGSFORT COMMUNITY FOUNDATION AND NAMING OF THE RED FOX HABITAT AT THE BAYS MOUNTAIN PARK; 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."

4. **Consideration of a Resolution to Enter into an Agreement with Collective Architecture Company for Otter Habitat Design** (AF-329-2023) (Michael T. Borders)

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

RESOLUTION NO. 2024-092 A RESOLUTION APPROVING AN AGREEMENT WITH COLLECTIVE ARCHITECTURE COMPANY, LLC FOR PROJECT DESIGN AND RELATED SERVICES FOR THE OTTER HABITAT AND LAKE TERRACE AT BAYS MOUNTAIN PARK AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER

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DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

- 5. Consideration of a Resolution to Enter into an Agreement with TDOT and Sign All Applicable Documents for State Route 93 - Derby Drive Waterline Relocation (AF-288-2023) (Ryan McReynolds)**

Motion made by Alderman Montgomery, Seconded by Alderman Duncan.

RESOLUTION NO. 2024-093 A RESOLUTION APPROVING AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE STATE ROUTE 93 DERBY DRIVE WATERLINE RELOCATION, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

- 6. Consideration of a Resolution Approving an Amendment to the Charter of the Industrial Development Board of the City of Kingsport, Tennessee (AF-316-2023) (Chris McCartt)**

Motion made by Alderman Duncan, Seconded by Alderman Phillips.

RESOLUTION NO. 2024-094 A RESOLUTION AUTHORIZING AN AMENDMENT TO THE CHARTER OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KINGSPORT, TENNESSEE AND APPROVING THE FORM OF THE PROPOSED AMENDMENT

Passed: All present voting "aye."

- 7. Consideration of a Resolution Declaring Property Surplus and Conveying said Property to KHRA (AF-317-2023) (Chris McCartt)**

Motion made by Alderman Phillips, Seconded by Alderman Montgomery.

RESOLUTION NO. 2024-095 A RESOLUTION APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY TO THE KINGSPORT HOUSING AND REDEVELOPMENT AUTHORITY; AUTHORIZING THE MAYOR TO EXECUTE A QUITCLAIM DEED CONVEYING THE PROPERTY AND ANY AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

Passed: All present voting "aye."

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- 8. Consideration of a Resolution to Amend the Agreement with Cain Rash West (CRW) for the Justice Center Renovation Project Authorizing the Mayor to Sign All Applicable Documents (AF-320-2023) (Ryan McReynolds)**

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

RESOLUTION NO. 2024-096 A RESOLUTION AUTHORIZING A THIRD AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CAIN RASH AND WEST ARCHITECTS FOR THE JUSTICE CENTER RENOVATION PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

- 9. Consideration of a Resolution to Purchase the "Divine Wind" Sculpture (AF-324-2023) (Michael Borders)**

Motion made by Alderman Phillips, Seconded by Alderman Olterman.

RESOLUTION NO. 2024-097 A RESOLUTION APPROVING THE PURCHASE OF THE ARTWORK "DIVINE WIND" FROM ARTIST JIM GALLUCCI, SCULPTOR, LTD; AND AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

Passed: All present voting "aye."

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

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

Passed as presented with a roll call vote: Alderman Duncan, Vice Mayor George, Alderman Montgomery, Alderman Olterman, Alderman Phillips, Mayor Shull

- 1. Consideration of a Resolution Authorizing the Mayor to Execute the Annual Renewal of the Public Library Service Agreement with the Tennessee State Library and Archives (AF-314-2023) (Michael Borders)**

RESOLUTION NO. 2024-098 A RESOLUTION APPROVING THE PUBLIC LIBRARY SERVICE AGREEMENT WITH THE TENNESSEE STATE LIBRARY AND ARCHIVES AND AUTHORIZING THE MAYOR TO EXECUTE THE ANNUAL RENEWAL OF THE SAME TO RECEIVE FUNDING FOR BOOKS, TRAINING, AND SERVICES THROUGH THE HOLSTON RIVER REGIONAL LIBRARY SYSTEM FOR FISCAL YEAR 2023–2024

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- 2. Consideration of a Resolution Authorizing the Mayor to Execute an Annual Renewal of Public Library Maintenance of Effort Agreement with the Tennessee State Library and Archives for Services via the Holston River Regional Library (AF-315-2023) (Michael Borders)**

RESOLUTION NO. 2024-099 A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE ANNUAL RENEWAL OF THE PUBLIC LIBRARY MAINTENANCE OF EFFORT AGREEMENT WITH THE TENNESSEE STATE LIBRARY AND ARCHIVES TO RECEIVE FUNDING FOR BOOKS AND TRAINING AND FOR SERVICES THROUGH THE HOLSTON RIVER REGIONAL LIBRARY SYSTEM

- 3. Consideration of a Resolution Authorizing the City Manager to Execute a Purchase Order for Kingsport City Schools Teacher Laptops from Dell Marketing LP (AF-312-2023) (David Frye)**

RESOLUTION NO. 2024-100 A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO DELL MARKETING LP FOR 200 TEACHER LAPTOPS FOR KINGSPO RT CITY SCHOOLS UTILIZING A PURCHASING COOPERATIVE AGREEMENT WITH WILSON COUNTY BOARD OF EDUCATION CONTRACT NO.: 51AHO

- 4. Consideration of a Resolution to Approve a Right-of-Way Easement with Kingsport Power Company (AF-330-2023) (Michael Thompson)**

RESOLUTION NO. 2024-101 A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RIGHT-OF-WAY EASEMENT WITH KINGSPO RT POWER COMPANY

XIII. COMMUNICATIONS

- 1. City Manager**

Mr. McCartt stated Thursday is the State of the City Address at Meadowview and almost 300 people have already RSVP'd to attend, noting tickets are still available though the chamber. He expressed his appreciation for the preparation made by city staff and looked forward to seeing everyone there.

- 2. Mayor and Board Members**

Alderman Duncan provided details on upcoming leaf collection and pointed out the Connect Kingsport app is a great place for information. He also commented on the pumpkin contest this Saturday at the Farmers Market. Mr. Duncan stated Keep Kingsport Beautiful conducted their last pick up a couple of weeks ago making a total of ten tons of trash collected for the year. He

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remarked this was less than last year's total, so progress was being made. Lastly, he congratulated the finance team on receiving a certificate of achievement once again. Alderman Montgomery provided details on a Healthy Kingsport program taking food to area churches and noted tomorrow they are hosting a flu day at the chamber to administer shots. Alderman Phillips mentioned how awesome last week was in Kingsport regarding the IMAX theater coming to the mall and the significant investment they are making in Kingsport. He mentioned more developments including two new restaurants and three new out-parcels also coming to the mall. Mr. Phillips also commented on the groundbreaking at Brickyard Park and the progress that has been made there since he was elected to the board. He congratulated the city staff involved with these projects and commended their diligence and hard work. Lastly, he mentioned there would be trick or treating downtown on October 28, noting there will be thousands of kids participating. Alderman Olterman commented on DB football. Vice-Mayor George reminded everyone of the Friends in Need fundraiser on Thursday the 26th at the Farmers Market, noting there are still tickets for sale. She provided further details on the Halloween event downtown on the 28th. She also mentioned other upcoming events, including the Wing Fling on November 2nd, baseball tournaments and a volleyball championship. The Vice-Mayor also mentioned the Bays Mountain license plate fundraiser and encouraged participation. Mayor Shull reminded everyone the City doesn't regulate Halloween, so be aware of kids out and about at local events before and during Halloween night. The mayor pointed out many of the activities mentioned tonight rely heavily on volunteers, noting the presence of the Kingsport spirit.

XIV. ADJOURN

Seeing no other business for consideration, Mayor Shull adjourned the meeting at 7:58 p.m.

ANGELA MARSHALL
Deputy City Recorder

PATRICK W. SHULL
Mayor



AGENDA ACTION FORM

Consideration of a Resolution to Accept a Private Monetary Donation for the Police K-9 Program and Appropriate the Funds

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

Action Form No.: AF-336-2023
Work Session: November 6, 2023
First Reading: November 7, 2023
Final Adoption: November 21, 2023
Staff Work By: Captain Chris Tincher
Presentation By: Chief Dale Phipps

Recommendation:

Approve the Resolution.
Approve the Ordinance.

Executive Summary:

Kingsport citizen, Frederick Stewart Baggett, wishes to make a monetary contribution to the police department in the amount of \$3,000.00 (Three thousand dollars). The intended purpose of this contribution is to assist with the cost of maintaining the Kingsport Police Department's K-9 Unit. It is with this action that the police department respectfully requests the board to accept the contributions and place the funds into a project line to be utilized for the furtherance of the K-9 program. A project line has previously been established for this purpose, as Baggett has donated monies for the K-9 program in the past. The previously established project line is NC 1808 Account # 111-0000-364.10-00

Attachments:

- 1. Resolution
- 2. Ordinance
- 3. Letter from Frederick S. Baggett

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

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A MONETARY DONATION OF \$3,000.00 TO THE KINGSPORT POLICE DEPARTMENT TO BE UTILIZED TO ASSIST IN THE COST OF MAINTAINING DEPARTMENT K-9 UNITS

WHEREAS, Frederick Stewart Baggett desires to make a monetary donation to the Kingsport Police Department; and

WHEREAS, this donation will be used to assist in maintaining the department's K-9 program; and

WHEREAS, the amount of the donation is \$3,000.00.

Now therefore,

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

SECTION I. That the donation to the city from Frederick Stewart Baggett of \$3,000.00, is accepted.

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

ADOPTED this the 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

ORDINANCE NO.

AN ORDINANCE TO AMEND THE GENERAL PROJECTS-SPECIAL REVENUE FUND BUDGET BY APPROPRIATING DONATED FUNDS FOR THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Project-Special Revenue Fund budget be amended by appropriating funds received from Stewart Baggett in the amount of \$3,000 to the K-9 Donation project (NC1808).

General Projects-Special Revenue Fund: 111

K-9 Donation (NC1808)

Revenues:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
111-0000-364.10-00 From Individuals	25,000	3,000	28,000
Total:	25,000	3,000	28,000

Expenditures:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
111-0000-601.30-12 Food	2,000	00	2,000
111-0000-601.30-20 Operating Supplies & Tools	23,000	3,000	26,000
Total:	25,000	3,000	28,000

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

PATRICK W. SHULL, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

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

DEAR FRIENDS:

ENCLOSED IS OUR DONATION CHECK .

WE WOULD APPRECIATE AN ACKNOWLEDGEMENT FROM YOU FOR TAX PURPOSES.

BLESSINGS.

THANK YOU.

FREDERICK S. AND MADELYN S. BAGGETT

5729 CHESTNUT HILLS DRIVE

KINGSPORT, TN 37664-4538



AGENDA ACTION FORM

Accept a Private Monetary Donation for the Kingsport Police Department to be used for the purchase of personal protective equipment (PPE) and Appropriate the Funds.

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

Action Form No.: AF-338-2023
Work Session: November 6, 2023
First Reading: November 7, 2023
Final Adoption: November 21, 2023
Staff Work By: John Morris
Presentation By: Chris McCartt

Recommendation:

Approve the resolution and ordinance.

Executive Summary:

Kingsport citizen, Frederick Stewart Baggett, wishes to make a monetary contribution to the police department in the amount of \$1,000.00 (one thousand dollars). The intended purpose of this contribution is to assist with the cost of purchasing personal protective equipment (PPE) for officers of the Kingsport Police Department. It is with this action that the police department respectfully requests the board to accept the contribution, which was deposited upon receipt into City of Kingsport account # 110-0000-364.10-00, and increase the police department safety supplies line, account # 110-3030-443.30-25 by \$1,000.00 (One thousand dollars) so the contribution can be expensed for its intended purpose.

Attachments:

- 1. Letter from Frederick S. Baggett
- 2. Resolution
- 3. Ordinance

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

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A MONETARY DONATION OF \$1,000.00 TO THE KINGSPORT POLICE DEPARTMENT TO BE UTILIZED TO ASSIST IN THE PURCHASE OF PERSONAL PROTECTIVE EQUIPMENT FOR THE OFFICERS

WHEREAS, Frederick Stewart Baggett desires to make a monetary donation to the Kingsport Police Department; and

WHEREAS, this donation will be used to assist in the purchase of personal protective equipment for officers; and

WHEREAS, the amount of the donation is \$1,000.00.

Now therefore,

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

SECTION I. That the donation to the city from Frederick Stewart Baggett in the amount of \$1,000.00, is accepted.

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

ADOPTED this the 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

ORDINANCE NO.

AN ORDINANCE TO AMEND THE GENERAL PROJECTS-SPECIAL REVENUE FUND BUDGET BY APPROPRIATING DONATED FUNDS FOR THE YEAR ENDING JUNE 30, 2024; 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 budget be amended by appropriating funds received from Stewart Baggett for personal protective equipment in the amount of \$1,000 to the Police Patrol Safety Supplies line (110-3030-443.30-25).

<u>General Fund: 110</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
110-0000-364.10-00 From Individuals	0	1,000	1,000
Total:	0	1,000	1,000
 <u>Expenditures:</u>	 \$	 \$	 \$
111-0000-601.30-25 Safety Supplies	10,000	1,000	11,000
Total:	10,000	1,000	11,000

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

PATRICK W. SHULL, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

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

DEAR FRIENDS:

ENCLOSED IS OUR DONATION CHECK .

WE WOULD APPRECIATE AN ACKNOWLEDGEMENT FROM YOU FOR TAX PURPOSES.

BLESSINGS.

THANK YOU.

FREDERICK S. AND MADELYN S. BAGGETT

5729 CHESTNUT HILLS DRIVE

KINGSPORT, TN 37664-4538



AGENDA ACTION FORM

Consideration of a Resolution to Enter into a Contractual Agreement and Sign All Necessary Documents with the Tennessee Department of Transportation for Reimbursement of Annual Operation Expenses for FY 23-24

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

Action Form No.: AF-342-2023
 Work Session: November 6, 2023
 First Reading: November 7, 2023
 Final Adoption: November 21, 2023
 Staff Work By: Candace Sherer
 Presentation By: Candace Sherer

Recommendation:
 Approve the Resolution.
 Approve the Ordinance.

Executive Summary:
 Annually, the City of Kingsport enters into a reimbursement Urban Operating Assistance Program (UROP) contract with the Tennessee Department of Transportation (TDOT) for the operation of the Kingsport Area Transit Service. This year's contract term is 12 months. Projected State operation reimbursements for the contract term is \$691,800. The City's total matching for this contract is 172,950.

These funds are utilized for the annual operation of fixed-route bus and ADA/Paratransit service. All sources of funding were included in the approved FY 2023-2024 budget for the City of Kingsport.

Tennessee Dept. of Transportation	\$691,800
City of Kingsport	\$172,950
Total	\$864,750

The local funding for this project has been approved in the FY 23-24 City Budget.

Attachments:
 1. Resolution
 2. Ordinance

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

Item IX3.

RESOLUTION NO. _____

A RESOLUTION APPROVING A REIMBURSEMENT CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE CITY'S TRANSIT SYSTEM OPERATING EXPENDITURES FOR FISCAL YEAR 2023-2024; AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE CONTRACT

WHEREAS, annually the city enters into a reimbursement contract with the Tennessee Department of Transportation (TDOT) for operation of transit services; and

WHEREAS, the city's total allocation from TDOT for fiscal year 2023-2024 is \$691,800.00; and

WHEREAS, the city local budget for fiscal year 2023-2024, is \$172,950.00, which is available in FY 23-24 City Budget; and

WHEREAS, a reimbursement contract with TDOT must be executed to receive the funds.

Now therefore,

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

SECTION I. That an agreement with the Tennessee Department of Transportation in an amount up to \$691,800.00 for reimbursement of operating expenses for the city's transit system for fiscal year 2023-2024 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, a contract with the Tennessee Department of Transportation, in the amount up to \$691,800.00 for reimbursement of operating expenses for the city's transit system for fiscal year 2023-2024, 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:

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

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 operating 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 operating ("UROP") funds for capital and/or operating assistance to support core urban fixed route transit service and complementary demand response service.

A.3. The Grantee may use funds for capital projects, which may include, but are not limited to,

acquisition of rolling stock (i.e. buses and vans), preventative maintenance, radio communications, and equipment.

A.4. The Grantee's use of operating assistance may include, but is not limited to, overhead expenses, salaries, wages, fringe benefits, travel, training, and fuel.

A.5. 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 July 1, 2023 ("Effective Date") and ending on June 30, 2024, ("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 Six Hundred Ninety-one Thousand, Eight Hundred Dollars and No Cents (\$691,800.00) ("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 Multimodal Transportation Resources Division
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, Multimodal Transportation Resources Division.

(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 and 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 Department of Finance and Administration Policy Statement 03 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 Tennessee Department of Transportation
Multimodal Transportation Resources Division James K. Polk Building, Suite 1200
505 Deaderick Street
Nashville, Tennessee 37243
Brenden.henderson@tn.gov
Telephone # (615) 253-4942
FAX # (615) 253-1482

The Grantee:

Chris Campbell, AICP
Public Transportation Manager Kingsport Area Transit Service
900 East Main Street
Kingsport, Tennessee 37660
ChrisCampbell@KingsportTn.gov
Telephone # (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. 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 five thousand dollars (\$5,000.00).

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 offense 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.

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.

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
[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 7th day of November 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

ORDINANCE NO.

AN ORDINANCE TO AMEND URBAN MASS TRANSIT CAPITAL/GRANT FUND BUDGET FOR THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the Urban Mass Transit Capital/Grant Fund budget be increased by appropriating funds received from the Tennessee Department of Transportation in the amount of \$691,800 and matching funds from the General Fund in the amount of \$172,950 to the FY24 Operations Grant project (FTA025).

Account Number/Description:

Urban Mass Transit Fund: 123

FY24 Operations Grant (FTA025)

<u>Revenues:</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
123-0000-332.90-00 Dept of Transportation	0	691,800	691,800
123-0000-391.01-00 From General Fund	0	172,950	172,950
Total:	0	864,750	864,750

<u>Expenditures:</u>	\$	\$	\$
123-5901-602.10-10 Salaries & Wages	0	406,000	406,000
123-5901-602.10-11 Overtime	0	20,000	20,000
123-5901-602.10-20 Social Security	0	30,000	30,000
123-5901-602.10-30 Group Health Insurance	0	68,000	68,000
123-5901-602.10-41 TCRS Retirement	0	34,000	34,000
123-5901-602.10-43 ICMA Retirement	0	14,500	14,500
123-5901-602.10-50 Life Insurance	0	750	750
123-5901-602.10-52 Long Term Disability Ins	0	600	600
123-5901-602.10-60 Workmen's Compensation	0	500	500
123-5901-602.10-61 Unemployment Insurance	0	500	500
123-5901-602.20-10 Advertising & Publication	0	600	600
123-5901-602.20-11 Printing & Binding	0	2,700	2,700
123-5901-602.20-20 Professional/Consultant	0	5,100	5,100
123-5901-602.20-21 Accounting & Auditing	0	700	700
123-5901-602.20-30 Electric Service	0	8,400	8,400
123-5901-602.20-33 Water and Sewer	0	1,300	1,300
123-5901-602.20-34 Telephone	0	2,000	2,000
123-5901-602.20-36 Natural Gas	0	1,400	1,400
123-5901-602.20-40 Travel Expense	0	1,900	1,900
123-5901-602.20-41 Registration Fees/ Tuition	0	700	700
123-5901-602.20-43 Dues & Memberships	0	3,000	3,000
123-5901-602.20-44 Literature/ Subscriptions	0	450	450
123-5901-602.20-45 Training	0	1,200	1,200
123-5901-602.20-52 Medical Services	0	250	250

123-5901-602.20-54 Machinery/ Equip Rental	0	2,250	2,250
123-5901-602.20-55 Repairs & Maintenance	0	5,500	5,500
123-5901-602.20-56 Repairs & Maint-Vehicles	0	120,000	120,000
123-5901-602.20-69 Stormwater Fee Expense	0	450	450
123-5901-602.20-75 Temporary Employees	0	1,200	1,200
123-5901-602.20-99 Miscellaneous	0	105,850	105,850
123-5901-602.30-10 Office Supplies	0	1,900	1,900
123-5901-602.30-11 Postage	0	500	500
123-5901-602.30-12 Food	0	750	750
123-5901-602.30-20 Operating Supplies & Tool	0	5,000	5,000
123-5901-602.30-22 Maintenance Supplies	0	7,500	7,500
123-5901-602.30-26 Sign Parts & Supplies	0	2,800	2,800
123-5901-602.30-29 Clothing & Uniforms	0	3,500	3,500
123-5901-602.50-10 Buildings	0	1,500	1,500
123-5901-602.50-26 Vehicle Ins Chgd by FLM	0	1,500	1,500
Total:	0	864,750	864,750

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

PATRICK W. SHULL, Mayor

ATTEST:


ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

PASSED ON 1ST READING:

PASSED ON 2ND READING:

 GOVERNMENTAL GRANT CONTRACT (cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)					
Begin Date 7/1/2023		End Date 6/30/2024		Agency Tracking # 40100-51020	
				Edison ID 77810	
Grantee Legal Entity Name City of Kingsport				Edison Vendor ID 1562	
Subrecipient or Recipient <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Recipient		CFDA #			
		Grantee's fiscal year end June 30			
Service Caption (one line only) SFY 2024 Urban Operating Assistance Program (UROP) Operating Assistance					
Funding —					
	State	Federal	Interdepartmental	Other	TOTAL Grant Contract Amount
2024	\$691,800.00				\$691,800.00
TOTAL:	\$691,800.00				\$691,800.00
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.			<i>CPO USE – GG</i>		
			Z-24-UROP-16		
Speed Chart (optional)		Account Code (optional) 71302000			

Address #17

**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 operating 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 operating ("UROP") funds for capital and/or operating assistance to support core urban fixed route transit service and complementary demand response service.
- A.3. The Grantee may use funds for capital projects, which may include, but are not limited to, acquisition of rolling stock (i.e. buses and vans), preventative maintenance, radio communications, and equipment.
- A.4. The Grantee's use of operating assistance may include, but is not limited to, overhead expenses, salaries, wages, fringe benefits, travel, training, and fuel.
- A.5. 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 July 1, 2023 ("Effective Date") and ending on June 30, 2024, ("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 Six Hundred Ninety-one Thousand, Eight Hundred Dollars and No Cents (\$691,800.00) ("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
Multimodal Transportation Resources Division
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, Multimodal Transportation Resources Division.
 - (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 and 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 Department of Finance and Administration Policy Statement 03 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
Tennessee Department of Transportation
Multimodal Transportation Resources Division
James K. Polk Building, Suite 1200
505 Deaderick Street
Nashville, Tennessee 37243
Brenden.henderson@tn.gov
Telephone # (615) 253-4942
FAX # (615) 253-1482

The Grantee:

Chris Campbell, AICP
Public Transportation Manager
Kingsport Area Transit Service
900 East Main Street
Kingsport, Tennessee 37660
ChrisCampbell@KingsportTn.gov
Telephone # (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. 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 five thousand dollars (\$5,000.00).

- 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.

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.

IN WITNESS WHEREOF,

CITY OF KINGSPORT:

PATRICK SHULL, MAYOR

DATE

**BART ROWLETT, CITY ATTORNEY
APPROVED AS TO FORM AND LEGALITY**

DATE

ANGELA MARSHALL, CITY RECORDER

DATE

DEPARTMENT OF TRANSPORTATION:

HOWARD H. ELEY, COMMISSIONER

DATE

**JOHN REINBOLD, 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	\$691,800.00	\$0.00	\$691,800.00	\$172,950.00	\$864,750.00
30.xx.xx Operating Assistance					
SCOPE—PLANNING					
44.00.S0 Planning - TDOT					
44.xx.xx Planning					
SCOPE—MANAGEMENT TRAINING					
50.xx.xx Management Training					
SCOPE—OVERSIGHT REVIEWS					
51.xx.xx Oversight Review					
SCOPE—RESEARCH PROJECTS					
55.xx.xx Research Projects					
SCOPE—SAFETY & SECURITY					
57.xx.xx Safety and Security					
SCOPE - UNIVERSITY RESEARCH					
70.xx.xx					
SCOPE - Non-Add Scope Codes					
99.xx.xx					
SCOPE - OTHER					
62.0x.xx - Project Administration					
63.5x.xx - Rural Technical Assistance Program					
64.8x.xx - Appalachian					
xx.xx.xx - Other					
GRAND TOTAL	\$691,800.00	\$0.00	\$691,800.00	\$172,950.00	\$864,750.00

GRANT BUDGET LINE-ITEM DETAIL INFORMATION

Line Item Detail For: OPERATING	State	Federal	Grant Contract	Grantee	Total Project
30.00.00 Operating Assistance - 80% TDOT	\$691,800.00	\$0.00	\$691,800.00	\$172,950.00	\$864,750.00
TOTAL	\$691,800.00	\$0.00	\$691,800.00	\$172,950.00	\$864,750.00



AGENDA ACTION FORM

Consideration of a Budget Adjustment Ordinance for Various Funds in FY24

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

Action Form No.: AF-344-2023
Work Session: November 6, 2023
First Reading: November 7, 2023
Final Adoption: November 21, 2023
Staff Work By: John Morris
Presentation By: Chris McCartt

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
The General Projects-Special Revenue Fund is being amended by transferring \$17,687 from the Contracted Landscaping project (NC2402) to the Enhanced Landscaping project (NC2303) to clean up and close NC2303. It also transfers \$30,448 from the General Projects project (NC2100) to the Downtown Holiday Décor project (NC2234) to clean up a deficit and add \$25,000 for the current year. It also appropriates \$56,419 received for sidewalk payments to the Sidewalk Imp project (NC2302). It reduces the From Corporations line (111-0000-364.20-00) in the Libraries Lead Grant project (NC2101) by \$2,000 and transferring \$1,875 from the General Projects project (NC2100) to NC2101 for cleanup and closure of NC2101. Closes NC2303 and NC2101.

The the General Project Fund is being amended by appropriating \$16,567 received for sidewalk payments to the AEP Sidewalk Improvements project (GP2015).

That the Urban Mass Transportation Authority Fund is being amended by transferring \$82,538 from the Transit CARES project (FTA022) to the FY19 Operating Grant project (FTA023).

The Community Development Block Grant Fund budget is being amended to appropriate \$220,000 in grant funds received from the Tennessee Housing Development Agency HOME ARP Supportive Services Grant to the HOME ARP Grant project (CD2406).

Attachments:
1. Budget Ordinance

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

Item IX4.

ORDINANCE NO.

AN ORDINANCE TO AMEND VARIOUS FUND BUDGETS FOR
THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE
EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Projects-Special Revenue Fund be amended by transferring \$17,687 from the Contracted Landscaping project (NC2402) to the Enhanced Landscaping project (NC2303), by transferring \$30,448 from the General Projects project (NC2100) to the Downtown Holiday Décor project (NC2234), by appropriating \$56,419 received from Corporations for sidewalk payments to the Sidewalk Imp project (NC2302), by reducing the From Corporations line (111-0000-364.20-00) in the Libraries Lead Grant project (NC2101) by \$2,000 and transferring \$1,875 from the General Projects project (NC2100) to the Libraries Lead Grant project (NC2101). Close NC2303 and NC2101.

SECTION II. That the General Project Fund be amended by appropriating \$16,567 received from Corporations for sidewalk payments to the AEP Sidewalk Improvements project (GP2015).

SECTION III. That the Urban Mass Transportation Authority Fund be amended by transferring \$82,538 from the Transit CARES project (FTA022) to the FY19 Operating Grant project (FTA023).

SECTION IV. That the Community Development Block Grant Fund budget be amended by appropriating \$220,000 in grant funds received from the Tennessee Housing Development Agency HOME ARP Supportive Services Grant to the HOME ARP Grant project (CD2406).

General Projects-Special Revenue Fund: 111

Contracted Landscaping (NC2402)

<u>Revenues:</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
111-0000-391.01-00 From General Fund	225,000	(17,687)	207,313
Total:	225,000	(17,687)	207,313

Expenditures:

111-0000-601.20-23 Arch/Eng/Landscaping Serv	225,000	(17,687)	207,313
Total:	225,000	(17,687)	207,313

Enhanced Landscaping (NC2303)

<u>Revenues:</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
111-0000-391.01-00 From General Fund	225,000	17,687	242,687
Total:	225,000	17,687	242,687

Expenditures:

111-0000-601.20-22 Construction Contracts	225,000	17,687	242,687
Total:	225,000	17,687	242,687

Sidewalk Imp (NC2302)

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
111-0000-364.20-00 From Corporations	0	56,419	56,419
111-0000-391.01-00 From General Fund	328,505	0	328,505
Total:	328,505	56,419	384,924

<u>Expenditures:</u>	\$	\$	\$
111-0000-601.20-22 Construction Contracts	328,505	56,419	384,924
Total:	328,505	56,419	384,924

General Projects (NC2100)

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
111-0000-391.01-00 From General Fund	1,010,120	(32,323)	977,797
Total:	1,010,120	(32,323)	977,797

<u>Expenditures:</u>	\$	\$	\$
111-0000-601.20-23 Arch/Eng/Landscaping Serv	99,436	27,841	127,277
111-0000-601.90-01 Land	33,550	935	34,485
111-0000-601.90-03 Improvements	877,134	(61,099)	816,035
Total:	1,010,120	(32,323)	977,797

Downtown Holiday Decor (NC2234)

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
111-0000-391.01-00 From General Fund	25,000	30,448	55,448
Total:	25,000	30,448	55,448

<u>Expenditures:</u>	\$	\$	\$
111-0000-601.10-11 Overtime	0	295	295
111-0000-601.10-20 Social Security	0	20	20
111-0000-601.10-30 Group Health Insurance	0	101	101
111-0000-601.10-41 TCRS Retirement	0	73	73
111-0000-601.10-50 Life Insurance	0	1	1
111-0000-601.10-52 Long Term Disability Service	0	1	1
111-0000-601.10-60 Workmen's Compensation	0	5	5
111-0000-601.20-23 Arch/Eng/Landscaping Serv	25,000	22,220	47,220
111-0000-601.90-03 Improvements	0	7,732	7,732
Total:	25,000	30,448	55,448

Libraries Lead Grant (NC2101)

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
111-0000-364.20-00 From Corporations	2,000	(2,000)	0
111-0000-391.01-00 From General Fund	0	1,875	1,875
Total:	2,000	(125)	1,875

<u>Expenditures:</u>	\$	\$	\$
111-0000-601.30-10 Office Supplies	2,000	(125)	1,875
Total:	2,000	(125)	1,875

General Projects Fund: 311

AEP Sidewalk Improvements (GP2015)

	<u>Budget</u>	<u>Incr/<Decr></u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
311-0000-364.20-00 From Corporations	127,760	16,567	144,327
311-0000-368.10-66 Series 2019 GO Improvment	30,382	0	30,382
311-0000-368.21-01 Premium From Bond Sale	2,382	0	2,382
311-0000-391.01-00 From General Fund	425,074	0	425,074
Totals:	585,598	16,567	602,165

	\$	\$	\$
Expenditures:			
311-0000-601.90-03 Improvements	234,618	0	234,618
311-0000-601.90-06 Purchases \$5,000 & Over	350,980	16,567	367,547
Totals:	585,598	16,567	602,165

Account Number/Description:

Urban Mass Transit Asst Project Fund: 123

Transit Cares (FTA022)

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
123-0000-331.20-00 UMTA Section 9	2,414,374	0	2,414,374
123-0000-332.90-00 Department of Transportation	1,687,952	0	1,687,952
123-0000-365.20-09 Bus Fares TN-90-X150	100,000	0	100,000
123-0000-365.21-10 ADA Paratransit	65,000	0	65,000
123-0000-368.15-00 Rental of Land & Building	140,000	0	140,000
123-0000-391.01-00 From General Fund	906,925	(82,538)	824,387
Total:	5,287,446	(82,538)	5,231,713

	\$	\$	\$
Expenditures:			
123-5901-602.10-10 Salaries & Wages	2,503,532	0	2,503,532
123-5901-602.10-11 Overtime	133,447	0	133,447
123-5901-602.10-20 Social Security	182,670	0	182,670
123-5901-602.10-30 Group Health Insurance	356,475	(13,017)	343,458
123-5901-602.10-41 TCRS Retirement	191,412	0	191,412
123-5901-602.10-42 TCRS Hybrid Retirement	29,981	0	29,981
123-5901-602.10-43 ICMA Retirement	76,741	1,252	77,993
123-5901-602.10-50 Life Insurance	4,942	0	4,942
123-5901-602.10-52 Long Term Disability Ins	4,991	0	4,991
123-5901-602.10-60 Workmen's Compensation	3,774	0	3,774
123-5901-602.10-61 Unemployment Insurance	4,000	0	4,000
123-5901-602.20-10 Advertising & Publication	5,000	0	5,000
123-5901-602.20-11 Printing & Binding	29,250	0	29,250
123-5901-602.20-20 Professional/Consultant	61,400	0	61,400
123-5901-602.20-21 Accounting & Auditing	6,000	0	6,000
123-5901-602.20-30 Electric Service	51,200	0	51,200
123-5901-602.20-33 Water & Sewer	6,143	853	6,996
123-5901-602.20-34 Telephone	15,600	0	15,600
123-5901-602.20-36 Natural Gas	9,267	0	9,267
123-5901-602.20-40 Travel Expense	17,400	0	17,400
123-5901-602.20-41 Registration Fees/Tuition	7,800	0	7,800

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123-5901-602.20-42 Personal Vehicle Reimburs	600	0	600
123-5901-602.20-43 Dues & Memberships	25,500	0	25,500
123-5901-602.20-44 Literature/Subscriptions	6,300	0	6,300
123-5901-602.20-45 Training	7,800	0	7,800
123-5901-602.20-52 Medical Services	2,100	0	2,100
123-5901-602.20-54 Equipment Rental	21,686	0	21,686
123-5901-602.20-55 Repairs & Maintenance	44,400	0	44,400
123-5901-602.20-56 Repairs & Maint-Vehicles	985,000	(302,802)	682,198
123-5901-602.20-69 Stormwater Fee Expense	3,637	0	3,637
123-5901-602.20-75 Temporary Employees	11,600	0	11,600
123-5901-602.20-99 Miscellaneous	357,709	221,897	579,606
123-5901-602.30-10 Office Supplies	13,500	0	13,500
123-5901-602.30-11 Postage	2,626	0	2,626
123-5901-602.30-12 Food	3,300	33	3,333
123-5901-602.30-20 Operating Supplies & Tool	26,146	798	26,944
123-5901-602.30-22 Maintenance Supplies	34,614	491	35,105
123-5901-602.30-26 Sign Parts & Supplies	13,409	5,152	18,561
123-5901-602.30-29 Clothing & Uniforms	18,000	2,195	20,195
123-5901-602.30-44 Motor Pool Charges	1,200	610	1,810
123-5901-602.30-68 Covid-19	7,729	0	7,729
123-5901-602.40-68 Covid-19	7,690	0	7,690
123-5901-602.50-10 Buildings	6,180	0	6,180
123-5901-602.50-26 Vehicle Ins Chgd by FLM	12,500	0	12,500
Total:	5,287,446	(82,538)	5,231,713

FY19 Operating Grant (FTA023)

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
123-0000-331.20-00 UMTA Section 9	907,800	(5,337)	902,463
123-0000-332.90-00 Department of Transportation	739,748	(16,333)	723,415
123-0000-365.20-09 Bus Fares TN-90-X150	82,000	0	82,000
123-0000-365.21-00 ADA Paratransit	21,390	5,337	26,727
123-0000-368.15-00 Rental of Land & Building	49,000	16,333	65,333
123-0000-391.01-00 From General Fund	408,900	82,538	491,438
Total:	2,208,838	82,538	2,291,376

Expenditures:

	\$	\$	\$
123-5901-602.10-10 Salaries & Wages	1,037,105	31,022	1,068,127
123-5901-602.10-11 Overtime	60,070	(3,685)	56,385
123-5901-602.10-20 Social Security	77,617	(2,431)	75,186
123-5901-602.10-30 Group Health Insurance	209,990	(23,320)	186,670
123-5901-602.10-41 TCRS Retirement	101,731	(10,394)	91,337
123-5901-602.10-42 TCRS Hybrid Retirement	12,712	(9,321)	3,391
123-5901-602.10-43 ICMA Retirement	32,731	4,017	36,748
123-5901-602.10-50 Life Insurance	2,724	(868)	1,856
123-5901-602.10-52 Long Term Disability Ins	1,871	(276)	1,595
123-5901-602.10-60 Workmen's Compensation	11,001	(9,890)	1,111
123-5901-602.10-61 Unemployment Insurance	4,241	(1,999)	2,242
123-5901-602.20-10 Advertising & Publication	1,023	0	1,023

123-5901-602.20-11 Printing & Binding	5,280	1,200	6,480
123-5901-602.20-20 Professional/Consultant	21	560	581
123-5901-602.20-30 Electric Service	20,705	1,990	22,695
123-5901-602.20-33 Water & Sewer	3,913	1,659	5,572
123-5901-602.20-34 Telephone	3,465	0	3,465
123-5901-602.20-36 Natural Gas	4,044	147	4,191
123-5901-602.20-40 Travel Expense	16,149	3,361	19,510
123-5901-602.20-41 Registration Fees/Tuition	4,170	1,140	5,310
123-5901-602.20-43 Dues & Memberships	1,950	5,097	7,047
123-5901-602.20-44 Literature/Subscriptions	1,106	0	1,106
123-5901-602.20-45 Training	3,070	0	3,070
123-5901-602.20-52 Medical Services	756	108	864
123-5901-602.20-54 Equipment Rental	5,696	492	6,188
123-5901-602.20-55 Repairs & Maintenance	6,970	660	7,630
123-5901-602.20-56 Repairs & Maint-Vehicles	341,054	79,627	420,681
123-5901-602.20-57 Computer Repairs/Mainten	2,015	0	2,015
123-5901-602.20-68 Covid-19	20,862	0	20,862
123-5901-602.20-69 Stormwater Fee Expense	1,443	184	1,627
123-5901-602.20-75 Temporary Employees	7,290	2,033	9,323
123-5901-602.20-99 Miscellaneous	149,582	6,519	156,101
123-5901-602.30-10 Office Supplies	5,562	625	6,187
123-5901-602.30-11 Postage	450	67	517
123-5901-602.30-12 Food	3,128	47	3,175
123-5901-602.30-20 Operating Supplies & Tool	7,570	976	8,546
123-5901-602.30-22 Maintenance Supplies	18,275	2014	20,289
123-5901-602.30-26 Sign Parts & Supplies	269	112	381
123-5901-602.30-29 Clothing & Uniforms	4,825	780	5,605
123-5901-602.30-68 Covid-19	9,630	0	9,630
123-5901-602.50-26 Vehicle Ins Chgd by FLM	6,772	285	7,057
Total:	2,208,838	82,538	2,291,376

Community Development Block Grant Fund: 124
HOME ARP Grant (CD2406)

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
124-0000-332.76-00 TN Housing Dev Agency	0	220,000	220,000
Total:	0	220,000	220,000
<u>Expenditures:</u>	\$	\$	\$
124-0000-603.40-23 Grants	0	220,000	220,000
Total:	0	220,000	220,000

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.

PATRICK W. SHULL, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

PASSED ON 1ST READING:

PASSED ON 2ND READING:



AGENDA ACTION FORM

Consideration of an Ordinance to Appropriate Tennessee Department of Health Healthy Built Environment Grant Funds

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

Action Form No.: AF-331-2023
Work Session: November 6, 2023
First Reading: November 7, 2023
Final Adoption: November 21, 2023
Staff Work By: Chassy Smiley
Presentation By: Michael T. Borders

Recommendation:

Approve the Ordinance.

Executive Summary:

If approved the city will appropriate funds from the Tennessee Department of Health (TDH) grant.

TDH has awarded the City of Kingsport, Parks and Recreation a \$80,000 Healthy Built Environment grant to replace playground equipment at Riverview Park. TDH supports the creation of healthy built environments to protect, promote and improve the health of all Tennesseans through projects that advance health equity. This funding has no match requirement and will help to replace and update pieces of equipment that are over 13 years old.

Improvements made through this grant funding will enhance Riverview Park, providing recreation opportunities for all ages and economic backgrounds. The City of Kingsport was one of thirteen (13) projects awarded from more than 147 applicants.

Attachments:

- 1. Ordinance

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

ORDINANCE NO.

AN ORDINANCE TO AMEND THE GENERAL PROJECTS-SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE TENNESSEE DEPARTMENT OF HEALTH FOR THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Projects-Special Revenue Fund be amended by appropriating grant funds received from Tennessee Department of Health Healthy Built Environment Grant to the Riverview Park project (NC2412) in the amount of \$80,000.

General Projects-Special Revenue Fund: 111

Riverview Park (NC2412)

Revenues:

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
111-0000-332.69-00 Miscellaneous Other State	0	80,000	80,000
Total:	0	80,000	80,000

Expenditures:

	\$	\$	\$
111-0000-601.90-03 Improvements	0	80,000	80,000
Total:	0	80,000	80,000

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

PATRICK W. SHULL, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

PASSED ON 1ST READING:

PASSED ON 2ND READING:



AGENDA ACTION FORM

Consideration of a Budget Ordinance to Appropriate \$28,103 from the Department of Justice, Office of Justice Program’s FY ’23 Edward Byrne Memorial Justice Assistance Grant Program

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

Action Form No.: AF-313-2023
Work Session: October 16, 2023
First Reading: October 17, 2023
Final Adoption: **November 7, 2023**
Staff Work By: Capt. Chris Tincher
Presentation By: Chief Dale Phipps

Recommendation:
Approve the Budget Ordinance.

Executive Summary:
On July 18, 2023, via AF-238-2023, the Board of Mayor and Aldermen approved the Mayor executing all documents necessary to apply for and receive a grant from the Department of Justice FY '23 Edward Byrne Memorial Justice Assistance Grant (JAG) Program. We have been notified that we were approved for \$28,103 in grant funds for the upcoming fiscal year. The grant will be utilized to purchase equipment and/or technological improvements.

There are no matching fund requirements.

Attachments:
1. Budget Ordinance

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

ORDINANCE NO.

AN ORDINANCE TO AMEND THE JUSTICE ASSISTANT GRANT FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE U.S. DEPARTMENT OF JUSTICE FOR THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the Justice Assistant Grant Fund budget be amended by appropriating grant funds received from the Department of Justice Edward Byrne Memorial Justice Assistance Program (JAG) in the amount of \$28,103 to the Justice Assist/Technology project (JG2400) to purchase equipment and/or technology improvements. No matching funds are required.

Fund 134: Justice Assist Grant Fund
Justice Assist/Technology (JG2400)

<u>Revenues:</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
	\$	\$	\$
134-0000-331.45-37 BUREAU OF JUSTICE / JAG	0	28,103	28,103
<i>Totals:</i>	0	28,103	28,103
<u>Expenditures:</u>	\$	\$	\$
134-3030-443.90-06 PURCHASES \$5,000 & OVER	0	28,103	28,103
<i>Totals:</i>	0	28,103	28,103

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

PATRICK W. SHULL, Mayor

ATTEST:

ANGELA MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____



AGENDA ACTION FORM

Consideration of a Budget Ordinance to Appropriate \$14,250 from the USDOJ/Office of Justice Programs, FY '23 Bulletproof Vest Partnership Funding

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

Action Form No.: AF-319-2023
Work Session: October 16, 2023
First Reading: October 17, 2023

Final Adoption: November 7, 2023
Staff Work By: Capt. Chris Tincher
Presentation By: Chief Dale Phipps

Recommendation:

Approve the Budget Ordinance.

Executive Summary:

On May 16, 2023 via AF-126-2023 the Board of Mayor and Aldermen approved the Mayor executing any and all documents necessary to apply for and receive a US Department of Justice Grant for funding of bulletproof vests. We have been notified that we were approved for \$14,250 in reimbursements for vest expenditures. A fifty percent match is required and the match is provided from the police department operating budget.

Attachments:

- 1. Budget Ordinance

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PROJECT/SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE US DEPARTMENT OF JUSTICE FOR THE YEAR ENDING JUNE 30, 2024; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Project-Special Revenue Fund budget be amended by appropriating grant funds received from the Department of Justice/Bureau of Justice Assistance Bulletproof Vest Partnership to the Bullet Proof Vest project (NC2410) in the amount of \$7,125 and requires a 50% local match of \$7,125 which is provided for in the Police Department operating budget.

Account Number/Description:

**Fund 111: General Project-Special Revenue
Bullet Proof Vest Project (NC2410)**

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
111-0000-331.38-00 U.S. Dept. of Justice	0	7,125	7,125
111-0000-391.01-00 From General Fund	0	7,125	7,125
Total:	0	14,250	14,250
 <u>Expenditures:</u>	 \$	 \$	 \$
111-3020-442.30-20 Operating Supplies & Tools	0	14,250	14,250
Total:	0	14,250	14,250

Fund 110: General Fund

	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Expenditures:</u>	\$	\$	\$
110-3030-443.30-25 Safety Supplies	22,000	(7,125)	14,875
110-4804-481.70-35 General Proj-Spec Rev	1,655,000	7,125	1,662,125
Total:	1,677,000	0	1,677,000

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

PATRICK W. SHULL, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

PASSED ON 1ST READING:

PASSED ON 2ND READING:



AGENDA ACTION FORM

Consideration of a Budget Ordinance to Appropriate \$200,000 from the Tennessee Law Enforcement Hiring, Training and Recruitment Grant Program for FY '24

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

Action Form No.: AF-321-2023
Work Session: October 16, 2023
First Reading: October 17, 2023
Final Adoption: **November 7, 2023**
Staff Work By: Capt. Chris Tincher
Presentation By: Chief Dale Phipps

Recommendation:

Approve the Budget Ordinance.

Executive Summary:

On September 19, 2023, via AF-290-2023, the Board of Mayor and Aldermen authorized the Mayor to sign any and all documents necessary to apply for and receive grant funds up to \$200,000 from The State of Tennessee Law Enforcement Hiring, Training and Recruitment Program Grant. The Kingsport Police Department has been awarded full funding from this grant in the amount of \$200,000.

These grant funds will be utilized to offer \$10,000.00 over a three-year period to POST certified officers.

There are no matching funds required for this grant.

Attachments:

- 1. Budget Ordinance

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

ORDINANCE NO.

AN ORDINANCE TO AMEND THE GENERAL PROJECTS-SPECIAL REVENUE FUND BUDGET BY APPROPRIATING GRANT FUNDS RECEIVED FROM THE STATE OF TENNESSEE FOR THE YEAR ENDING JUNE 30, 2024; AND, TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

SECTION I. That the General Projects-Special Revenue Fund be amended by appropriating grant funds received from the State of Tennessee Law Enforcement Officer Hiring, Training, and Recruitment Program Grant to the Police Retention project (NC2411) in the amount of \$200,000.

<u>General Projects-Special Revenue Fund: 111</u>			
<u>Police Retention (NC2411)</u>	<u>Budget</u>	<u>Incr/(Decr)</u>	<u>New Budget</u>
<u>Revenues:</u>	\$	\$	\$
111-0000-332.69-00 Miscellaneous Other State	0	200,000	200,000
Total:	0	200,000	200,000
<u>Expenditures:</u>	\$	\$	\$
111-0000-601.10-10 Salaries & Wages	0	200,000	200,000
Total:	0	200,000	200,000

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

PATRICK W. SHULL, Mayor

ATTEST:

ANGELA MARSHALL, Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT III, City Attorney

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



AGENDA ACTION FORM

Consideration of an Ordinance to Amend Zoning of Tax Map 022, Parcel 036.01 Located Along West Stone Drive from the B-3, Highway Oriented Business District to the R-4, Medium Density Apartment District

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

Action Form No.: AF-318-2023
Work Session: October 16, 2023
First Reading: October 17, 2023
Final Adoption: **November 7, 2023**
Staff Work By: Jessica McMurray
Presentation By: Jessica McMurray

Recommendation:

Approve ordinance amending the zoning ordinance to rezone and Tax Map 022, parcel 036.01 located along West Stone Drive from the B-3, Highway Oriented Business District to the R-4, Medium Density Apartment District.

Executive Summary:

This is an owner-requested rezoning of approximately 13.89 acres located along West Stone Drive from the B-3 zone to the R-4 zone. The purpose of the rezoning is to facilitate future multi-family development (274 units). No public comment on the item was received from visitors during the Planning Commission meeting. During their September 2023 regular meeting, the Kingsport Regional Planning Commission voted to send a positive recommendation to the Board of Mayor and Aldermen in support of approving the rezoning request by a vote of 6-0. The notice of public hearing was published on October 3, 2023.

Attachments:

- 1. Zoning Ordinance

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

ORDINANCE NO. _____

AN ORDINANCE TO FURTHER AMEND THE ZONING CODE, TEXT AND MAP, TO REZONE PROPERTY LOCATED ALONG WEST STONE DRIVE FROM THE B-3, HIGHWAY ORIENTED BUSINESS DISTRICT TO THE R-4, MEDIUM DENSITY APARTMENT DISTRICT IN THE 1ST CIVIL DISTRICT OF HAWKINS COUNTY AND WITHIN THE CORPORATE LIMITS OF THE CITY OF KINGSPORT; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

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

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

Tract:

BEGINNING AT A NEW MAG NAIL IN THE NORTHWEST RIGHT OF WAY OF WEST STONE DRIVE (HIGHWAY 11 US) SAID MAG NAIL BEING THE SOUTHWEST CORNER OF PROPERTY OF ABICO EAST, LLC (DEED BOOK 1115, PAGE 478); THENCE WITH THE NORTHWEST RIGHT OF WAY OF WEST STONE DRIVE SOUTH 73 DEG. 07 MIN. 30 SEC. WEST 54.53 FEET TO A MAG NAIL (NEW) IN THE CURB; THENCE WITH A CURVE TO THE LEFT WITH A CHORD CALL NORTH 28 DEG. 02 MIN. 10 SEC. EAST A CHORD DISTANCE OF 28.28 FEET (R=20.00'; L 31.41') TO AN IRON ROD (CAP); THENCE NORTH 16 DEG. 55 MIN. 47 SEC. WEST 180.42. FEET TO AN OLD IRON ROD; THENCE SOUTH 73 DEG. 00 MIN. 35 SEC. WEST 185.17 FEET TO AN IRON ROD (NEW); THENCE NORTH 16 DEG. 58 MIN. 53 SEC. WEST 165.75 FEET WITH THE DIVISION OF HUMPHREYS PROPERTY (MAP CABINET 3, ENVELOPE 959A); THENCE SOUTH 72 DEG. 57 MIN. 54 SEC. WEST 513.84 FEET TO A 5;8 INCH IRON ROD (OLD); THENCE NORTH 14 DEG. 16 MIN. 04 SEC. WEST 463.51 FEET ALONG THE LINE OF WESTRIDGE ESTATES, BLOCK 1, PLAT BOOK 1, PAGE 402, TO A 4"X 4" OLD CONCRETE MONUMENT; THENCE WITH THE LINE OF ALLANDALE FALLS 1000, LLC (DEED BOOK 1295, PAGE 137) NORTH 77 DEG. 39 MIN. 02 SEC. EAST 1,177.32 FEET TO A 1/2 INCH IRON ROD (OLD) BENT IN CONCRETE; THENCE WITH THE LINE OF UNIVERSITY SQUARE (DEED BOOK 280, PAGE 505) SOUTH 16 DEG. 59 MIN. 00 SEC. EAST, 518.22 FEET TO AN OLD NAIL; THENCE SOUTH 73 DEG. 01 MIN. 31 SEC. WEST 462.00 FEET

TO AN OLD NAIL BEING THE NORTHWEST CORNER OF ARBICO EAST, LLC (DEED BOOK 1115, PAGE 478); THENCE WITH THE CENTERLINE OF A 69 FOOT ACCESS ROAD SOUTH 16 DEG. 57 MIN. 48 SEC. EAST 215.50 FEET TO A MAG NAIL (NEW), THE PLACE OF BEGINNING AND BEING 13.894 ACRES MORE OR LESS ACCORDING TO THE SURVEY DATED APRIL 9, 2021 BY MATTHEW STRICKLER, SURVEYOR, RLS TN NO. 2950, ALLEY & ASSOCIATES, INC. 243 E. MARKET ST., KINGSPORT, TENNESSEE BEARING FILE NO. 21-12196.

BEING THE SAME PROPERTY CONVEYED TO BJ HOLDINGS, LLC, BY WARRANTY DEED FROM BARBARA JANE BROWN HUMPHREYS DATED JUNE 4, 2010 OF RECORD IN DEED BOOK 992, PAGE 473 IN THE REGISTER'S OFFICE FOR HAWKINS COUNTY, TENNESSEE.

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.

PATRICK W. SHULL
Mayor

ATTEST:

ANGELA MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III
City Attorney

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



AGENDA ACTION FORM

Consideration of an Ordinance to Amend the FY 2024 General Purpose School Fund and the General Project Fund Budgets

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

Action Form No.: AF-325-2023
Work Session: October 16, 2023
First Reading: October 17, 2023
Final Adoption: **November 7, 2023**
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:
Approve the Ordinance.

Executive Summary:
The Board of Education approved fiscal year 2024 budget amendment number four at their meeting on October 10, 2023. This amendment increases the General Purpose School Fund budget by \$46,728. This increase includes a grant from the Niswonger Foundation for tutoring in the amount of \$45,828 and \$900 received from the State for participation in the Youth Based Risk Survey. In addition the General Project Fund budget will be amended by transferring \$149,250 of 2021 bond funds transferred from the D-B Renovation project to the D-B Dome Renovation project. This will provide funding for an amendment to the Preston Construction contract for the addition of alternate 5 in the amount of \$315,000 (locker room renovations), value engineering decreases of \$171,500, and an increase in the contingency of \$5,750.

Attachments:
1. Ordinance

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE GENERAL PURPOSE
SCHOOL FUND AND THE GENERAL PROJECT FUND
BUDGETS FOR THE FISCAL YEAR ENDING JUNE 30, 2024;
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 State Education Funds by \$900; Other Local Revenue by \$45,828 and by increasing the appropriations for Dobyms-Bennett Instructional supplies by \$900; the appropriations for Sevier and Jackson Instructional Supplies by \$2,500 each; the appropriations for Sevier and Jackson Teacher Salaries and Benefits by \$20,414 each. The General Project Fund Budget will be amended by increasing the estimated revenues and appropriations for the Dobyms-Bennett Dome Renovation project (GP2401) by \$149,250 and by decreasing the estimated revenues and appropriations for the Dobyms-Bennett Renovation project by \$149,250.

Fund 141: General Purpose School Fund

<u>Revenues:</u>	\$	\$	\$
141-0000-338-6590 Other State Education Funds	400,000	900	400,900
141-0000-369-4990 Other Local Revenue	914,300	45,828	960,128
Totals	1,314,300	46,728	1,361,028
<u>Expenditures:</u>	\$	\$	\$
141-7100-711-0429 D-B Inst. Supplies	122,003	900	122,903
141-7110-711-0116 Sevier Teacher Salaries	3,067,000	17,500	3,084,500
141-7110-711-0201 Sevier Social Security	181,000	1,085	182,085
141-7110-711-0204 Sevier State Retirement	242,500	1,575	244,075
141-7110-711-0212 Sevier Medicare	42,400	254	42,654
141-7110-711-0429 Sevier Inst. Supplies	34,134	2,500	36,634
141-7115-711-0116 Jackson Teacher Salaries	1,767,200	17,500	1,784,700
141-7115-711-0201 Jackson Social Security	113,200	1,085	114,285
141-7115-711-0204 Jackson State Retirement	159,100	1,575	160,675
141-7115-711-0212 Jackson Medicare	26,500	254	26,754
141-7115-711-0429 Jackson Inst. Supplies	22,971	2,500	25,471
Totals	5,778,008	46,728	5,824,736

Fund 311: General Project Fund

Dobyms-Bennett Renovation Project (GP2111)

<u>Revenues:</u>	\$	\$	\$
311-0000-368-1051 2015 G O Bonds	25,000	0	25,000
311-0000-368-1054 2016 G O Bonds	193,621	0	193,621
311-0000-368-1056 2018 G O Bonds	69,799	0	69,799
311-0000-368-1066 2019 G O Bonds	927,267	0	927,267

311-0000-368-1069	2021 G O Bonds	3,308,000	(149,250)	3,158,750
311-0000-360-2101	Premium from Bond Sale	625,765	0	625,765
311-0000-391-2100	Transfer from School Fund	441,870	0	441,870
	Total:	5,591,322	(149,250)	5,442,072

Expenditures:		\$	\$	\$
311-0000-601-2022	Construction Contracts	5,073,420	(149,250)	4,924,170
311-0000-601-2023	Architect/Engineering Serv	441,870	0	441,870
311-0000-601-4041	Bond Sale Expense	76,032	0	76,032
	Total:	5,591,322	(149,250)	5,442,072

Fund 311: General Project Fund
Dobyns-Bennett Dome Renovation Project
(GP2401)

Revenues:		\$	\$	\$
311-0000-361-1069	2021 G O Bonds	2,215,000	149,250	2,364,250
311-0000-368-1072	2023 G O Bonds	20,679,857	0	20,679,857
311-0000-368-2101	Premium from Bond Sale	537,422	0	537,422
	Total:	23,432,279	149,250	23,581,529

Expenditures:		\$	\$	\$
311-0000-601-2022	Construction Contracts	21,221,285	149,250	21,370,535
311-0000-601-2023	Architect/Engineering Serv	1,993,715	0	1,993,715
311-0000-601-4041	Bond Sale Expense	217,279	0	217,279
	Total:	23,432,279	149,250	23,581,529

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.

PAT W. SHULL, Mayor

ATTEST:

APPROVED AS TO FORM:

ANGELA MARSHAL, Deputy City Recorder

RODNEY B. ROWLETT, III, City Attorney

PASSED ON 1ST READING: _____

PASSED ON 2ND READING: _____



AGENDA ACTION FORM

Consideration of an Ordinance to Amend the FY 2024 School Special Projects Fund Budget

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

Action Form No.: AF-326-2023
Work Session: October 16, 2023
First Reading: October 17, 2023

Final Adoption: November 7, 2023
Staff Work By: David Frye
Presentation By: David Frye

Recommendation:

Approve the Ordinance.

Executive Summary:

The Board of Education approved fiscal year 2024 budget amendment number four at their meeting on October 10, 2023. This amendment increases the School Special Projects Fund budget by \$25,000, for a revised total of \$840,120. The estimated revenue for Other Local Revenue is being increased by \$25,000. The appropriations for the Battelle Technology Grant are being established in the amount of \$25,000. These funds are to assist in meeting the computer science requirements at the middle and high schools.

Attachments:

- 1. Ordinance

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

ORDINANCE NO. ****

AN ORDINANCE TO AMEND THE FY 2024 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 2024 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>	\$	\$	\$
BAR023 Battelle Technology Grant	0	25,000	25,000
FRC024 Family Resource Center	10,000	0	10,000
HAG024 Homeless Assistance	10,000	0	10,000
KTIP23 Kingsport Truancy Intervention	53,720	0	53,720
PK5124 Pre-K Expansion Grant System-Wide	676,900	0	676,900
Transfer from General School Fund	64,500	0	64,500
<i>Totals:</i>	815,120	25,000	840,120

<u>Expenditures:</u>	\$	\$	\$
Instruction	736,203	25,000	761,203
Support Services	78,917	0	78,917
Non-Instructional Services	0	0	0
Capital Outlay	0	0	0
Other	0	0	0
<i>Totals:</i>	815,120	25,000	840,120

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.

PAT W. SHULL, Mayor

ATTEST:

APPROVED AS TO FORM:

ANGELA MARSHALL, Deputy City Recorder

RODNEY B. ROWLETT, III, City Attorney

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



AGENDA ACTION FORM

Consideration of a Resolution to Purchase One (1) 2024 Autocar ACX64 ASL New Way Refuse Truck from Sourcewell Cooperative Contract

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

Action Form No.: AF-340-2023
Work Session: November 6, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: Committee
Presentation By: R. McReynolds, S. Leonard

Recommendation:

Approve the resolution

Executive Summary:

It is the recommendation of the committee to purchase One (1) 2024 Autocar ACX64 ASL New Way Refuse Truck from Municipal Equipment utilizing Sourcewell Cooperative Purchasing Contract #091219-NWY for use by Public Works Department. The delivery from the dealership to the agency is included in the total price of \$404,972.23. The estimated delivery date is 14-16 months after purchase order is received.

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

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

This unit is a fleet replacement.

Funding is identified in Project/Account # 51150085019010

Attachments:

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

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

Item X11.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER TO MUNICIPAL EQUIPMENT, INC. UTILIZING SOURCEWELL COOPERATIVE PURCHASING AGREEMENT NO. 091219-NWY FOR ONE 2024 AUTOCAR ACX64 NEW WAY REFUSE TRUCK FOR USE BY PUBLIC WORKS

WHEREAS, staff recommends the purchase of one 2024 Autocar ACX64 New Way Refuse Truck utilizing Sourcewell Cooperative Purchasing Agreement # 091219-NWY for use by the public works department; and

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

WHEREAS, Tenn. Code Ann. §12-3-1205 permits city to participate in a cooperative purchasing agreement for the procurement of equipment; and

WHEREAS, in order to purchase the equipment, a purchase order needs to be issued to Municipal Equipment, Inc., in the amount of \$404,972.23; and

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

Now therefore,

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

SECTION I. That the city manager is authorized to execute a purchase order to Municipal Equipment, Inc. for one 2024 Autocar ACX64 New Way Refuse Truck utilizing Sourcewell Cooperative Purchasing Agreement # 091219-NWY, for use by the public works department in the amount of \$404,972.23.

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 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



FLEET MAINTENANCE DEPARTMENT

City of Kingsport

To: Nikisha Eichmann, Assistant Procurement Manager
From: Steve Leonard, Fleet Manager
Date: October 19, 2023
Re: Fleet Replacement of 2171 Purchase Recommendation

It is the recommendation of this office to purchase the Fleet Replacement of unit #2171 in the amount of \$404,972.23. The unit bid meets the expectations of the department and will fulfill the requirements of their operational needs. This unit will be purchased utilizing Sourcewell Contract ID# 091219-NWY. A copy of the Sourcewell Contract is attached. The estimated delivery is 14-16 months.

Item	Quantity	Description	Award to Vendor	Fuel Economy
1	1	2024 Autocar ACX64 ASL New Way Refuse Truck	Municipal Equip.	5 City/7 Hwy

The unit will be a Fleet Replacement

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

The Sourcewell offering was reviewed by Rodney Deel and he is in agreement with this recommendation.

Fuel Economy Improvement

N/A

Fuel economy will be compatible with the current unit we have.

SOURCEWELL ID 091219- NWY

Replacements

2171	2015 Mack LEU613 ASL	Mileage	138,962
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Should you have any questions on this recommendation, please do not hesitate to contact me.

Thank you.

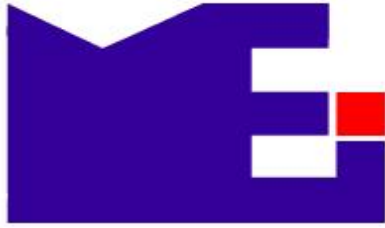


625 West Industry Drive

Kingsport Item X11. 7660

(423) 229-9446

Kingsport – the Best Place to Be



Municipal Equipment, Inc.

313 Jenso Drive
 Knoxville, TN 37912
 800-248-7590

msalomone@meieg.com

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

QUOTE
 GOOD FOR 30 DAYS

Number: MS-10-17-23-1
 Date: 10/17/2023
 Page: 1 of 1

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

Ship To If Different:
 City of Kingsport Sourcewell ID: 29779

Delivery	Sales Rep	FOB	Ship Via	Terms	Sales Tax:	Excise Tax:
7-8 MONTHS ARC	Michael Salomone		Best Way	C.O.D	Included: Not Included: X	Included: Not Included: X

QTY	NEW WAY SOURCEWELL ID: 091219-NWY	Unit Price	Total Price
1	2024 Autocar-ACX64-New Way-31 Yard Sidewinder ASL (Front Mount Pump)	\$178,302.23	
	Fall Protection Harness with Installation by Kingsport Iron (Sourced Good):	\$810.00	
	Forward Facing-Recording Camera with Monitor-purchased and installed by MEI. Same as 2019 ASL bid specs (Sourced Good)	\$1,000.00	
	New Way 31 Yard Sidewinder Body:	\$180,112.23	
	2023 Autocar-ACX64 Class 8 (Sourced Good) chassis price:	\$221,860.00	
	Subtotal:	\$401,972.23	
	Freight/PDI/Training:	\$3,000.00	
	TOTAL SOURCEWELL PRICE:	\$404,972.23	
	AUTOCAR VIN: 244516 ETA AT NEW WAY 5/24/24		
	DETAILED BODY SPECS ATTACHED SEPARATELY		

Michael G. Salomone
 Municipal Equipment, Inc.

Subtotal	
Tax	
Freight	
Miscellaneous	
Balance Due	

Accepted By _____ Date _____

By Signing This Quote is Confirmation for Binding Contract to Purchase

Item X11.



Solicitation Number: RFP#091219

CONTRACT

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

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

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

1. TERM OF CONTRACT

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

2. EQUIPMENT, PRODUCTS, OR SERVICES

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

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

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

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

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

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

3. PRICING

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

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

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

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

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

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

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

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

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

4. PRODUCT AND PRICING CHANGE REQUESTS

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

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

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

5. MEMBERSHIP, CONTRACT ACCESS, AND MEMBER REQUIREMENTS

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

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

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

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

6. MEMBER ORDERING AND PURCHASE ORDERS

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

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

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

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

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

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

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

7. CUSTOMER SERVICE

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

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

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

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

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

The Report must contain the following fields:

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

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

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

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

9. AUTHORIZED REPRESENTATIVE

Sourcwell's Authorized Representative is its Chief Procurement Officer.

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

10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **ASSIGNMENT.** Neither the Vendor nor Sourcwell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

B. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

C. **WAIVER.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

D. **CONTRACT COMPLETE.** This Contract contains all negotiations and agreements between Sourcwell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

E. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, master-servant, principal-agent, or any other relationship.

11. LIABILITY

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

12. AUDITS

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

13. GOVERNMENT DATA PRACTICES

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

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

14. INTELLECTUAL PROPERTY

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

15. PUBLICITY, MARKETING, AND ENDORSEMENT

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

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

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

16. GOVERNING LAW, JURISDICTION, AND VENUE

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

17. FORCE MAJEURE

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

18. SEVERABILITY

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

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

19. PERFORMANCE, DEFAULT, AND REMEDIES

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

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

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

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

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

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

20. INSURANCE

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

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

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

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

Minimum limits:

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

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

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

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

Minimum Limits:

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

\$1,000,000 Personal and Advertising Injury

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

\$2,000,000 general aggregate

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

Minimum Limits:

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

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

Minimum Limits:

\$2,000,000

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

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

Minimum Limits:

\$2,000,000 per claim or event

\$2,000,000 – annual aggregate

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

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

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

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

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

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

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

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

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

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

21. COMPLIANCE

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

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

22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

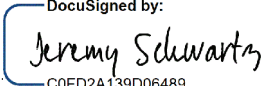
K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits,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

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

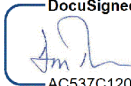
24. CANCELLATION


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

Sourcewell

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

Scranton Manufacturing Company/
New Way Trucks

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

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

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

Vendor Details

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

Submission Details

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

Specifications

Proposer Identity & Authorized Representatives

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

Company Information and Financial Strength

Line Item	Question	Response *
7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	<p>Scranton Manufacturing and its New Way Trucks brand is the crown jewel of the McLaughlin Family Companies. It is the largest privately-held mobile refuse collection vehicle manufacturer in the nation. New Way Trucks is the fastest-growing company in the \$80 billion solid waste industry and has been family-owned for more than 45 years. Throughout our existence, we have been committed to innovation, safety, quality, and customer satisfaction. Midwest values drive everything we do, and our people are our most valuable asset. When asked about why and how our company has grown, McLaughlin Family Companies founder and 2009 National Waste & Recycling Association (NWRA) Hall of Fame inductee, John McLaughlin, attributes the company's continued success to the 4 P's: Principles, People, Products, and Persistence.</p> <p>Since the very beginning, New Way's business plan has been based on growth and expansion. We have experienced exponential year-over-year growth in each of the last 10 years, and in 2015 we added a 56,000 square foot manufacturing addition. In 2018 a \$3 million investment in computerized fabrication equipment and robotics continued that expansion and today our manufacturing space exceeds 400,000 square feet under roof in central Iowa with joint venture manufacturing projects throughout North America.</p> <p>We are proud to offer the widest lineup of refuse collection equipment of any manufacturer in the industry. Our full line of affordable refuse equipment includes front loaders, rear loaders, satellite bodies, recycling bodies, side loaders, and automated side loaders in sizes ranging from 6 to 43 yards. We also offer Compressed Natural Gas (CNG) fueling integration on all of our models, which results in a cleaner burning vehicle that lowers exhaust emissions and utilizes a domestic fuel source.</p> <p>We are also proud to boast the nation's largest Dealer Network with 36 dealers and 83 separate locations that provide service to all 50 states. In Canada, our Dealer Network includes five privately-owned dealerships and 13 locations covering all of Canada. New Way's Dealer Network also includes 11 additional locations across the globe. Due to our extensive Dealer Network, New Way Trucks are on the ground in five of the world's seven continents.</p> <p>Our small-town Iowa location in America's heartland still holds dear our family values and a hard work ethic that has been passed down through generations. Pair this work ethic and dedication to the job with the ability to innovate and the willingness to learn, and you'll see why New Way is able to produce such cutting edge, high quality products. Through continually investing in training and educational opportunities for all employees, we are proud to maintain a focus on research, remaining adaptable, and drive customer value in order to meet the specific needs of our end-users.</p>
8	Provide a detailed description of the products and services that you are offering in your proposal.	<p>New Way Trucks offers the widest product lineup of refuse collection equipment in the industry. Our Mammoth front end load (FEL) models come in both standard and west-coast lightweight designs. Our rear end load (REL) models: the Diamondback, Viper, Cobra, Cobra High Compaction, and King Cobra range in size from 6 to 32 cubic yards for both residential and commercial collection applications. In addition, we offer the strongest and most durable automated side loader (ASL) mobile refuse collection vehicle on the market, the Sidewinder, and our Mamba S loader completes the lineup. New Way is also the exclusive dealer for RotoPAC, Item X11, and the largest auger-driven automated side loader.</p>

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

Front Loaders

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

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

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

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

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

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

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

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

Rear Loaders

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

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

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

The New Way Item X11. is a large rear-loader that is still fully DOT compliant. The

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Automated Side Loaders

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

At the end of Item X11. convenient features of the Sidewinder XTR are even more evident.

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

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

Industry Recognition & Marketplace Success

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

References/Testimonials

Line Item 23.

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

Top Five Government or Education Customers

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

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
City of Sacramento, California	Government	California - CA	<p>The City of Sacramento's Recycling and Solid Waste department has been a regular and consistent New Way customer for many years. California's capital city provides waste collection services to more than 128,000 residential customers, and New Way Trucks are trusted with the collection and disposal and recycling materials.</p> <p style="text-align: center;">Item X11.</p>	New Way has built 49 mobile refuse collection vehicles for the City of Sacramento over the past 3 years, with 16 more currently on order. Our relationship goes back further than that, as there are dozens more New Way Trucks in the City's fleet.	\$7,966.496.98

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

Ability to Sell and Deliver Service Nationwide

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

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

Marketing Plan

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

Value-Added Attributes

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

Item X11.

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

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

Warranty

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

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

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

Payment Terms and Financing Options

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

Pricing and Delivery

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

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

Pricing Offered

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

Audit and Administrative Fee

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

Industry Specific Questions

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

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

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

Exceptions to Terms, Conditions, or Specifications Form

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

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

Documents

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

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

- [Financial Strength and Stability](#) - Sourcwell RFP Financial Strength and Stability.zip - Thursday September 12, 2019 14:25:07
- [Marketing Plan/Samples](#) - Sourcwell RFP Marketing Plan & Samples.zip - Thursday September 12, 2019 14:24:11
- WMBE/MBE/SBE or Related Certificates (optional)
- [Warranty Information](#) - 128126 NWT Standard Warranty Policy.pdf - Thursday September 12, 2019 14:25:49
- [Pricing](#) - NWT Sourcwell RFP 091219 Pricing.zip - Thursday September 12, 2019 15:58:21
- [Additional Document](#) - NWT Sourcwell RFP 091219 Additional Docs - Transmittal Letter and Supporting Document.zip - Thursday September 12, 2019 14:29:48

Proposers Assurance of Comp

PROPOSER ASSURANCE OF COMPLIANCE

PROPOSER'S AFFIDAVIT

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

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

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

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

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

Yes No

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

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

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

Item X11.

Item X11.



AGENDA ACTION FORM

Consideration of a Resolution to Purchase Two (2) 2023 Ram 3500 Mini Dump Trucks from TN State Contract # 80359

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

Action Form No.: AF-341-2023
Work Session: November 6, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: Committee
Presentation By: R. McReynolds, S. Leonard

Recommendation:

Approve the resolution

Executive Summary:

It is the recommendation of the committee to purchase Two (2) 2023 Ram 3500 Mini Dump Trucks from CDJR of Columbia utilizing TN State Contract # 80358 for use by Storm Water Department and Waste Water Treatment Plant. The Tennessee State Contracts are available for local government agencies to use. The delivery from the dealership to the agency is included in the total price. The estimated delivery date is no more than 12 months after purchase order is received.

\$68,327.02 Unit Cost
\$136,654.04 Total Purchase Price

Please see the attached recommendation memo for additional information & TN State Contract information.

These units are fleet replacements.

Funding is identified in Project/Account # 51150085019010

Attachments:

- 1. Resolution
- 2. Recommendation Memo
- 3. Quote
- 4. TN State Contract

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

Item XI2.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PURCHASE OF TWO 2023 RAM 3500 MINI DUMP TRUCKS FROM COLUMBIA CHRYSLER DODGE JEEP RAM UTILIZING TENNESSEE STATE CONTRACT NO.: 80359; AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER FOR THE SAME

WHEREAS, staff recommends the purchase of two 2023 Ram 3500 Mini Dump Trucks from Columbia Chrysler Dodge Jeep Ram utilizing a Tennessee State Contract No.: 80359 for use by Storm Water Department and Waste Water Treatment Plant; and

WHEREAS, local governments are allowed to use state contracts to purchase goods and services directly from holders of contracts with the state, as authorized by Tenn. Code Ann. §12-3-1201; and

WHEREAS, the two 2023 Ram 3500 Mini Dump Trucks are available pursuant to Tennessee State Contract No.: 80359, the city will need to submit purchase orders to Columbia Chrysler Dodge Jeep Ram for \$136,654.04; and

WHEREAS, the funding is available in project/account no.: 51150085019010.

Now therefore,

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

SECTION I. That the city manager is authorized to execute a purchase order to Columbia Chrysler Dodge Jeep Ram for the purchase of three 2023 Ram 3500 Mini Dump Trucks in the amount of \$136,654.04.

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 7th day of November 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



FLEET MAINTENANCE DEPARTMENT

City of Kingsport

To: Nikisha Eichmann, Assistant Procurement Manager
From: Steve Leonard, Fleet Manager
Date: October 19, 2023
Re: Fleet Replacement units 2141 and 2194 Purchase Recommendation

It is the recommendation of this office to purchase the Fleet Replacements for Storm Water Department and Waste Water Treatment Plant units #2141 and 2194 for the total price of \$136,654.04 (\$68,327.02 each). These units meet the expectation of the departments and will fulfill the requirements of their operational needs. These units will be purchased on the TN State Contract number 80359. The estimated delivery date is no more than 12 months

Item	Quantity	Description	Award to Vendor	Fuel Economy
1	2	2023 RAM 3500 MINI DUMP TRUCK	CDJR OF COLUMBIA	City10/Hwy13

These unit will be a Fleet Replacements

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

Unit 2194 is not a Budgeted Replacement. It was totaled in a fire.

The TN State offerings were reviewed by Richard Gilliam and Eric Vermillion and they are both in agreement with this recommendation.

Fuel Economy Improvement

TN STATE CONTRACT 80359

N/A

Replacements

2141	2014 Ford F-350 Stake Bed	Mileage	74,418
2194	2015 Ford F-350 Mini Dump Truck	Mileage	100,222

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

Thank you.



Chrysler Dodge Jeep RAM Fiat of Columbia
 106 S. James Campbell Boulevard
 Columbia, TN 38401



QUOTE
RAMQ5117
Sep 26, 2023

Tennessee State Wide Contract # 209

Quoted To:

Steve Leonard
 City of Kingsport, Tennessee
 625 West Industry Drive
 005D8
 Kingsport, TN 37660

Phone: (423) 224-2434
Fax:

Prepared By:

Russell Alan Moles
 Regional Fleet Sales Manager

Phone: 865-719-0014
Email: rmoles@cdjrcolumbia.com

PO Number:	Valid Through: Oct 27, 2023	Payment Terms: NET 15
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3500 REG 4X2 - TRADESMAN - STD OEM GAS \$49,638.00

BASE VEHICLE & STANDARD EQUIPMENT - LINE 72 ON PRICE SPREADSHEET	\$45,198.00	1	\$45,198.00
6.4L V8 HEAVY DUTY HEMI ENGINE	\$0.00	1	\$0.00
6-SPD AUTO AISIN AS66RC HD TRANS	\$1,000.00	1	\$1,000.00
WLA DUAL REAR WHEELS	\$1,495.00	1	\$1,495.00
TV2 LT235/80R17E BSW ALL SEASON TIRES	\$0.00	1	\$0.00
TBB FULL SIZE SPARE TIRE	\$395.00	1	\$395.00
BAJ 220 AMP ALTERNATOR	\$0.00	1	\$0.00
BCN 730 AMP MAINTENANCE FREE BATTERY	\$0.00	1	\$0.00
XEA TOW HOOKS	\$95.00	1	\$95.00
*TX/ -X8 HD VINYL 40/20/40 SPLIT BENCH SEAT/BLACK/DIESEL GRAY	\$0.00	1	\$0.00
CBE 40/20/40 SPLIT BENCH SEAT	\$0.00	1	\$0.00
MRU MOPAR BLACK TUBULAR SIDE STEPS	\$495.00	1	\$495.00
XAC PARKVIEW REAR BACK-UP CAMERA	\$495.00	1	\$495.00

Item X12.

	Unit Price	Qty	Ext. Price
XHC TRAILER BRAKE CONTROL	\$465.00	1	\$465.00

DUMP BODY & RELATED EQUIPMENT

\$18,429.02

KNAPHEIDE - 11' DUMP - 16" FIXED SIDES - 4YD CAPACITY	\$7,535.94	1	\$7,535.94
CAB PROT FULL, STRAIGHT	\$1,241.83	1	\$1,241.83
HOIST, HYD 8.7 TON DUAL ACTION	\$4,058.82	1	\$4,058.82
BACK UP ALARM/BODY	\$254.90	1	\$254.90
KIT, HOIST MNT	\$424.83	1	\$424.83
KNAPDEIDE FREIGHT FOB SPRING HILL, TN	\$361.11	1	\$361.11
ICC BUMPER W/2" REC RAM 20K	\$626.23	1	\$626.23
PINTLE W/2 5/16" COMB REC MNT 12K	\$109.57	1	\$109.57
7-PIN TRAILER SOLCKET COLE HERSEE, METAL	\$43.86	1	\$43.86
MUD FLAP 24X30	\$26.13	2	\$52.26
MISC FABRICATION MATERIAL - MUD FLAPS, RECEIVER, BODY MNT,ECT	\$92.59	3	\$277.77
TRANS FLUID GAL	\$27.30	3	\$81.90
SHOP LABOR PER HR	\$140.00	20	\$2,800.00
PAINT AND MATERIAL	\$140.00	4	\$560.00

DEALER INSTALLED EQUIPMENT & CHARGES

\$260.00

GALLONS OF FUEL FOR FULL TANK	\$5.00	52	\$260.00
DRIVER DELIVERY TO CUSTOMER	\$0.00	1	\$0.00
PACK - FIXED COST & OVERHEAD	\$0.00	1	\$0.00

Item XI2.

Totals

Subtotal	\$68,327.02
Tax	\$0.00
Shipping	\$0.00
Grand Total	\$68,327.02

Units Quoted from Ground Stock or In-Bound Inventory Are Subject to Prior Sale
 Pricing Good For Current Date & Model Year Only Subsequent Model & Option Pricing May Vary
 Vehicles Subject to Production by Stellantis (formerly Fiat-Chrysler Automobiles)
 Production Lead Times Vary by Model & Options are controlled by FCA Group
 Standard Color is White Unless Noted Otherwise

Item XI2.



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

Statewide Multi-Year Contract Issued to:

TT of Columbia Inc
106 S James Campbell Blvd
Columbia, TN 38401

Vendor ID: 0000141027

Contract Number: 0000000000000000000080359

Title: SWC209 Vehicles

Start Date : September 15, 2023 End Date: December 31, 2024

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

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

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

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

Item XI2.

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

Contract Contact Information:

State of Tennessee
Department of General Services, Central Procurement Office
Contract Administrator: Michael Neely
3rd Floor, William R Snodgrass, Tennessee Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102
Phone: 615-741-5671
Fax: 615-741-0684

Line Information

Line 1

Item ID: 1000187716
Police Vehicles, CDJR, Generic SWC209 Asset
Unit of Measure: EA

Line 2

Item ID: 1000187718
Minivan and Full-size Vans, CDJR(Passenger, Cargo, Cut-Away), Generic SWC209 Asset
Unit of Measure: EA

Line 3

Item ID: 1000187719
Sport Utility Vehicles, CDJR(SUVs), Generic SWC209 Asset
Unit of Measure: EA

Line 4

Item ID: 1000187720
Light Trucks, CDJR(Class 1,2,3,4,5) Pickup or Chassis Cab, Generic SWC209 Asset
Unit of Measure: EA

Line 5

Item ID: 1000179941
Optional Equipment, Generic SWC209 Asset
Unit of Measure: EA

APPROVED:  Digitally signed by Michael F. Perry
DN: cn=Michael F. Perry, o=State of TN
CPO, ou=Department of General
Services, email=Mike.Perry@tn.gov, c=US
Date: 2023.09.06 10:30:20 -05'00'
_____ CHIEF PROCUREMENT OFFICER

BY:  Digitally signed by Mike
Neely
Date: 2023.09.06 10:04:06
-05'00' _____ PURCHASING AGENT _____ DATE

Item X12.

State of Tennessee (State)

CDJR- 2024 Model Year Fleet (1 Year Fixed) Pricing

Dealer Name: TT of Columbia, Inc dba Chrysler Dodge Jeep RAM of Columbia			Required Entry for MSRP	Required Entry
Model	Model Number	Description	MSRP	State Government Fleet Price (1 Year Fixed Pricing)
EXAMPLE ONLY:			\$31,000.00	\$25,750.00
POLICE PURSUIT SUV				
1	WDEE75	DURANGO PPV - AWD - 3.6L V6	\$ 45,900.00	\$40,814.00
2	WDEE75	DURANGO PPV - AWD - 3.6L V6 (ADMIN)	\$ 45,580.00	\$40,146.00
3	WDEE75	DURANGO PPV - AWD - 5.7L V8 HEMI	\$ 49,015.00	\$43,517.00
4	WDEE75	DURANGO PPV - AWD - 5.7L V8 HEMI (ADMIN)	\$ 48,695.00	\$42,948.00
SPECIAL SERVICE VEHICLE				
5	DJ7L91	RAM 2500 CREW 4X4 SSV - SWB - GAS	\$ 56,065.00	\$46,746.00
6	DJ7L91	RAM 2500 CREW 4X4 SSV - SWB - DIESEL	\$ 65,860.00	\$55,472.00
7	DJ7L92	RAM 2500 CREW 4X4 SSV - LWB - GAS	\$ 56,265.00	\$46,924.00
8	DJ7L92	RAM 2500 CREW 4X4 SSV - LWB - DIESEL	\$ 66,060.00	\$55,650.00
9				
10	D28L91	RAM 3500 CREW 4X4 SSV - SWB - GAS	\$ 57,555.00	\$50,107.00
11	D28L91	RAM 3500 CREW 4X4 SSV - SWB - DIESEL	\$ 67,350.00	\$58,835.00
12	D28L92	RAM 3500 CREW 4X4 SSV - LWB - GAS	\$ 57,755.00	\$50,284.00
13	D28L92	RAM 3500 CREW 4X4 SSV - LWB - DIESEL	\$ 67,550.00	\$59,014.00
CHRYSLER PACIFICA				
14	RUCH53	PACIFICA TOURING L	\$ 43,280.00	\$41,690.00
15	RUFH53	PACIFICA TOURING L AWD	\$ 46,275.00	\$44,435.00
16	RUCT53	PACIFICA LIMITED	\$ 50,550.00	\$48,379.00
17	RUFT53	PACIFICA LIMITED AWD	\$ 53,545.00	\$50,990.00
18	RUET53	PACIFICA SELECT HYBRID	\$ 54,090.00	\$53,443.00
19	RUES53	PACIFICA PINNACLE HYBRID	\$ 62,820.00	\$61,061.00
JEEP WRANGLER				
20	JLJL72	WRANGLER SPORT 2-DOOR	\$ 37,385.00	\$35,984.00
21	JLJS72	WRANGLER RUBICON 2-DOOR	\$ 51,690.00	\$48,736.00
22	JLJL74	WRANGLER SPORT 4-DOOR	\$ 41,385.00	\$39,737.00
23	JLJP74	WRANGLER SAHARA 4-DOOR	\$ 50,815.00	\$48,323.00
24	JLXL74	WRANGLER SPORT 4XE (ELECTRIC)	\$ 52,985.00	\$51,895.00
ALL NEW RAM 1500 QUAD 4X2				
25	DTIH41	ALL NEW 1500 QUAD 4X2 BIG HORN - V6	\$ 45,625.00	\$39,688.00
26	DTIH41	ALL NEW 1500 QUAD 4X2 BIG HORN - V8	\$ 48,670.00	\$42,385.00
ALL NEW RAM 1500 QUAD 4X4				
27	DT6H41	ALL NEW 1500 QUAD 4X4 BIG HORN - V6	\$ 52,110.00	\$45,431.00
28	DT6H41	ALL NEW 1500 QUAD 4X4 BIG HORN - V8	\$ 55,155.00	\$48,240.00
ALL NEW RAM 1500 CREW 4X2				
29	DT1H98	ALL NEW 1500 CREW 4X2 BIG HORN - SWB - V6	\$ 48,375.00	\$42,125.00
30	DT1H98	ALL NEW 1500 CREW 4X2 BIG HORN - SWB - V8	\$ 51,420.00	\$44,851.00
31	DT1H91	ALL NEW 1500 CREW 4X2 BIG HORN - LWB - V8	\$ 51,670.00	\$45,128.00
32	DT1P98	ALL NEW 1500 CREW 4X2 LARAMIE - SWB - V6	\$ 55,625.00	\$47,805.00
33	DT1P98	ALL NEW 1500 CREW 4X2 LARAMIE - SWB - V8	\$ 58,670.00	\$50,485.00
34	DT1P91	ALL NEW 1500 CREW 4X2 LARAMIE - LWB - V8	\$ 58,920.00	\$50,753.00
ALL NEW RAM 1500 CREW 4X4				

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35		DT6H98	ALL NEW 1500 CREW 4X4 BIG HORN - SWB - V6	\$ 54,860.00	\$48,022.00
36		DT6H98	ALL NEW 1500 CREW 4X4 BIG HORN - SWB - V8	\$ 57,905.00	\$50,731.00
37		DT6H91	ALL NEW 1500 CREW 4X4 BIG HORN - LWB - V8	\$ 58,155.00	\$51,000.00
38		DT6P98	ALL NEW 1500 CREW 4X4 LARAMIE - SWB - V6	\$ 59,920.00	\$51,655.00
39		DT6P98	ALL NEW 1500 CREW 4X4 LARAMIE - SWB - V8	\$ 62,965.00	\$54,330.00
40		DT6P91	ALL NEW 1500 CREW 4X4 LARAMIE - LWB - V8	\$ 63,215.00	\$54,580.00
RAM 2500 REG 4X2					
41		DJ2L62	2500 REG 4X2 TRADESMAN - STD. OEM GAS	\$ 50,365.00	\$41,746.00
42		DJ2L62	2500 REG 4X2 TRADESMAN - STD. OEM DIESEL	\$ 60,160.00	\$50,465.00
43		DJ2H62	2500 REG 4X2 BIG HORN - STD. OEM GAS	\$ 53,140.00	\$44,267.00
44		DJ2H62	2500 REG 4X2 BIG HORN - STD. OEM DIESEL	\$ 62,810.00	\$52,903.00
RAM 2500 REG 4X4					
45		DJ7L62	2500 REG 4X4 TRADESMAN - STD. OEM GAS	\$ 51,560.00	\$42,831.00
46		DJ7L62	2500 REG 4X4 TRADESMAN - STD. OEM DIESEL	\$ 61,355.00	\$51,566.00
47		DJ7H62	2500 REG 4X4 BIG HORN - STD. OEM GAS	\$ 56,090.00	\$46,948.00
48		DJ7H62	2500 REG 4X4 BIG HORN - STD. OEM DIESEL	\$ 65,885.00	\$55,662.00
RAM 2500 CREW 4X2					
49		DJ2L91	2500 CREW 4X2 TRADESMAN - SWB - STD. OEM GAS	\$ 52,300.00	\$43,501.00
50		DJ2L91	2500 CREW 4X2 TRADESMAN - SWB - STD. OEM DIESEL	\$ 62,095.00	\$52,235.00
51		DJ2L92	2500 CREW 4X2 TRADESMAN - LWB - STD. OEM GAS	\$ 52,500.00	\$43,697.00
52		DJ2L92	2500 CREW 4X2 TRADESMAN - LWB - STD. OEM DIESEL	\$ 62,295.00	\$52,420.00
53					
54		DJ2H91	2500 CREW 4X2 BIG HORN - SWB - STD. OEM GAS	\$ 57,545.00	\$48,251.00
55		DJ2H91	2500 CREW 4X2 BIG HORN - SWB - STD. OEM DIESEL	\$ 67,340.00	\$56,986.00
56		DJ2H92	2500 CREW 4X2 BIG HORN - LWB - STD. OEM GAS	\$ 57,745.00	\$48,445.00
57		DJ2H92	2500 CREW 4X2 BIG HORN - LWB - STD. OEM DIESEL	\$ 67,540.00	\$57,179.00
RAM 2500 CREW 4X4					
58		DJ7L91	2500 CREW 4X4 TRADESMAN - SWB - STD. OEM GAS	\$ 55,375.00	\$46,281.00
59		DJ7L91	2500 CREW 4X4 TRADESMAN - SWB - STD. OEM DIESEL	\$ 65,120.00	\$54,976.00
60		DJ7L92	2500 CREW 4X4 TRADESMAN - LWB - STD. OEM GAS	\$ 55,575.00	\$46,486.00
61		DJ7L92	2500 CREW 4X4 TRADESMAN - LWB - STD. OEM DIESEL	\$ 65,320.00	\$55,141.00
62					
63		DJ7H91	2500 CREW 4X4 BIG HORN - SWB - STD. OEM GAS	\$ 60,620.00	\$51,036.00
64		DJ7H91	2500 CREW 4X4 BIG HORN - SWB - STD. OEM DIESEL	\$ 70,365.00	\$59,726.00
65		DJ7H92	2500 CREW 4X4 BIG HORN - LWB - STD. OEM GAS	\$ 60,820.00	\$51,217.00
66		DJ7H92	2500 CREW 4X4 BIG HORN - LWB - STD. OEM DIESEL	\$ 70,565.00	\$59,887.00
RAM 2500 MEGA 4X4					
67		DJ7P81	2500 MEGA 4X4 LARAMIE - STD. OEM GAS	\$ 74,340.00	\$63,393.00
68		DJ7P81	2500 MEGA 4X4 LARAMIE - STD. OEM DIESEL	\$ 84,085.00	\$72,083.00
69					
70		DJ7R81	2500 MEGA 4X4 LONGHORN - STD. OEM GAS	\$ 82,340.00	\$70,614.00
71		DJ7R81	2500 MEGA 4X4 LONGHORN - STD. OEM DIESEL	\$ 92,135.00	\$79,356.00
RAM 3500 REG 4X2					
72		D23L62	3500 REG 4X2 TRADESMAN - STD. OEM GAS	\$ 51,975.00	\$45,198.00
73		D23L62	3500 REG 4X2 TRADESMAN - STD. OEM DIESEL	\$ 61,770.00	\$53,927.00
74		D23H62	3500 REG 4X2 BIG HORN - STD. OEM GAS	\$ 54,625.00	\$47,624.00
75		D23H62	3500 REG 4X2 BIG HORN - STD. OEM DIESEL	\$ 64,420.00	\$56,337.00
RAM 3500 REG 4X4					
76		D28L62	3500 REG 4X4 TRADESMAN - STD. OEM GAS	\$ 54,945.00	\$47,879.00
77		D28L62	3500 REG 4X4 TRADESMAN - STD. OEM DIESEL	\$ 64,740.00	\$56,608.00
78		D28H62	3500 REG 4X4 BIG HORN - STD. OEM GAS	\$ 57,595.00	\$50,320.00
79		D28H62	3500 REG 4X4 BIG HORN - STD. OEM DIESEL	\$ 67,390.00	\$59,025.00
RAM 3500 CREW 4X2					
80		D23L91	3500 CREW 4X2 TRADESMAN - SWB - STD. OEM GAS	\$ 53,830.00	\$46,900.00
81		D23L91	3500 CREW 4X2 TRADESMAN - SWB - STD. OEM DIESEL	\$ 63,625.00	\$55,633.00

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82		D23L92	3500 CREW 4X2 TRADESMAN - LWB - STD. OEM GAS	\$ 54,030.00	\$47,083.00
83		D23L92	3500 CREW 4X2 TRADESMAN - LWB - STD. OEM DIESEL	\$ 63,825.00	\$55,820.00
84					
85		D23H91	3500 CREW 4X2 BIG HORN - SWB - STD. OEM GAS	\$ 59,075.00	\$51,638.00
86		D23H91	3500 CREW 4X2 BIG HORN - SWB - STD. OEM DIESEL	\$ 68,870.00	\$60,374.00
87		D23H92	3500 CREW 4X2 BIG HORN - LWB - STD. OEM GAS	\$ 59,275.00	\$51,838.00
88		D23H92	3500 CREW 4X2 BIG HORN - LWB - STD. OEM DIESEL	\$ 69,070.00	\$60,571.00
	RAM 3500 CREW 4X4				
89		D28L91	3500 CREW 4X4 TRADESMAN - SWB - STD. OEM GAS	\$ 56,905.00	\$49,670.00
90		D28L91	3500 CREW 4X4 TRADESMAN - SWB - STD. OEM DIESEL	\$ 66,700.00	\$58,410.00
91		D28L92	3500 CREW 4X4 TRADESMAN - LWB - STD. OEM GAS	\$ 57,105.00	\$49,871.00
92		D28L92	3500 CREW 4X4 TRADESMAN - LWB - STD. OEM DIESEL	\$ 66,900.00	\$58,605.00
93					
94		D28H91	3500 CREW 4X4 BIG HORN - SWB - STD. OEM GAS	\$ 62,145.00	\$54,413.00
95		D28H91	3500 CREW 4X4 BIG HORN - SWB - STD. OEM DIESEL	\$ 71,940.00	\$63,145.00
96		D28H92	3500 CREW 4X4 BIG HORN - LWB - STD. OEM GAS	\$ 62,350.00	\$54,615.00
97		D28H92	3500 CREW 4X4 BIG HORN - LWB - STD. OEM DIESEL	\$ 72,145.00	\$63,326.00
	RAM 3500 MEGA 4X4				
98		D28P81	3500 MEGA 4X4 LARAMIE - STD. OEM GAS	\$ 75,870.00	\$66,780.00
99		D28P81	3500 MEGA 4X4 LARAMIE - STD. OEM DIESEL	\$ 85,665.00	\$75,513.00
100					
101		D28R81	3500 MEGA 4X4 LONGHORN - STD. OEM GAS	\$ 83,865.00	\$73,996.00
102		D28R81	3500 MEGA 4X4 LONGHORN - STD. OEM DIESEL	\$ 93,660.00	\$82,751.00

Item X12.



AGENDA ACTION FORM

Consideration of a Resolution to Enter an Agreement with CDM Smith Inc. for the South Fork Holston Sewershed Capacity Study

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

Action Form No.: AF-146-2023
Work Session: November 6, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: Harris Darby
Presentation By: Ryan McReynolds

Recommendation:
Approve the Resolution

Executive Summary:
Qualifications were received on August 10, 2023 for several American Rescue Plan (ARP) projects including the South Fork Holston Sewershed Capacity Study. The study includes analysis of ten sanitary sewer lift stations for condition and hydraulic capacity. The selected stations pump in series to bring wastewater from areas near Tri-Cities Airport to the City’s wastewater treatment plant and are being evaluated due to recent developments and potential future developments that may stress this complex network of lift stations. The study will determine the existing available capacity of the system, provide recommendations for rehabilitation or replacement of the selected stations, and identify options for a Capacity Assurance Tool that will allow City staff to determine system capacity as future developments are proposed.

City staff reviewed all submitted qualifications and recommend awarding the contract to CDM Smith Inc. in the amount of \$202,000 in accordance with the attached proposal. The project is funded with \$161,500 in ARP grant funds and \$40,500 from the sewer fund. Project funding will reside in SW2304.

- Attachments:**
1. Resolution
2. Proposal from Engineer
3. Project Map

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

Item X13.

RESOLUTION NO. _____

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH CDM SMITH, INC. FOR THE SOUTH FORK HOLSTON SEWERSHED CAPACITY STUDY AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, qualifications were received on August 10, 2023, for several American Rescue Plan projects which included the South Fork Holston Watershed Capacity Study; and

WHEREAS, after careful consideration, staff recommends entering into a professional service agreement with CDM Smith, Inc., in an amount not to exceed \$202,000.00; and

WHEREAS, the project is funded with \$161,500.00 in ARP grant funds and \$40,500.00 from the sewer fund in account no.: SW2304.

Now therefore,

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

SECTION I. That a professional services agreement for performance of the scope of work entitled South Fork Holston Watershed Capacity Study with CDM Smith, Inc., is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a professional services agreement with CDM, Smith, Inc. for the South Fork Holston Watershed Capacity Study, 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 public.

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

ADOPTED this the 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



1100 Marion Street, Suite 300
Knoxville, Tennessee 37921
tel: 865.963.4300
fax: 865.963.5311

October 10, 2023

Mr. Chad Austin
Water Services Division City of Kingsport
1113 Konnarock Rd.
Kingsport, TN 37664

Subject: South Fork Holston Sewershed Capacity Study

Dear Mr. Austin:

CDM Smith is pleased to present our proposal to support the City of Kingsport with South Fork growth and development modeling and pump station assessment support. Modeling will be based on proposed future developments delivered to CDM Smith within 45 days of final authorization to execute this proposal. All analysis in this task order will be based on these proposed additions.

Background

CDM Smith developed an EPA SWMM 5.0.014 trunk sewer model and calibrated the model to flow monitoring data obtained in the spring of 2008. The level of service of the existing trunk sewer system was assessed for a range of evaluation storms for existing baseline (2010) and future (2030) loading conditions. Recommended system improvements were developed through use of the hydraulic model to select optimal locations and appropriate improvements including increased conveyance, added storage, and reduced rainfall derived inflow and infiltration (RDII) through system rehabilitation.

In 2011, the City of Kingsport requested that CDM Smith provide a consistent approach to analyze and certify capacity of the existing system when considering the permitting of additional connections to the sanitary sewage collection system. For this effort, the trunk sewer model was expanded to a system-wide model i.e., from 1,800 to more than 12,000 nodes; from 23 to 94 lift stations representing actual locations and an additional six virtual lift stations representing low-pressure sewer systems with multiple service connections; and the modeled locations for dry- and wet-weather flows from 166 to 4,049 locations. The system-wide model was developed using EPA SWMM 5.0.022 and was verified against the trunk sewer model that was originally calibrated to 2008 flow monitoring data. The verification of the system-wide model was assessed at the original trunk model calibration locations (2008 flow monitoring locations). The completed capacity certification tool (CAP Tool) used the system-wide model output as the baseline for existing system capacity. From the existing capacity, development and credits were managed by the CAP Tool.





Mr. Chad Austin

October 10, 2023

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In the Fall of 2019, the City of Kingsport secured CDM Smith's services to help with flow monitoring and model updates. As part of the updates, the model was converted to EPA SWMM 5.1.013. Flow monitoring, model updates, and calibration updates were completed in the spring of 2021 (with additional calibration in the West Kingsport area in 2023) and the future flows extended to 2040.

Scope of Services

The detailed scope of work for the basic services included under this proposal are described below.

South Fork Basin – Future Development Modeling Analysis and Pump Station Assessments

Task 1 – Pump Station Assessments

This task will include determining current pump station capacities via pump curves and pump drawdown testing for all operating conditions. Additionally, general condition assessments will be made as to the electrical, equipment, HVAC, and pump station building conditions to further assist the City should modeling assessments in Task 2 note needs for capacity upgrades. This proposal is based on 10 station locations as noted in the RFQ from the City dated July 1, 2023: PS 124 - Riverport, PS 408 - Moreland Drive, PS 405 - Kendrick Creek, PS 203 - Old Mill, PS 202 - Rocky Branch, PS 304 - Sam's, PS 201 - Central High School, PS - 303 Cracker Barrel, PS - 302 Centenary, and PS 301 - Airport. Additional stations, budget, and schedule are amendable to this scope with written approval from the City.

Task 2 – Modeling Analysis

This task will include compiling information from the City on all the proposed developments for the South Fork Basin, including structure types and proposed numbers of structures (ex. condos, single family residential, apartments, etc.). Compiled development information submitted to CDM Smith within 45 days of final authorization to execute this proposal will then be used to estimate new flows being added to the collection system under this task order. In addition to the new development flow additions, Task 1 pump station assessments will be used to update the model. Flows will then be added to the collection system based on the nearest existing system connection point and model analysis rerun for the existing system 2-year design storm and the future projected baseflow 2-year design storm. Flow capacity limitations, be it on the conveyance and/or pump station capacity side, will be reported under Task 4 – Technical Memorandum. Task 2 allows for 2 additional existing and future projected flow model runs (existing and future baseflows as recorded in the 2021 modeling report) evaluating how the new flow can be loaded to the existing system to optimize existing capacity. Based on an email from the City on April 13, 2022, one of those model scenarios will be investigating diverting flow from Thornton Drive to the Madd Branch Basin.



Mr. Chad Austin

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Task 3 – Capacity Analysis Tool Evaluation

This task involves holding a meeting with City staff to evaluate the future use of the Capacity Analysis Tool and the intended staff users and maintainers of the system. CDM Smith will also determine with City staff the current GIS licenses and software on hand. CDM Smith will develop options for the City and work with the City to choose the best option to maintain tool viability and success. Once an option is chosen, CDM Smith will develop a separate proposal scope and budget amendable to this Task Order.

Task 4 – Technical Memorandum

A Technical Memorandum (TM) summarizing the results of Tasks 1 and 2 will be completed. An alternatives analysis will be completed for pump stations if the pump stations do not meet anticipated capacity requirements. The TM will include a conceptual level Opinion of Probable Construction Costs (OPCC) for improvements identified in Tasks 1 and 2. OPCCs developed for the TM will be AACE Class 4. Conceptual design (15% Design Level) for all 10 facilities will be completed in order to perform the OPCCs. It is assumed that 5 of the pump stations will be unique and that 5 pump stations will be a typical design that can be scaled for their capacity. A Draft TM will be submitted for City comments. A review meeting to discuss comments will be held and comments will be incorporated into a Final TM.

Task 5 - Project Administration and Communications

This task involves project communications including invoicing and progress reports to be attached with the invoices. Conference calls will be used as needed for updates and coordination. An in-person Project kick-off meeting and TM review meeting are also anticipated.

Data Provided by the City

The City shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by the City to Engineer pursuant to the Agreement resulting from / attached to this proposal. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under the Agreement. Engineer's scope of work does not include verifying the City Provided Information for accuracy or completeness. The City may request an independent review of the City Provided Information by Engineer pursuant to a mutually agreed amendment to this Agreement. Engineer shall be entitled to an adjustment in price and schedule to the extent that any corrective action in Engineer's Services arises out of inaccurate City Provided Information.

In the case where the Engineer's scope includes taking a preliminary or conceptual design that was prepared by another consultant for the City and further developing that design to the level



Mr. Chad Austin
October 10, 2023
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where it is appropriate to be issued for construction or bidding, Engineer shall not be responsible for latent errors or mistakes that are incorporated in that preliminary or conceptual design. Except where Engineer's scope explicitly includes a duty to validate or verify the preliminary or conceptual design or the underlying data and calculations, and then except only to the extent of the duty expressed in the scope, Engineer shall be entitled to rely on the preliminary or conceptual design as it appears in the documents provided by the City.

Schedule and Budget

CDM Smith proposes to complete the work for a lump sum fee of \$202,000. The estimated fees are shown in the Table below. The Task 5 services are distributed among other tasks. CDM Smith proposes to complete this project within 9 months of agreement authorization.

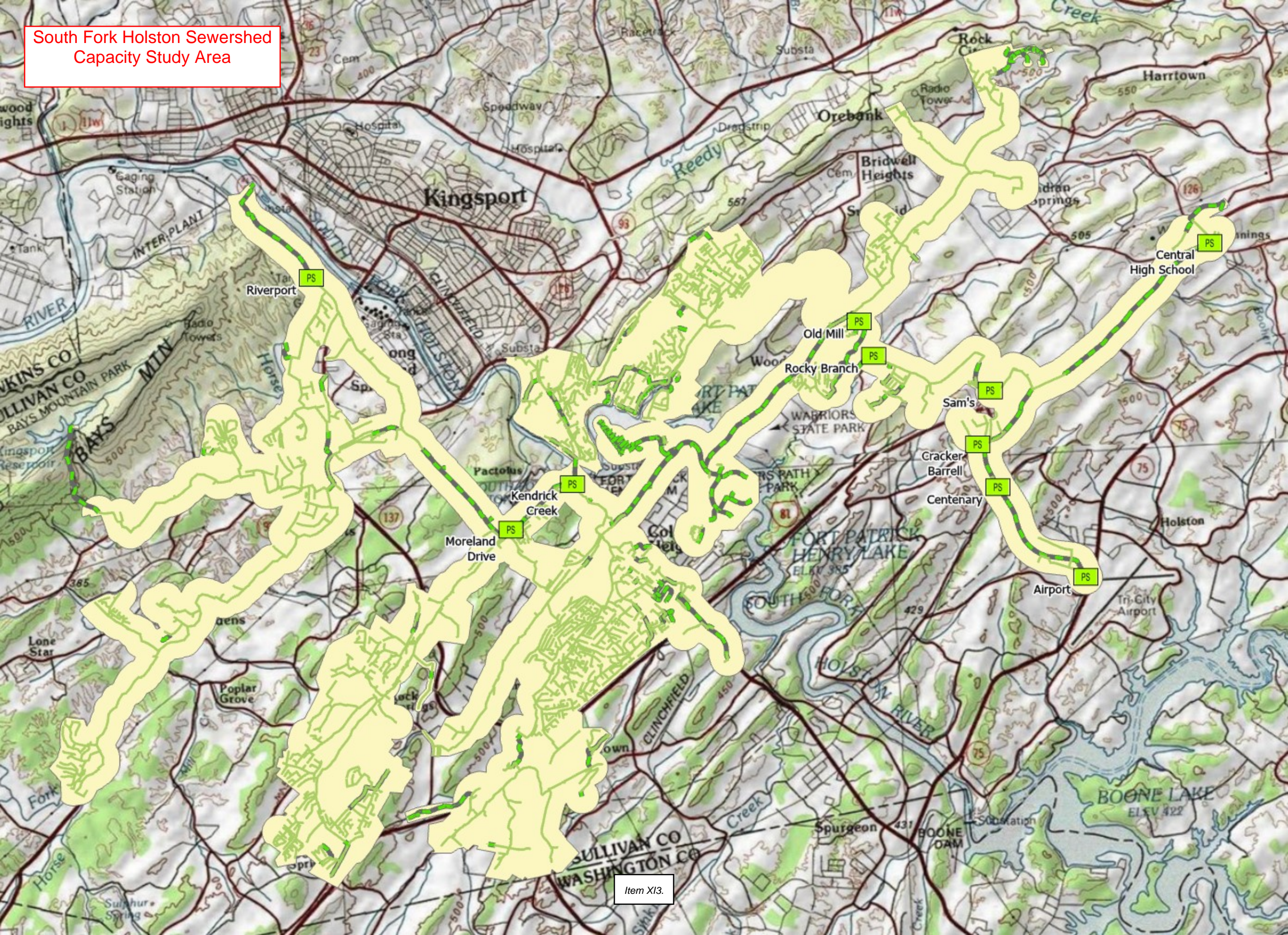
Task	Description	Estimated Cost
Task 1	Pump Station Assessments	\$73,700
Task 2	Modeling Analysis	\$38,200
Task 3	Capacity Analysis Tool Evaluation	\$21,100
Task 4	Technical Memorandum	\$69,000
	Budget Subtotal	\$202,000

On behalf of the entire CDM Smith organization, I want to express our appreciation for the opportunity to continue to work with the City. If you have any questions about this proposal, or any matter, please do not hesitate to contact me.

Very truly yours,

Daniel Unger, PE, PMP
Client Service Leader
CDM Smith

South Fork Holston Sewershed
Capacity Study Area





AGENDA ACTION FORM

Consideration of a Resolution to Enter into a Facility Encroachment Agreement with CSX Transportation (CSXT) for the Main Street Project Authorizing the Mayor to Sign all Applicable Documents

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

Action Form No.: AF-343-2023
Work Session: November 6, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: Michael Thompson
Presentation By: Ryan McReynolds

Recommendation:
Approve the Resolution.

Executive Summary:
As the redevelopment of Main Street continues moving forward the city desires to construct, use and maintain conduit under property controlled by CSXT. These conduits will be constructed at the railroad wye on Main Street and occupied by cables for the transmission of electrical power, voice communication or other data, as well as empty conduits for future use.

It is requested to enter into a Facility Encroachment Agreement with CSXT (Agreement No. CSX977447) for construction, usage and maintenance of utility facilities associated with the redevelopment of Main Street. The fee associated with this agreement is a one-time nonrefundable Review Fee in the amount of \$5,000.00.

Funding is available and identified in GP1516.

- Attachments:**
1. Resolution
2. Agreement

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

RESOLUTION NO. _____

A RESOLUTION APPROVING FACILITY ENCROACHMENT AGREEMENT NO. CSX977447 WITH CSX TRANSPORTATION, INC., FOR THE MAIN STREET PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, to continue with the redevelopment of Main Street, the city needs to construct, use and maintain conduit and other utility facilities under property controlled by CSX Transportation, Inc.; and

WHEREAS, CSX Transportation, Inc., requires the execution of a Facility Encroachment Agreement No. CSX977447 as a condition of allowing the city to continue with the Main Street Development Project; and

WHEREAS, there is a review fee associated with the agreement in the amount of \$5,000.00, and funding is available in GP1516.

Now therefore,

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

SECTION I. That a Facility Encroachment Agreement with by CSX Transportation, Inc., for the Main Street Redevelopment Project, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the Facility Encroachment Agreement with by CSX Transportation, Inc., for the Main Street Redevelopment Project, 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 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 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

FACILITY ENCROACHMENT AGREEMENT

THIS AGREEMENT, made and effective as of October 19, 2023, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor," and CITY OF KINGSPORT, a municipal corporation, political subdivision or state agency, under the laws of the State of Tennessee, whose mailing address is 415 Broad Street, Kingsport, Tennessee 37660, hereinafter called "Licensee," WITNESSETH:

WHEREAS, Licensee desires to construct (unless previously constructed and designated as existing herein), use and maintain the below described facility(ies), hereinafter called "Facilities," over, under or across property owned or controlled by Licensor, at the below described location(s):

1. Seven (7) sub-grade wireline crossings, solely for the transmission of electrical power only, through or on metal strand wire(s), located at or near Kingsport, Sullivan County, Tennessee, Florence Division, Kingsport Subdivision, Milepost Z-94.2, Latitude N36:32:29.94, Longitude W82:33:21.92;
2. One (1) sub-grade fiber optic crossing, solely for the transmission of voice communication or other data only, via an optical waveguide, through a solid core of glass or plastic fiber material, located at or near Kingsport, Sullivan County, Tennessee, Florence Division, Kingsport Subdivision, Milepost Z-94.2, Latitude N36:32:29.94, Longitude W82:33:21.92;
3. Four (4) sub-grade wireline crossings, solely for the transmission of telephonic voice communication or other data only, through or on metal strand wire(s), located at or near Kingsport, Sullivan County, Tennessee, Florence Division, Kingsport Subdivision, Milepost Z-94.2, Latitude N36:32:29.94, Longitude W82:33:21.92;
4. Two (2) empty conduits, use to be determined at a future date, located at or near Kingsport, Sullivan County, Tennessee, Florence Division, Kingsport Subdivision, Milepost Z-94.2, Latitude N36:32:29.94, Longitude W82:33:21.92;
5. Four (4) sub-grade wireline crossings, solely for the transmission of electrical power only, through or on metal strand wire(s), located at or near Kingsport, Sullivan County, Tennessee, Florence Division, Kingsport Subdivision, Milepost Z-94.3, Latitude N36:32:29.94, Longitude W82:33:21.92;
6. One (1) sub-grade fiber optic crossing, solely for the transmission of voice communication or other data only, via an optical waveguide, through a solid core of glass or plastic fiber material, located at or near Kingsport, Sullivan County, Tennessee, Florence Division, Kingsport Subdivision, Milepost Z-94.3, Latitude N36:32:29.94, Longitude W82:33:21.92;

7. Four (4) sub-grade wireline crossings, solely for the transmission of telephonic voice communication or other data only, through or on metal strand wire(s), located at or near Kingsport, Sullivan County, Tennessee, Florence Division, Kingsport Subdivision, Milepost Z-94.3, Latitude N36:32:29.94, Longitude W82:33:21.92;
8. Two (2) empty conduits, use to be determined at a future date, located at or near Kingsport, Sullivan County, Tennessee, Florence Division, Kingsport Subdivision, Milepost Z-94.3, Latitude N36:32:29.94, Longitude W82:33:21.92;

hereinafter, called the "Encroachment," as shown on print(s) labeled Exhibit "A," attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms and agreements herein contained, the parties hereto agree and covenant as follows:

1. LICENSE:

1.1 Subject to Article 17, Licensor, insofar as it has the legal right, power and authority to do so, and its present title permits, and subject to:

(A) Licensor's present and future right to occupy, possess and use its property within the area of the Encroachment for any and all purposes, including but not limited to Licensor's track(s) structure(s), power lines, communication, signal or other wires, train control system, cellular or data towers, or electrical or electronic apparatus, or any appurtenances thereto ("Licensor's Facilities") and any other facilities as now exist or which may in the future be located in, upon, over, under or across the property;

(B) All encumbrances, conditions, covenants, easements, and limitations applicable to Licensor's title to or rights in the subject property; and

(C) Compliance by Licensee and its agent or contractor ("Licensee's Contractor") with the terms and conditions herein contained;

does hereby license and permit Licensee to construct, maintain, repair, renew, operate, use, alter or change the Facilities at the Encroachment above for the term herein stated, and to remove same upon termination.

1.2 The term Facilities, as used herein, shall include only those structures and ancillary facilities devoted exclusively to the transmission usage above within the Encroachment, and as shown on attached Exhibit A.

1.3 No additional structures or other facilities shall be placed, allowed, or maintained by Licensee in, upon or on the Encroachment except upon prior separate written consent of Licensor.

2. ENCROACHMENT FEE; TERM:

2.1 Licensee shall pay Licensor consideration in the amount of ONE DOLLAR AND 00/100 U.S. DOLLARS (\$1.00) and other good and valuable consideration the receipt of which is acknowledged by the parties hereto. Notwithstanding the consideration amount in this Agreement, Licensor preserves the right to request fees for any future facility projects. Furthermore, Licensee agrees that the above referenced amount applies only to the original Licensee under this Agreement. In the event of a successor (by merger, consolidation, reorganization and/or assignment) or if the original Licensee changes its name, then Licensee shall be subject to payment of Licensor's current administrative and document preparation fees for the cost incurred by Licensor in preparing and maintaining this Agreement on a current basis.

2.2 However, Licensee assumes sole responsibility for, and shall pay directly (or reimburse Licensor), any additional annual taxes and/or periodic assessments levied against Licensor or Licensor's property solely on account of said Facilities or Encroachment.

2.3 This Agreement shall terminate as herein provided, but shall also terminate upon: (a) Licensee's cessation of use of the Facilities or Encroachment for the purpose(s) above; (b) removal of the Facilities; (c) subsequent mutual consent; and/or (d) failure of Licensee to complete installation within five (5) years from the effective date of this Agreement.

2.4 In further consideration for the license or right hereby granted, Licensee hereby agrees that Licensor shall not be charged or assessed, directly or indirectly, with any part of the cost of the installation of said Facilities and appurtenances, and/or maintenance thereof, or for any public works project of which said Facilities is a part. Licensee agrees it shall not assess Licensor any stormwater or drainage fee associated with such Facilities. Furthermore, Licensee shall be responsible for any stormwater or drainage fees assessed by any County or State agency managing such systems.

3. CONSTRUCTION, MAINTENANCE AND REPAIRS:

3.1 Licensee shall construct, maintain, relocate, repair, renew, alter, and/or remove the Facilities, in a prudent, workmanlike manner, using quality materials and complying with any applicable standard(s) or regulation(s) of Licensor (CSXT Specifications), or Licensee's particular industry, National Electrical Safety Code, or any governmental or regulatory body having jurisdiction over the Encroachment.

3.2 Location and construction of Facilities shall be made strictly in accordance with design(s) and specifications furnished to and approved by Licensor and of material(s) and size(s) appropriate for the purpose(s) above recited.

3.3 All of Licensee's work, and exercise of rights hereunder, shall be undertaken at time(s) satisfactory to Licensor, and so as to eliminate or minimize any impact on or interference with the safe use and operation of Licensor's property and appurtenances thereto.

3.4 In the installation, maintenance, repair and/or removal of said Facilities, Licensee shall not use explosives on or adjacent to Licensor's property of any type or perform or cause any blasting without the separate express written consent of Licensor. As a condition to such consent, a representative will be assigned by Licensor to monitor blasting, and Licensee shall reimburse Licensor for the entire cost and/or expense of furnishing said monitor.

3.5 Any repairs or maintenance to the Facilities, whether resulting from acts of Licensee, or natural or weather events, which are necessary to protect or facilitate Licensor's use of its property, shall be made by Licensee promptly, but in no event later than thirty (30) days after Licensee has notice as to the need for such repairs or maintenance.

3.6 Licensor, in order to protect or safeguard its property, rail operations, equipment and/or employees from damage or injury, may request immediate repair or renewal of the Facilities, and if the same is not performed, may make or contract to make such repairs or renewals, at the sole risk, cost and expense of Licensee.

3.7 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

3.8 All work on the Encroachment shall be conducted in accordance with Licensor's safety rules and regulations.

3.9 Licensee hereby agrees to reimburse Licensor any loss, cost or expense (including losses resulting from train delays and/or inability to meet train schedules) arising from any failure of Licensee to make repairs or conduct maintenance as required by Section 3.5 above or from improper or incomplete repairs or maintenance to the Facilities or Encroachment.

3.10 In the event it becomes necessary for the Licensee to deviate from the approved Exhibit, Licensee shall seek prior approval from Licensor, or when applicable, an official field representative of Licensor permitted to approve changes, authorizing the necessary field changes and Licensee shall provide Licensor with complete As-Built Drawings of the completed work. As-Built Drawings shall be submitted to Licensor in either electronic or hard copy form upon the substantial completion of the project and upon Licensor's request.

3.11 In the event of large scale maintenance/construction work to railroad bridges Licensee is required to protect power lines with insulated covers or comparable safety devices at their costs during construction/maintenance for safety of railroad employees.

4. PERMITS, LICENSES:

4.1 Before any work hereunder is performed, or before use of the Encroachment for the contracted purpose, Licensee, at its sole cost and expense, shall obtain all necessary permit(s) (including but not limited to zoning, building, construction, health, safety or

environmental matters), letter(s) or certificate(s) of approval. Licensee expressly agrees and warrants that it shall conform and limit its activities to the terms of such permit(s), approval(s) and authorization(s), and shall comply with all applicable ordinances, rules, regulations, requirements and laws of any governmental authority (State, Federal or Local) having jurisdiction over Licensee's activities, including the location, contact, excavation and protection regulations of the Occupational Safety and Health Act (OSHA) (29 CFR 1926.651(b)), et al., and State "One Call" - "Call Before You Dig" requirements.

4.2 Licensee assumes sole responsibility for failure to obtain such permit(s) or approval(s), for any violations thereof, or for costs or expenses of compliance or remedy.

5. MARKING AND SUPPORT:

5.1 With respect to any subsurface installation or maintenance upon Licensor's property, Licensee, at its sole cost and expense, shall:

- (A) support track(s) and roadbed in a manner satisfactory to Licensor;
- (B) backfill with satisfactory material and thoroughly tamp all trenches to prevent settling of surface of land and roadbed of Licensor; and
- (C) either remove any surplus earth or material from Licensor's property or cause said surplus earth or material to be placed and distributed at location(s) and in such manner Licensor may approve.

5.2 After construction or maintenance of the Facilities, Licensee shall:

- (A) Restore any track(s), roadbed and other disturbed property; and
- (B) Erect, maintain and periodically verify the accuracy of aboveground markers, in a form approved by Licensor, indicating the location, depth and ownership of any underground Facilities or related facilities.

5.3 Licensee shall be solely responsible for any subsidence or failure of lateral or subjacent support in the Encroachment area for a period of three (3) years after completion of installation.

6. TRACK CHANGES:

6.1 In the event that rail operations and/or track maintenance result in changes in grade or alignment of, additions to, or relocation of track(s) or other facilities, or in the event future use of Licensor's rail corridor or property necessitate any change of location, height or depth in the Facilities or Encroachment, Licensee, at its sole cost and expense and within thirty (30) days after notice in writing from Licensor, shall make changes in the Facilities or Encroachment to accommodate such track(s) or operations.

6.2 If Licensee fails to do so, Licensor may make or contract to make such changes at Licensee's cost.

7. FACILITY CHANGES:

7.1 Licensee shall periodically monitor and verify the depth or height of the Facilities or Encroachment in relation to the existing tracks and facilities, and shall relocate the Facilities or change the Encroachment, at Licensee's expense, should such relocation or change be necessary to comply with the minimum clearance requirements of Licensor.

7.2 If Licensee undertakes to revise, renew, relocate or change in any manner whatsoever all or any part of the Facilities (including any change in voltage or gauge of wire or any change in circumference, diameter or radius of pipe or change in materials transmitted in and through said pipe), or is required by any public agency or court order to do so, plans therefor shall be submitted to Licensor for approval before such change. After approval, the terms and conditions of this Agreement shall apply thereto.

8. INTERFERENCE WITH RAIL FACILITIES:

8.1 Although the Facilities/Encroachment herein permitted may not presently interfere with Licensor's Facilities, in the event that the operation, existence or maintenance of said Facilities, in the sole judgment of Licensor, causes: (a) interference (including, but not limited to, physical or interference from an electromagnetic induction, or interference from stray or other currents) with Licensor's power lines, communication, signal or other wires, train control system, or electrical or electronic apparatus; or (b) interference in any manner, with the operation, maintenance or use of Licensor's Facilities; then and in either event, Licensee, upon receipt of written notice from Licensor of any such interference, and at Licensee's sole risk, cost and expense, shall promptly make such changes in its Facilities or installation, as may be required in the reasonable judgment of the Licensor to eliminate all such interference. Upon Licensee's failure to remedy or change, Licensor may do so or contract to do so at Licensee's sole cost.

8.2 Without assuming any duty hereunder to inspect the Facilities, Licensor hereby reserves the right to inspect same and to require Licensee to undertake repairs, maintenance or adjustments to the Facilities, which Licensee hereby agrees to make promptly, at Licensee's sole cost and expense.

9. RISK, LIABILITY, INDEMNITY:

With respect to the relative risk and liabilities of the parties, it is hereby agreed that:

9.1 To the fullest extent permitted by State law (constitutional or statutory, as amended), Licensee hereby agrees to, defend, indemnify, and hold Licensor harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensor), and for damage to

or loss of or destruction of any property whatsoever, arising out of, resulting from, or in any way connected with the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal, EXCEPT when proven to have been caused solely by the willful misconduct or gross negligence of Licensor. HOWEVER, to the fullest extent permitted by State law, during any period of actual construction, repair, maintenance, replacement or removal of the Facilities, wherein agents, equipment or personnel of Licensee are on the railroad rail corridor, Licensee's liability hereunder shall be absolute, irrespective of any joint, sole or contributory fault or negligence of Licensor.

9.2 Licensee's Contractor shall hereby agree to, defend, indemnify, and hold Licensor harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensor), and for damage to or loss of or destruction of any property whosoever, arising out of resulting from, or in any way connected with the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal, EXCEPT when proven to have been caused solely by the willful misconduct or gross negligence of Licensor. HOWEVER, to the fullest extent permitted by State law, during any period of actual construction, repair, maintenance, replacement or removal of the Facilities, wherein agents, equipment or personnel of Licensee are on the railroad rail corridor, Licensee's liability hereunder shall be absolute, irrespective of any joint, sole or contributory fault or negligence of Licensor.

9.3 Use of Licensor's rail corridor involves certain risks of loss or damage as a result of the rail operations. Notwithstanding Section 9.1, Licensee expressly assumes all risk of loss and damage to Licensee's Property or the Facilities in, on, over or under the Encroachment, including loss of or any interference with use or service thereof, regardless of cause, including electrical field creation, fire or derailment resulting from rail operations. For this Section, the term "Licensee's Property" shall include property of third parties situated or placed upon Licensor's rail corridor by Licensee or by such third parties at request of or for benefit of Licensee.

9.4 To the fullest extent permitted by State law, as above, Licensee assumes all responsibility for, and agrees to defend, indemnify and hold Licensor harmless from: (a) all claims, costs and expenses, including reasonable attorneys' fees, as a consequence of any sudden or nonsudden pollution of air, water, land and/or ground water on or off the Encroachment area, arising from or in connection with the use of this Encroachment or resulting from leaking, bursting, spilling, or any escape of the material transmitted in or through the Facilities; (b) any claim or liability arising under federal or state law dealing with either such sudden or nonsudden pollution of air, water, land and/or ground water arising therefrom or the remedy thereof; (c) any subsidence or failure of lateral or subjacent support of the tracks arising from such Facilities leakage; and (d) all claims, costs and expenses, including reasonable attorneys' fees, as a

consequence of any drainage or runoff on or off the Encroachment area as a result of the Facilities/Encroachment herein permitted.

9.5 Notwithstanding Section 9.1, Licensee also expressly assumes all risk of loss which in any way may result from Licensee's failure to maintain either required clearances for any overhead Facilities or the required depth and encasement for any underground Facilities, whether or not such loss(es) result(s) in whole or part from Licensor's contributory negligence or joint fault.

9.6 Obligations of Licensee hereunder to release, indemnify and hold Licensor harmless shall also extend to companies and other legal entities that control, are controlled by, subsidiaries of, or are affiliated with Licensor, as well as any railroad that operates over the rail corridor on which the Encroachment is located, and the officers, employees and agents of each.

9.7 If a claim is made or action is brought against Licensor, and/or its operating lessee, for which Licensee may be responsible hereunder, in whole or in part, Licensee shall be notified to assume the handling or defense of such claim or action; but Licensor may participate in such handling or defense.

9.8 Notwithstanding anything contained in this Agreement, the limitation of liability contained in the state statutes, as amended from time to time, shall not limit Licensor's ability to collect under the insurance policies required to be maintained under this Agreement.

10. INSURANCE:

10.1 Prior to commencement of surveys, installation or occupation of premises pursuant to this Agreement, Licensee shall procure and shall maintain during the continuance of this Agreement, at its sole cost and expense, a policy of

- (i) Statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00).
- (ii) Commercial General Liability coverage (inclusive of contractual liability) with available limits of not less than FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) in combined single limits for bodily injury and property damage and covering the contractual liabilities assumed under this Agreement and naming Licensor, and/or its designee, as additional insured. The evidence of insurance coverage shall be endorsed to provide for thirty (30) days' notice to Licensor, or its designee, prior to cancellation or modification of any policy. Mail CGL certificate, along with agreement, to CSX Transportation, Inc., Speed Code J180, 500 Water Street, Jacksonville, FL 32202. On each successive year, send certificate to RenewalCOI@csx.com.
- (iii) Business automobile liability insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) combined single limit

for bodily injury and/or property damage per occurrence naming Licensor, and/or its designee, as additional insured.

- (iv) The insurance policies must contain a waiver of subrogation against CSXT and its Affiliates, except where prohibited by law. All insurance companies must be A. M. Best rated A- and Class VII or better.
- (v) Such other insurance as Licensor may reasonably require.
- (vi) Licensee shall require its contractors to meet minimum insurance requirements above when performing work in relation to this agreement. Licensee will procure and review contractor's insurance certificates to confirm requirements are met. Licensor may request a copy of the insurance certificate.

10.2 If Licensee's Contractor's existing CGL policy(ies) do(es) not automatically cover Licensee's contractual liability during periods of survey, installation, maintenance and continued occupation, a specific endorsement adding such coverage shall be purchased by Licensee's Contractor. If said CGL policy is written on a "claims made" basis instead of a "per occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.

10.3 Licensor, or its designee, may at any time request evidence of insurance purchased by Licensee to comply with this Agreement. Failure of Licensee to comply with Licensor's request shall be considered a default by Licensee.

10.4 To the extent permitted by law and notwithstanding anything to the contrary in this Agreement, the insurance required and provided by Utility shall not be subject to the limitations of sovereign immunity.

10.5 (A) In the event Licensee finds it necessary to perform construction or demolition operations within fifty feet (50') of any operated railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Licensee shall: (a) notify Licensor; and (b) require Licensee's Contractor(s) performing such operations to procure and maintain during the period of construction or demolition operations, at no cost to Licensor,

i) Railroad Protective Liability (RPL) Insurance, naming Licensor, and/or its designee, as Named Insured, written on the current ISO/RIMA Form (ISO Form No. CG 00 35 04 13) with limits of FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) per occurrence for bodily injury and property damage, with at least TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00) aggregate limit per annual policy period. The original of such RPL policy shall be sent to and approved by Licensor prior to commencement of such construction or demolition. Licensor reserves the right to demand higher limits.

OR

ii) The CGL policy shall include endorsement ISO CG 24 17 and the Auto Liability Policy shall include endorsement ISO CA 20 70 evidencing that coverage is provided for

work within 50 feet of a railroad. If such endorsements are not included, RPL insurance must be provided.

(B) At Licensor's option, in lieu of purchasing RPL insurance or the 50 foot endorsements from an insurance company (but not CGL insurance), Licensee may pay Licensor, at Licensor's current rate at time of request, the cost of adding this Encroachment, or additional construction and/or demolition activities, to Licensor's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at Licensor's discretion and may not be available under all circumstances.

10.6 Notwithstanding the provisions of Sections 10.1 and 10.2, Licensee, pursuant to State Statute(s), may self-insure or self-assume, in any amount(s), any contracted liability arising under this Agreement, under a funded program of self-insurance, which fund will respond to liability of Licensee imposed by and in accordance with the procedures established by law.

11. GRADE CROSSINGS; PROTECTION SERVICES:

11.1 Nothing herein contained shall be construed to permit Licensee or Licensee's contractor to move any vehicles or equipment over the track(s), except at public road crossing(s), without separate prior written approval of Licensor.

11.2 If Licensor deems it advisable, during any construction, maintenance, repair, renewal, alteration, change or removal of said Facilities, to place watchmen, flagmen, or field construction managers for protection of operations of Licensor or others on Licensor's rail corridor at the Encroachment, and to keep persons, equipment or materials away from the track(s), Licensor shall have the right to do so at the expense of Licensee, but Licensor shall not be liable for failure to do so.

11.3 Subject to consent of Licensor, in its sole discretion, and subject to Licensor's operating rules and labor agreements, Licensee may provide flagmen, in place of Licensor's provision, at Licensee's sole risk, cost and expense, and in such event, Licensor shall not be liable for the failure or neglect of such flagmen. Such flagmen shall be approved by Licensor and shall meet all Licensor's requirement for performing such work.

12. LICENSOR'S COSTS:

12.1 Any additional or alternative costs or expenses incurred by Licensor to accommodate Licensee's continued use of Licensor's property as a result of track changes or changes to Licensor's Facilities shall also be paid by Licensee.

12.2 Licensor's expense for wages ("force account" charges) and materials for any work performed at the expense of Licensee pursuant hereto shall be paid by Licensee within thirty (30) days after receipt of Licensor's bill therefor. Licensor may, at its discretion, request an advance deposit for estimated Licensor costs and expenses.

12.3 Such expense shall include, but not be limited to, cost of railroad labor and supervision under "force account" rules, plus current applicable overhead percentages, the actual cost of materials, and insurance, freight and handling charges on all material used. Equipment rentals shall be in accordance with Licensor's applicable fixed rate. Licensor may, at its discretion, require advance deposits for estimated costs of such expenses and costs.

13. DEFAULT, BREACH, WAIVER:

13.1 The proper and complete performance of each covenant of this Agreement shall be deemed of the essence thereof, and in the event Licensee fails or refuses to fully and completely perform any of said covenants or remedy any breach within thirty (30) days after receiving written notice from Licensor to do so (or within forty-eight (48) hours in the event of notice of a railroad emergency), Licensor shall have the option of immediately revoking this Agreement and the privileges and powers hereby conferred, regardless of encroachment fee(s) having been paid in advance for any annual or other period. Upon such revocation, Licensee shall make removal in accordance with Article 14.

13.2 No waiver by Licensor of its rights as to any breach of covenant or condition herein contained shall be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or condition is permanently waived in writing by Licensor.

13.3 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

14. TERMINATION, REMOVAL:

14.1 All rights which Licensee may have hereunder shall cease upon the date of (a) termination, (b) revocation, or (c) subsequent agreement, or (d) Licensee's removal of the Facility from the Encroachment. However, neither termination nor revocation of this Agreement shall affect any claims and liabilities which have arisen or accrued hereunder, and which at the time of termination or revocation have not been satisfied; neither party, however, waiving any third party defenses or actions.

14.2 Within thirty (30) days after revocation or termination, Licensee, at its sole risk and expense, shall (a) remove the Facilities from the rail corridor of Licensor, unless the parties hereto agree otherwise, (b) restore the rail corridor of Licensor in a manner satisfactory to Licensor, and (c) reimburse Licensor any loss, cost or expense of Licensor resulting from such removal.

15. NOTICE:

15.1 Licensee shall give Licensor at least thirty (30) days written notice before doing any work on Licensor's rail corridor, except that in cases of emergency shorter notice may be given. Licensee shall provide proper notification as follows:

a. For non-emergencies, Licensee shall submit online via the CSX Property Portal from Licensor's web site, via web link:
https://propertyportal.csx.com/pub_ps_res/ps_res/jsf/public/index.faces

b. For emergencies, Licensee shall complete all of the steps outlined in Section 15.1 a. above, and shall also include detailed information of the emergency. Licensee shall also call and report details of the emergency to Licensor's Rail Operations Emergency Telephone Number: 1-800-232-0144. In the event Licensor needs to contact Licensee concerning an emergency involving Licensee's Facility(ies), the emergency phone number for Licensee is: 423-224-2748.

15.2 All other notices and communications concerning this Agreement shall be addressed to Licensee at the address above, and to Licensor at the address shown on Page 1, c/o CSXT Contract Management, J180; or at such other address as either party may designate in writing to the other.

15.3 Unless otherwise expressly stated herein, all such notices shall be in writing and sent via Certified or Registered Mail, Return Receipt Requested, or by courier, and shall be considered delivered upon: (a) actual receipt, or (b) date of refusal of such delivery.

16. ASSIGNMENT:

16.1 The rights herein conferred are the privileges of Licensee only, and Licensee shall obtain Licensor's prior written consent to any assignment of Licensee's interest herein; said consent shall not be unreasonably withheld.

16.2 Subject to Sections 2 and 16.1, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

16.3 Licensee shall give Licensor written notice of any legal succession (by merger, consolidation, reorganization, etc.) or other change of legal existence or status of Licensee, with a copy of all documents attesting to such change or legal succession, within thirty (30) days thereof.

16.4 Licensor expressly reserves the right to assign this Agreement, in whole or in part, to any grantee, lessee, or vendee of Licensor's underlying property interests in the Encroachment, upon written notice thereof to Licensee.

16.5 In the event of any unauthorized sale, transfer, assignment, sublicense or encumbrance of this Agreement, or any of the rights and privileges hereunder, Licensor, at its option, may revoke this Agreement by giving Licensee or any such assignee written notice of

such revocation; and Licensee shall reimburse Licensor for any loss, cost or expense Licensor may incur as a result of Licensee's failure to obtain said consent.

17. TITLE:

17.1 Licensee understands that Licensor occupies, uses and possesses lands, rights-of-way and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as or be deemed to act as any warranty, guaranty or representation of the quality of Licensor's title for any particular Encroachment or segment of Rail Corridor occupied, used or enjoyed in any manner by Licensee under any rights created in this Agreement. It is expressly understood that Licensor does not warrant title to any Rail Corridor and Licensee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to the Rail Corridor, and all leases, licenses and easements or other interests previously granted to others therein.

17.2 The term "license," as used herein, shall mean with regard to any portion of the Rail Corridor which is owned by Licensor in fee simple absolute, or where the applicable law of the State where the Encroachment is located otherwise permits Licensor to make such grants to Licensee, a "permission to use" the Rail Corridor, with dominion and control over such portion of the Rail Corridor remaining with Licensor, and no interest in or exclusive right to possess being otherwise granted to Licensee. With regard to any other portion of Rail Corridor occupied, used or controlled by Licensor under any other facts or rights, Licensor merely waives its exclusive right to occupy the Rail Corridor and grants no other rights whatsoever under this Agreement, such waiver continuing only so long as Licensor continues its own occupation, use or control. Licensor does not warrant or guarantee that the license granted hereunder provides Licensee with all of the rights necessary to occupy any portion of the Rail Corridor. Licensee further acknowledges that it does not have the right to occupy any portion of the Rail Corridor held by Licensor in less than fee simple absolute without also receiving the consent of the owner(s) of the fee simple absolute estate. Further, Licensee shall not obtain, exercise or claim any interest in the Rail Corridor that would impair Licensor's existing rights therein.

17.3 Licensee agrees it shall not have nor shall it make, and hereby completely and absolutely waives its right to, any claim against Licensor for damages on account of any deficiencies in title to the Rail Corridor in the event of failure or insufficiency of Licensor's title to any portion thereof arising from Licensee's use or occupancy thereof.

17.4 Licensee agrees to fully and completely indemnify and defend all claims or litigation for slander of title, overburden of easement, or similar claims arising out of or based upon the Facilities placement, or the presence of the Facilities in, on or along any Encroachment(s), including claims for punitive or special damages.

17.5 Licensee shall not at any time own or claim any right, title or interest in or to Licensor's property occupied by the Encroachments, nor shall the exercise of this Agreement for any length of time give rise to any right, title or interest in Licensee to said property other than the license herein created.

17.6 Nothing in this Agreement shall be deemed to give, and Licensor hereby expressly waives, any claim of ownership in and to any part of the Facilities.

17.7 Licensee shall not create or permit any mortgage, pledge, security, interest, lien or encumbrances, including without limitation, tax liens and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of the Facilities in or on any portion of the Encroachment (collectively, "Liens or Encumbrances"), to be established or remain against the Encroachment or any portion thereof or any other Licensor property.

17.8 In the event that any property of Licensor becomes subject to such Liens or Encumbrances, Licensee agrees to pay, discharge or remove the same promptly upon Licensee's receipt of notice that such Liens or Encumbrances have been filed or docketed against the Encroachment or any other property of Licensor; however, Licensee reserves the right to challenge, at its sole expense, the validity and/or enforceability of any such Liens or Encumbrances.

18. GENERAL PROVISIONS:

18.1 This Agreement, and the attached specifications, contains the entire understanding between the parties hereto.

18.2 Neither this Agreement, any provision hereof, nor any agreement or provision included herein by reference, shall operate or be construed as being for the benefit of any third person.

18.3 Except as otherwise provided herein, or in any Rider attached hereto, neither the form of this Agreement, nor any language herein, shall be interpreted or construed in favor of or against either party hereto as the sole drafter thereof.

18.4 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law(s). However, each separate division (paragraph, clause, item, term, condition, covenant or agreement) herein shall have independent and severable status for the determination of legality, so that if any separate division is determined to be void or unenforceable for any reason, such determination shall have no effect upon the validity or enforceability of each other separate division, or any combination thereof.

18.5 This Agreement shall be construed and governed by the laws of the state in which the Facilities and Encroachment are located.

18.6 If any amount due pursuant to the terms of this Agreement is not paid by the due date, it will be subject to Licensor's standard late charge and will also accrue interest at eighteen percent (18%) per annum, unless limited by local law, and then at the highest rate so permitted.

18.7 Licensee agrees to reimburse Licensor for all reasonable costs (including attorney's fees) incurred by Licensor for collecting any amount due under the Agreement.

18.8 The provisions of this License are considered confidential and may not be disclosed to a third party without the consent of the other party(s), except: (a) as required by statute, regulation or court order, (b) to a parent, affiliate or subsidiary company, (c) to an auditing firm or legal counsel that are agreeable to the confidentiality provisions, or (d) to Lessees of Licensor's land and/or track who are affected by the terms and conditions of this Agreement and will maintain the confidentiality of this Agreement.

18.9 Within thirty (30) days of an overpayment in a cumulative total amount of One Hundred Dollars (\$100.00) or more by Licensee to Licensor, Licensee shall notify Licensor in writing with documentation evidencing such overpayment. Licensor shall refund the actual amount of Licensee's overpayment within 120 days of Licensor's verification of such overpayment.

18.10 This Agreement may be executed in any number of counterparts, and such counterparts may be exchanged by electronic transmission. Upon execution by the parties hereto, each counterpart shall be deemed an original and together shall constitute one and the same instrument. A fully executed copy of this Agreement by electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

19. CONTRACTOR'S ACCEPTANCE:

19.1 Licensee shall observe and abide by, and shall require Licensee's Contractors to observe and abide by the terms, conditions and provisions set forth in this Agreement. Prior to any commencement of work under this Agreement by Licensee's Contractor, Licensee shall require Licensee's Contractor to execute and deliver to Licensor the Contractor Acceptance form attached hereto as Schedule A to acknowledge Licensee's Contractor's agreement to observe and abide by terms and conditions of the Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate (each of which shall constitute an original) as of the effective date of this Agreement.

Witness for Licensor:

CSX TRANSPORTATION, INC.

By: _____

Print/Type Name: _____

Print/Type Title: _____

Witness for Licensee:

CITY OF KINGSPORT

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement.

Print/Type Name: _____

Print/Type Title: _____

Tax ID No.: _____

Authority under Ordinance or

Resolution No. _____

Dated _____

Schedule "A"

CONTRACTOR'S ACCEPTANCE

This Amendment is and shall be a part of Agreement No. CSX977447, and is incorporated therein.

To and for the benefit of CSX TRANSPORTATION, Inc. (Licensor") and to induce Licensor to permit Contractor on or about Licensor's property for the purposed of performing work in accordance with the Agreement dated October 19, 2023, between Licensee and Licensor, Contractor hereby agrees to abide by and perform all applicable terms of the Agreement, including, but not limited to Sections 3, 9, 10 of the Agreement.

Witness for Licensor:

CSX TRANSPORTATION INC.

By: _____

Print/Type Name: _____

Print/Type Title: _____

Witness for Licensee's Contractor

LICENSEE'S CONTRACTOR

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement

NAME: _____

TITLE: _____

DATE: _____



AGENDA ACTION FORM

Consideration of the resolution authorizing the filing and acceptance of FY 2023 State and Local Cybersecurity Grant Program (SLCGP)

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

Action Form No.: AF-346-2023
Work Session: October 27, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: Floyd Bailey
Presentation By: Floyd Bailey

Recommendation:

Approve the Resolution

Executive Summary:

Consideration of a resolution to file for and accept the FY 2023 State and Local Cybersecurity Grant Program (SLCGP).

The Information Technology Department has identified the need to upgrade the security surveillance systems in various departments of the city. We need to enhance our monitoring capabilities to protect physical assets, public infrastructure, buildings and critical facilities.

Staff has identified a project cost of \$315,000 to improve, upgrade and or replace equipment used in monitoring and safeguarding the assets and resources of the city and its personnel.

The total disbursement to all local government entities in the state of Tennessee for this year is approximately \$1,167,098. This amount will be divided out to accepted projects by the state.

There is no local match required.

Attachments:

FY23 Local Gov Cyber Project Application

Item X15.

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO APPLY FOR AND RECEIVE A FISCAL YEAR 2023 STATE AND LOCAL CYBERSECURITY GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY

WHEREAS, the city, through the Information Technology Department, would like to apply for a fiscal year 2023 State and Local Cybersecurity Grant Program (SLCGP) from the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security, which will provide funds to support enhance our monitoring capabilities in order to protect physical assets, public infrastructure, buildings and critical facilities; and

WHEREAS, approximately \$1,167,098.00 in grant funds are available through the program for the current fiscal year, which will be divided among successful applicants; and

WHEREAS, although the amount of the grant funds received are unknown, staff have estimated the cost of the project to improve, upgrade and or replace equipment used in monitoring and safeguarding the assets and resources of the city and its personnel is \$315,000.00; and

WHEREAS, no local match is required.

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 FY 2023 State and Local Cybersecurity Grant Program (SLCGP) from the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security.

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 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

FY 2022 STATE & LOCAL CYBERSECURITY GRANT PROGRAM PROJECT APPLICATION INSTRUCTIONS

Before completing your FY 2022 State & Local Cybersecurity Grant Program (SLCGP) project application, please read this Instruction Page and the Notice of Funding Opportunity (NOFO). Information specific to the grant criteria and guidelines is contained within those documents. Also, please ensure your projects are in alignment with the *State Cybersecurity Plan*. Applications must be complete and correct in order to be approved. All links are "clickable" and linked to desired items.

When possible, please consolidate like projects and then consolidate in the Equipment, Training, Exercise, Planning and Organizational Activities sections for the respective entities.

- **PROJECT DETAIL SHEET:**

County/City Name - This is fillable field.

Project Title - Assign the project a brief descriptive title (e.g., County Elections Security)

Total Project Cost - This block will auto-populate the dollar sign and commas, all that is required to be entered are the dollar and cent amounts.

Date Prepared - Please "click" the box for the calendar drop-down; if your version does not allow for this please type the date in.

Person Preparing Form - Please type the name of the person completing the form.

Project Description - When completing the project description, please articulate: what Core Capabilities your project(s) are addressing; what needs or gaps your projects are addressing (e.g. Training, Equipment & Capital Expenses, Awareness Campaigns, Planning, Exercises, etc.; and who will receive/manage the project(s). Please keep the project(s) in alignment with the State Cybersecurity Plan and 16 Elements of the grant. You DO NOT need to include pricing information or list every item contained in a kit. There are 6 project sheets and AEL lists, if you need more please contact James Cotter at James.Cotter@tn.gov for assistance.

Total Cost for Project - This auto-populates commas and the dollar sign, please just enter dollar and cents amount.

- **GRANT AUTHORIZED EQUIPMENT LIST (AEL)** - Please ensure the AEL number is correct and list the title of the item as in the AEL. The link on the AEL Sheet is to the current AEL for this grant cycle.
- **EXPENSE SECTIONS** - The EXPENSE SECTIONS for each of the different solution areas: Equipment, Training, Exercise, Planning and Organizational Activities have drop-down categories and the dollar amounts auto-populate the dollar sign and commas. Please fill in the Total Award Amount, this is the amount you received. The other Totals will auto-populate and track your entries as you complete the form, these totals should all match when completed. Select the appropriate solution area which corresponds to your projects and enter the amount of funding being assigned to each allowable cost category, discipline and/or program.

You DO NOT need to complete a separate Expense Section for each project. To reduce application length, please combine your project costs under the appropriate entity and in the correct category:

LE - Law enforcement entity; **FS** - Fire ~Services; **EMA** - Emergency Management Agency; **EMS** - Emergency Medical Services;

EDU - Education entity; **G/A** - Government and Administration.

When you have completed your application, please email to CyberSafeTN@tn.gov.

If at any time during the process you have a question or need assistance with the forms, please contact STS by emailing CyberSafeTN@tn.gov or James Cotter at James.Cotter@tn.gov.

Thank you.

PROJECT DETAIL SHEET 2022

County/City Name: City of Kingsport

Project Title: Surveillance System Upgrade

Total Project Cost: 315000

Date Prepared: 10/27/2023

Prepared By: Floyd Bailey/ Cody Musser

Email: IT_SEC@kingsporttn.gov

Phone: 423-444-6526

Project Description:

The City of Kingsport has identified the need to upgrade its surveillance systems to effectively monitor and safeguard assets. This project aims to enhance the city's ability to manage and protect physical access to assets, in alignment with Goal 26 Control Point PR.AC-2 from the NIST Cybersecurity Framework.

The primary objectives of this project include:

- To upgrade the city's surveillance systems to align with the requirements of PR.AC-2.
- To enhance the ability to monitor and protect physical assets, including public infrastructure, buildings, and critical facilities.
- To improve incident response and investigation capabilities in the event of security breaches or unauthorized access.
- To develop updated policies and procedures related to asset protection and surveillance.
- To test and validate the upgraded surveillance systems to ensure they meet the desired objectives.

GRANT AUTHORIZED EQUIPMENT LIST ITEMS

<https://www.fema.gov/grants/guidance-tools/authorized-equipment-list>

AEL #	ITEM DESCRIPTION
14SW-01-VIDA	Video monitoring system - cameras, servers, software
05NP-00-SIEM	Firewall Enhancement
	<i>Item XI5.</i>

PROJECT DETAIL SHEET 2022

Project Title:

Total Project Cost :

Project Description:

PROJECT DETAIL SHEET 2022

Project Title:

Total Project Cost:

Project Description:

PROJECT DETAIL SHEET 2022

Project Title:

Total Project Cost:

Project Description:

PROJECT DETAIL SHEET 2022

Project Title:

Total Project Cost:

Project Description:

PROJECT DETAIL SHEET 2022

Project Title:

Total Project Cost:

Project Description:

EQUIPMENT EXPENSE

	LE	FS	EMA	EMS	EDU	G/A	
Physical Security Enhancement						\$ 200,000.00	\$ 200,000.00
Cybersecurity Enhancement						\$ 15,000.00	\$ 15,000.00
Select One							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00

Total All Disciplines: 215000

Total Grant Award:

Total All Expense Sheets: 315000

TRAINING EXPENSE

	LE	FS	EMA	EMS	EDU	G/A	
Staff/Contractors/Consultants						\$ 100,000.00	\$ 100,000.00
Seclect One							\$ 0.00
Seclect One							\$ 0.00
Seclect One							\$ 0.00
Seclect One							\$ 0.00
Seclect One							\$ 0.00

Total All Disciplines: 100000

Overtime & Backfill: Please refer to the current NOFO to ensure compliance with the grant guidelines and allowable expenses. Rule of Thumb - authorized for personnel attending DHS/FEMA approved training.

ORGANIZATIONAL ACTIVITIES

	LE	FS	EMA	EMS	EDU	G/A	
Contractors & Consultants							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00

Total All Disciplines: 0

Operational Expenses: For increased security measures at critical infrastructure sites (up to 50% of allocation).

Overtime: For information, investigative and intelligence sharing activities associated with the Fusion Center (up to 50% of allocation).

Contractors/Consultants: For hiring pf new staff positions/contractors/consultants for participation in information/intelligence analysis and sharing groups or fusion center activities (up to 50% of allocation).

If in doubt - please refer to the current NOFO or contact James Cotter for assistance.

PLANNING EXPENSE

	LE	FS	EMA	EMS	EDU	G/A	
Develop/Conduct Assessments							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00
Select One							\$ 0.00

Total All Disciplines: 0

Not for the purpose of hiring public safety personnel fulfilling traditional public safety duties.

EXERCISE EXPENSE

	LE	FS	EMA	EMS	EDU	G/A	
Design/Dev/Conduct/Eval							0
Select One							0
Select One							0

Total All Disciplines: 0

Overtime and backfill costs including expenses for part-time and volunteer emergency personnel participating in DHS/FEMA approved exercises.

If in doubt - please refer to the current NOFO or contact James Cotter for assistance.



AGENDA ACTION FORM

Consideration of a Resolution to Reject All Bids for the Water and Sewer Warehouse Renovations Project

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

Action Form No.: AF-145-2023
Work Session: November 6, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: A. Dobbins / C. Austin
Presentation By: Ryan McReynolds

Recommendation:
Approve the Resolution

Executive Summary:
In 2017 Utilities (Drinking Water, Waste Water, and Storm Water) Maintenance moved into a new building (Pet Dairy) next to their old office building on Konnarock Rd. Part of their old building was used as a parts warehouse along with housing offices. The future plans was to convert the old building fully into a warehouse to incorporate many parts that have historically been stored outside on our lot.

We procured the architectural services of Thompson & Litton to design the demolition of the interior of the building to give more space for parts storage and to build new offices, storage rooms, and bathrooms.

A bid opening was held on 9/19/23 for the proposed renovations, only receiving one bid. The single bid was for \$761,740.00 from Construction Partners, LLC. Our architectural estimate was approximately \$500,000. We do not have the budget to fund this full project.

City staff and our architect reviewed the submitted bid and recommends to reject all bids for the Water and Sewer Warehouse Renovations Project.

We plan to work with the architect to complete the renovations in stages using budgeted funds.

- Attachments:**
- 1. Resolution
 - 2. Architect's Recommendation
 - 3. Bid Minutes

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

Item X16.

RESOLUTION NO. _____

A RESOLUTION REJECTING ALL BIDS SUBMITTED FOR THE
WATER AND SEWER WAREHOUSE RENOVATIONS PROJECT

WHEREAS, bids were opened on September 19, 2023, for the Water and Sewer Warehouse Renovation project; and

WHEREAS, one bid was received which was more than the architect's estimate as well as the budget for the project, and therefore the city wants to reject all bids; and

WHEREAS, the city will work to complete the renovations in stages using budgeted funds.

Now therefore,

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

SECTION I. That all bids opened on September 19, 2023 for the construction of the Water and Sewer Warehouse Renovation project are rejected.

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

ADOPTED this the 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



**THOMPSON
& LITTON** EST.
1956

ENGINEERS ARCHITECTS SURVEYORS

October 23, 2023

Mr. Chad E. Austin, PE
Assistant Utility Director –
Engineering/Operations
Utility Services Division
City of Kingsport
1113 Konnarock Road
Kingsport, Tennessee 37664

Re: Water and Sewer Warehouse Renovation for
City of Kingsport Water Services
T&L Project No. 17028

Dear Mr. Austin,

Per our conversation when we met at your office following receipt of the bids, Thompson and Litton recommend rejecting the lone bid for this project due to the fact that the cost of the proposed work is well over your budget.

Please make note that we will inform the contractor, Construction Partners, of this decision.

Please let us know how you would like to proceed with this project. If you desire to break the project into pieces and rebid, please let me know how we can assist.

Sincerely,

Brian C. Alderson, AIA, NCARB, LEED AP
Senior Architect

THOMPSON & LITTON
115 East Watauga Avenue
Johnson City, Tennessee 37601

BID OPENING MINUTES

September 19, 2023

4:00 P.M.

Present: Brent Morelock, Procurement Manager; Nikisha Eichmann, Assistant Procurement Manager; Alys Dobbins, Utility Engineer; Brian Alderson, Thompson & Litton; Ashe Hughes, Thompson & Litton

The Bid Opening was held in the Conference Room 436, 4th Floor, City Hall.

The Procurement Manager opened with the following bids:

Kingsport Water Sewer Warehouse Renovations			
Vendor:	Base Bid:	Alternate 1:	Deduction:
Construction Partners, LLC	\$761,740.00	\$35,275.00	\$26,500.00 Vinyl Wrapped Insulation with Straps

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



AGENDA ACTION FORM

Consideration of a Resolution to Purchase 834 West Industry Drive and Enter into a Lease for Same Property

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

Action Form No.: AF-289-2023
Work Session: November 6, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: W. Stallard / C. Austin
Presentation By: Ryan McReynolds

Recommendation:

Approve the Resolution.

Executive Summary:

Planning for the proposed Wastewater Storage Facility (EQ Basin) adjacent to the Wastewater Treatment Plant Primary Pumping Station was put on hold in Spring 2023 due to estimated cost overruns caused by space limitations, primarily due to not owning 834 Industry Drive. Without this property, the city cannot move forward with final planning and construction of the EQ Basin.

Recently the owners of this property, Kent and Sharon Anderson, agreed to sell their property to the city for \$400,000.00 (appraised value \$295,000.00) if we allow Mr. Anderson to continue to use the property, through a lease, until the end of 2024.

Our consultants estimate the purchase of the Anderson property will allow for potentially large cost savings on the project and yield many advantages in the construction and operation of the EQ Basin.

Staff recommends the purchase of the property and to then lease the property back to Mr. Anderson through December 31, 2024. This will allow Mr. Anderson time to transition his business and will not conflict with the city's use of the property.

Funding for this purchase is in SW2403.

Attachments:

1. Resolution
2. Purchase Agreement
3. Lease Agreement
4. Location Map

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

Item X17.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OFFER FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 834 WEST INDUSTRY DRIVE AND APPROVING A PURCHASE AGREEMENT FOR THE SAME; AUTHORIZING THE LEASE OF THE REAL PROPERTY LOCATED AT 834 WEST INDUSTRY DRIVE AND APPROVING A LEASE AGREEMENT FOR THE SAEM; AND AUTHORIZING THE MAYOR TO EXECUTE ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, in order to meet permit requirements, the city needs to construct an equalization basin to store wet weather flow reducing the occurrence of sanitary sewer overflows; and

WHEREAS, upon evaluation it was determined that the real property located at 834 West Industry Drive, being further identified as Tax Parcel 045K D 054.20, was most suitable for the equalization basin based on its proximity to the wastewater treatment plant; and

WHEREAS, Kent & Sharon Anderson, the owners of the property are willing to sell the property to the city; and

WHEREAS, the city caused an appraisal of the property to be performed which estimated the value of the property at \$295,000.00; and

WHEREAS, the owners of the property have countered with a purchase price of \$400,000.00; and

WHEREAS, it is in the best interest of and a benefit to the city to accept the purchase price of \$400,000.00 in order to avoid the uncertainties of and devotion of resources necessary to acquire the property through adversarial proceedings; and

WHEREAS, the property owners have requested the city lease the property back to him until the end of 2024 for \$1.00 per month.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN as follows:

SECTION I. That the Board incorporates the foregoing findings as though set forth herein in their entirety.

SECTION II. Upon consideration of the fair market value of the property and other pertinent factors, an offer of \$400,000.00 is approved for the purchase of 834 West Industry Drive, subject to such conditions as set out in the Agreement of Sale set out below.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized 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 Purchase

Agreement with Kent & Sharon Anderson for the real property located at 834 West Industry Drive, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said agreement being as follows:

AGREEMENT

THIS PURCHASE AGREEMENT (herein "Agreement") made and entered into on the date of the notary acknowledgment of the Sellers's signature between **KENT and SHARON ANDERSON**, (hereinafter referred to as the "Sellers"), and **THE CITY OF KINGSPORT, TENNESSEE**, a municipality organized under the laws of the State of Tennessee (hereinafter referred to as the "Buyer").

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, including specifically, without limitation, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

1. SALE. Sellers agrees to sell, convey, assign, transfer and deliver to Buyer, and Buyer agrees to purchase, acquire and take from Sellers, subject to the terms and conditions of this Agreement that real property situate, lying and located at 834 West Industry Drive, Kingsport, Tennessee and being further identified as tax map 045K, group D, parcel 054.20, more particularly described on Exhibit A attached hereto and hereby made a part hereof, together with all improvements and fixtures situated thereon, if any, and also together with all hereditaments and appurtenances thereunto belonging or in any way appertaining (the "Real Property").

2. PURCHASE PRICE.

(a) Amount. The purchase price to be paid by Buyer to Sellers for the Real Property shall be Four Hundred Thousand and No/100 Dollars (\$400,000.00)

(b) Terms of Payment. Subject to the adjustment provided for herein the Purchase Price, less the prorated property taxes as of the date of closing, shall be paid by Buyer to Sellers in cash or certified funds payable to Sellers on the Closing Date.

3. CLOSING. The closing shall occur on or before December 30, 2023, (the "Closing Date"), at a time and location mutually agreed upon by the parties or, upon failure of the parties to agree, at a time and place specified by the Buyer (the "Closing"). Buyer and Sellers agree to deliver and execute such other documents as may be reasonable and necessary in the opinion of counsel for Sellers and Buyer to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions hereof.

4. SURVEY. Immediately upon the execution of this Agreement, Buyer shall, at Buyer's cost, cause a survey and surveyor's certificate, in form sufficient to remove the survey exception from the title insurance binder as more specifically provided in Section 5 hereof, to be prepared on the Real Property by a licensed surveyor acceptable to Buyer. The survey shall be made in accordance with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title surveys for a Class A survey. Such survey shall show the total area of the Real Property in square feet, easements, if any, location of adjoining streets and rights of way, building setback lines, and such other details as may be required by Buyer. Once prepared, the survey description will replace Exhibit A and will become a part of this Agreement identified as Exhibit A-1, and such survey description shall be insurable (and shall be insured) by the title insurance company. If the survey (i) is for good cause not acceptable to Buyer's title insurance company; or (ii) shows the dimensions of the Real Property to be other than as set forth on Exhibit A; or (iii) shows any materially adverse conditions or matters affecting the Real Property which are not approved by Buyer, then Buyer, within twenty (20) days from receipt of such survey, shall notify Sellers in writing of Buyer's objections to the survey and Sellers shall thereupon have twenty (20) days to remove or cure such objections to the satisfaction of the Buyer and the title company. If Sellers fail to satisfy such objections with the time specified, Buyer shall have the right to (i) terminate this Agreement; (ii) extend the time period for removing or curing any objectionable item by written notice to Sellers or (iii) close this purchase and sale without reduction in the Purchase Price.

5. TITLE INSURANCE. Buyer, at its expense, shall secure an owner's title insurance commitment to issue a title insurance policy insuring Buyer's fee simple interest in the Real Property to the extent of the Purchase Price. The title insurance commitment will be issued by a reputable title insurance company chosen by Buyer and will contain exceptions only for real estate taxes and assessments for the current year which are not yet due and payable, and any other exceptions Buyer may approve in writing. If the commitment contains other exceptions, not acceptable to Buyer, then Buyer shall

so notify Sellers of such exceptions within twenty (20) days of Buyer's receipt of the commitment, and Sellers shall have twenty (20) days from receipt of the Buyer's objections, to resolve such exceptions to the satisfaction of the Buyer. If Sellers are unable to cure or resolve such exceptions to Buyer's satisfaction within the time specified, Buyer shall have the right to terminate this Agreement, extend the cure period, or proceed to close this Agreement. In the event Buyer elects to terminate this Agreement pursuant to this Section 5, then this Agreement shall be cancelled and thereafter neither Sellers nor Buyer shall have any continuing obligation to each other under this Agreement.

6. DEED AND TITLE.

(a) Sellers hereby agree to convey to Buyer a good and marketable fee simple title to the Real Property, without exceptions, except as expressly provided herein, by a good and valid general warranty deed, in statutory form, suitable for recordation. Title to the Real Property shall not be subject to any easements, encumbrances or other exceptions which Buyer, in its sole discretion, deems unacceptable.

(b) In the event, as of the Closing Date, Sellers are unable to convey marketable title to the Real Property due to defects in Seller's title, or Sellers are unable to convey title due to exceptions Buyer finds unacceptable, then Closing shall be postponed for a reasonable period of time not to exceed 30 days until Sellers shall remove said title defects or exceptions. If Sellers is unable to cure such title defects or exceptions within said 30 days, this Agreement shall be null and void and there shall be no further obligations between the parties. If Buyer shall waive such title defects or exceptions by so notifying the Sellers in writing, or if Sellers shall have cured such defects or exceptions, as provided herein, the obligations of the parties hereunder shall not be affected by reason thereof, there shall be no abatement or reduction of the Purchase Price, and this transaction shall be consummated in accordance with the terms and provisions of this Agreement, except that such title defects or exceptions that are waived by Buyer, if any, shall be set forth as exceptions in the deed.

7. FEASIBILITY STUDY AND INSPECTIONS. Each party, in its own discretion, shall determine that the property it is acquiring pursuant to this Agreement is suitable for the use for which it is being obtained. Each party shall each have the right, at its own expense, to conduct an inspection, environmental study or audit, a professional wetland delineation, professional floodplain analysis, grading and soil tests, feasibility and engineering studies, compaction and support studies, and any other inspections and/or tests that such party may deem necessary or advisable (hereinafter collectively the "Study") of the property it is acquiring for a period of sixty (60) days (hereinafter "Feasibility Period") after the Effective Date. The party conducting the Study and its agents, employees, contractors and representatives shall have at all reasonable times right of access to such property and shall be entitled to enter upon the property during the Feasibility Period in order to conduct the Study. Such activities of the Study shall not materially damage the property or unreasonably disrupt the other party's ongoing activity at the property. In the event of damage to or disruption of the property cause by the inspection or the Study, the inspecting party agrees to restore the property to substantially the same condition as existed prior to its access thereto. If as a result of such inspection or Study, the acquiring party determines in its sole and absolute discretion, that the property it is acquiring is unacceptable to that party for any reason whatsoever, such party shall have the unconditional right to terminate this Agreement, provided written notice of such is provided to the other party no later than ten (10) business days after the expiration of the Feasibility Period. If the terminating party provides written notice of cancellation to the other party no later than fifteen (15) business days after the expiration of the Feasibility Period, then this Agreement shall be cancelled, and thereafter neither party shall have any further liabilities, rights or obligations hereunder except those which expressly survive the termination of this Agreement.

8. CONDITION OF PROPERTY. There has been no storage, disposal, treatment or release of hazardous substances during the period of Sellers's ownership, and to the best of Sellers' knowledge, the Real Property has not been used, and is not presently being used, and will not through the Closing Date, be used for the storage or disposal of hazardous substances. (The term "hazardous substances" shall have the broadest meaning given under applicable state and federal law, including without limitation that given in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. section 9601 et seq.) Sellers are not aware of any facts, conditions or circumstances indicating any form of environmental contamination affecting any properties which are adjacent to the Real Property. There are no encumbrances, liens, or charges of any kind upon the Real Property that will not be satisfied and discharges in full by Sellers and released at or before Closing in a form satisfactory to Buyer. There are no contracts, agreements, or arrangements relating to the use and operation of the Real Property not disclosed herein. Sellers represent that there is no pending or threatened litigation that does or will materially and adversely affect the Real Property or its value.

9. CONDITIONS PRECEDENT.

Buyer's obligations pursuant to this Agreement are contingent upon and subject to the satisfaction, as of Closing, of each of the following conditions (any of which may be waived in whole or in part in writing by the Buyer at, or prior to Closing):

(1) The results of the title examination report and title insurance commitment described in Section 5 shall be acceptable to Buyer in its sole discretion as of Closing. There shall be no change in the matters reflected in the title insurance commitment described in Section 5 hereof, and there shall not exist any encumbrances or title defects affecting the Real Property not described in such title insurance commitment.

(2) All of the representations, warranties and conditions of Sellers set forth in this Agreement shall be true and correct as of the date hereof, and as of the Closing Date, and Sellers shall not, on or prior to Closing, have failed to meet, comply with or perform any conditions or obligations on Sellers's part required by the terms of this Agreement.

(3) There shall be no change in the matters reflected in the survey described in Section 4 hereof, and there shall not exist any easement, right of way, encroachment, conflict, or a protrusion with respect to the Real Property not shown on the survey.

If any condition specified in this Section 8 is not fully satisfied by Closing, or any extension thereof pursuant to this Agreement, Buyer may, at its option, waive such unsatisfactory condition precedent and consummate this Agreement, or may terminate this Agreement by written notice to Sellers, this Agreement shall be cancelled and thereafter neither Sellers nor Buyer shall have any continuing obligation to each other under this Agreement. It shall be the right of the Buyer at its sole discretion and upon written notice to the Sellers to terminate this Agreement at any time prior to the closing of the property if it shall deem the property not suitable for its needs, and upon such termination, this Agreement shall be cancelled and thereafter neither Sellers nor Buyer shall have any continuing obligation to each other under this Agreement.

10. NOTICE. Any notice or demand on either party hereunder shall be deemed to have been given when mailed to the other party by Certified Mail, Return Receipt Requested, postage prepaid at the addresses set forth below:

SELLERS:	Kent & Sharon Anderson 605 Green Meadow Drive Kingsport, TN 37663	BUYER: City of Kingsport, Tennessee 415 Broad Street Kingsport, TN 37660
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11. PRORATIONS. All real estate taxes and assessments shall be prorated as of the Closing Date, using for such purpose the rate and valuation shown on the latest available tax notice.

12. EXPENSES OF SELLERS. In closing this transaction, Sellers shall be charged with the following:

- (a) The cost of preparation of the warranty deed;
- (b) The fees and expenses of any attorney or other advisor engaged by Sellers in connection with this transaction;
- (c) The commission or fees charged by any real estate broker or agent retained or used by the Sellers in connection with this transaction; and
- (d) All expenses incurred in connection with the release of any prior existing indebtedness, including without limitation any prepayment penalties; and
- (e) Prorated taxes.

13. EXPENSES OF BUYER. In closing this transaction, Buyer shall be charged with the following:

- (a) The cost of any title search and title insurance policy;
- (b) The cost of recording the deed and any transfer tax associated with such deed;
- (c) Any fees charged in connection with any attorney or other advisor engaged by Buyer in connection with this transaction; and
- (d) The cost of the survey provided pursuant to Section 4.

14. RISK OF LOSS. The risk of loss or damage to any of the Real Property described above by fire, vandalism, or other casualty shall remain with the Sellers until Closing. In the event of such loss before Closing, this Agreement shall be voidable at the option of Buyer. Should Buyer elect to continue with the purchase following such loss or damage before Closing, Buyer shall have the option to (a) negotiate an equitable reduction in the Purchase Price or (b) close this Agreement at the stated Purchase Price and accept all insurance funds and other monies payable to Sellers regarding such loss or damage. If action is necessary to recover under any casualty policy, Sellers shall cooperate with Buyer in bringing such action in Sellers's name and Sellers shall reimburse Buyer for the attorney's fees and other expenses incurred by Buyer to pursue such claim.

15. TIME IS OF THE ESSENCE. Time is of the essence to the performance of this Agreement.

16. MERGER CLAUSE. All understandings and agreements heretofore had between the parties are merged in this Agreement, which alone fully and completely expresses their agreement, and the

same is entered into after full investigation, neither party relying upon any statement, representation, express or implied warranties, guarantees, promises, statements, "setups", representation, or information, not embodied in this Agreement, made by the other, or by any agent, employee, servant, or other person representing or purporting to represent the Sellers. This Agreement contains the full agreement between the parties and there are no other contracts, express or implied, which are not stated herein.

17. POSSESSION. Delivery of possession of the Real Property shall occur at Closing.

18. CAPTIONS. The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement and are not to be considered in interpreting this Agreement.

19. ENTIRE AGREEMENT; MODIFICATIONS. This written Agreement constitutes the entire and complete agreement between the parties hereto and supersedes any prior oral or written agreements between the parties with respect to the Real Property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions herein set forth, and that no modification of this Agreement and no waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the parties hereto.

20. CONTROLLING LAW; VENUE. This Agreement has been made and entered into under the laws of the State of Tennessee, and said laws shall control the interpretation thereof. Venue for any litigation concerning this Agreement shall be filed in the state or federal courts for Sullivan County, Tennessee.

21. BINDING EFFECT. All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

22. FURTHER ACTS. Each party hereto agrees to do, execute, acknowledge and deliver all such further acts, assignments, transfers, assurances and instruments that may reasonably be required to fully effectuate the transactions contemplated in this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate originals the day and year first written above.

[Acknowledgements Deleted for Inclusion in this Resolution]

EXHIBIT A

Description of Real Property

Being Lot 2, containing 0.50 acre, more or less of the Subdivision of Myers & Myers Property as the same appears on plat of record in Plat Book 50, page 180 in the Register's Office for Sullivan County, Tennessee, to which reference is made for a more particular description. Being the same property conveyed to the party of the First Part by deed dated July 22, 1999 recorded in Deed Book 1444C, page 387, said Register's Office. Tax Map 061A; Group F, Parcel 10.00

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

SECTION V. That a Lease Agreement with Kent Anderson for the real property located at 834 West Industry Drive, is approved.

SECTION VI. 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 Lease Agreement with Kent Anderson for the real property located at 834 West Industry Drive, 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 agreement (herein Lease) entered into the date of the acknowledgement of the LESSOR by and between the City of Kingsport, a Tennessee municipal corporation (herein LESSOR) and KENT ANDERSON (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, 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:

834 West Industry Drive
Tax Map 045K; Group D; Parcel 054.20

SECTION 2. LEASE TERM. The term of this Lease shall begin on _____, 2023 at noon and shall terminate on December 31st, 2024 at noon, unless sooner terminated as herein provided. This Lease may be terminated by either party for its convenience by giving written notice to the other party, at least ninety (90) days before the effective date of the termination for convenience. Such termination will not be deemed a breach of Lease by either party.

SECTION 3. RENT. LESSEE shall pay to LESSOR, without demand or deduction, as rent ONE and NO/100 (\$1.00) U.S. dollars per month beginning _____, 2023 and a like amount on the same day each month thereafter during the term of this Lease or any renewal term. All payments shall be made to LESSOR at City of Kingsport, 415 Broad Street, Kingsport, Tennessee 37660, Attention: Chief Financial Officer, or at such other place as is designated in writing by LESSOR. It is the intention of the LESSOR and LESSEE that the rent herein specified shall be strictly net to the LESSOR and that all taxes, insurance premiums, utilities, maintenance and repairs, and all other costs, charges, expenses, and obligations of every kind relating to the Premises which may arise or become due during the term of this Lease 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 obligations.

SECTION 4. USE OF PREMISES. LESSEE shall use the Premises solely for the operation of vehicle repair business, included storage of supplies, vehicles and equipment, along with office and storage incident to the use as a vehicle repair business and for no other purpose or use. 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.

SECTION 5. UTILITIES. During the term of this Lease, the LESSEE shall be solely responsible for the payment of any and all utilities of the Premises, including, but not limited to, gas, electric, telephone, cable and any service fees required for the installation of these utilities. LESSEE shall also be solely responsible for the payment of any and all water bills, sewer bills and garbage collection costs concerning the Premises.

SECTION 6. CLEAN AND SANITARY CONDITION. During the term of the Lease, LESSEE shall keep and maintain the Premises and the surrounding area 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 the LESSOR relating to maintaining the Premises in a clean and sanitary condition and collection of garbage and similar debris.

SECTION 7. MAINTENANCE. 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 term of the Lease, reasonable wear and tear excepted. 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, at the sole cost and expense of LESSEE. 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. COMPLIANCE WITH APPLICABLE LAWS. Throughout the term of this Lease, LESSEE shall, at its sole cost and expense, 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 9. ALTERATIONS. The LESSEE shall have the right, at its sole expense, from time to time, to 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 done 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 10. 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 11. TAXES. LESSEE, in addition to the rent provided herein, shall pay to LESSOR as additional rent 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 12. CONDITION OF PREMISES. LESSEE has examined the Premises and accepts the same 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 said 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 said fire, casualty or taking. Notwithstanding the foregoing, in the event of damage by fire or other casualty resulting from the carelessness, negligence, or intentional or other of improper conduct of LESSEE, its agents, employees, contractors or others acting on its behalf, or from the carelessness, negligence, or 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 of said 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 on demand reimburse LESSOR all extra insurance premiums caused by LESSEE's use of the Premises. 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. LESSEE shall not place or permit to be placed, any sign or signboards on the exterior or interior of the Premises unless they are in conformity with all applicable laws. The cost for all signs shall be borne by LESSEE.

SECTION 16. ASSIGNMENT OR SUBLEASE. LESSEE may not assign this Lease, sublet the Premises, in whole or in part, or allow another entity or individual to occupy the whole or any part of the Premises, without LESSOR's prior written consent, which may be withheld for any or no reason. If LESSEE notifies LESSOR in writing of its desire to assign this Lease or sublet the Premises, LESSOR shall have the option to terminate this Lease, at an effective date to be determined by LESSOR, upon written notice to LESSEE. Notwithstanding LESSOR's consent to any assignment or sublease, LESSEE and GUARANTOR shall remain liable to LESSOR for the payment of all rent and for the full performance of all covenants and conditions of this Lease.

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 said examination, provided that LESSOR shall not thereby unreasonably interfere with the conduct of the 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 an 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 Tenant 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, but this Section 18 shall not be construed as imposing any duty on Landlord to

make any repairs, alterations or additions.

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 term of this Lease. 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 directly resulting from the sole negligence of LESSOR. LESSEE agrees to indemnify and hold harmless LESSOR from any and all liability, including but not limited to costs, expenses, damages, causes of action, claims, judgments and attorney's fees caused by or in any way arising out of any of the aforesaid matters.

SECTION 19. INSURANCE. LESSEE shall, during the entire term of this Lease, keep in full force and effect at its own expense Comprehensive General Liability Coverage. At all times during the Term of this Lease, LESSEE shall maintain in full force and effect policies of contractual and comprehensive general liability insurance, including public liability and broad form property damage, for not less than \$1,000,000 for each occurrence involving bodily injury (including death), and \$1,000,000 for each occurrence involving damage to property. Such policy or policies shall name LESSOR as an additional insured thereunder. All of such insurance shall insure the performance by LESSEE of its indemnity agreement as to liability for injury to or death of persons and injury or damage to property. All of such insurance shall be primary and noncontributing with any insurance which may be carried by LESSOR and shall contain a provision that LESSOR, named or not named as an insured, shall nevertheless be entitled to recover under said policy for any loss, injury or damage to LESSOR, its agents and employees or the property of such persons, by reason of the negligence of LESSEE. Such policy shall expressly provide that such policy shall not be canceled or altered without thirty (30) days prior written notice to LESSOR. LESSOR shall be named as an additional insured on all such policies.

(a) Certificates of Insurance. As of the commencement of this Lease LESSEE shall provide LESSOR with a certificate of insurance for each policy required under this Lease showing that the coverages required hereunder are in force with premiums paid and that such policies are noncancellable and may not be materially modified except upon thirty (30) days prior notice to LESSOR (or, if such thirty (30) day period of notice is not obtainable on a commercially reasonable basis, upon such notice as is commercially reasonable).

(b) All insurance provided for in this Section 19, and all renewals thereof, shall be issued by responsible insurance companies authorized to do business in the State of Tennessee. If any insurer which has issued a policy of insurance required pursuant to this Lease becomes insolvent or the subject of any bankruptcy, receivership or similar proceeding, Lessee shall, in each instance, obtain a like policy issued by another insurer, which insurer and policy meet the requirements of this Lease.

(c) LESSEE's Release. LESSEE hereby release 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. To the extent obtainable, LESSEE's insurance policies shall include appropriate clauses waiving all rights of subrogation against LESSOR to LESSEE, with respect to losses payable under such policies.

(d) Use of Proceeds. Any Casualty Insurance Proceeds paid under any insurance policy of the character maintained by LESSOR shall belong solely to LESSOR for its use.

(e) Blanket Insurance. Nothing in this Section 19 shall prevent LESSEE from taking out insurance of the kind and in the amounts provided for herein under a blanket insurance policy or policies which can cover other improvements on the Premises. LESSEE shall be responsible for insurance for its equipment and supplies, and any casualty or fire insurance he desires to secure for his use.

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 term of this Lease 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 security deposit, rent, taxes 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 said 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 shall terminate LESSEE'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 pay any invoice within 10 days after receipt. If any rent and/or other payment is not received by LESSOR when due, then LESSEE shall pay LESSOR a late charge for each past due payment equal to one percent of such overdue amount or \$35, whichever is greater. 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 (including any attorney of the Office of the City Attorney of LESSOR) is employed or directed to collect or enforce the monetary or other obligations evidenced by this Lease or to assist either 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's fees and court costs.

SECTION 21. 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 22. NOTICE. Any notice from LESSOR to LESSEE relating to the Premises or this Lease shall be deemed duly served when left at the Premises, or served by constable, or sent to the Premises or to the last address designated by notice in accordance with this section, by certified or registered mail, return receipt requested, postage prepaid, or by recognized courier service with a receipt therefor, addressed to LESSEE. 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 415 Broad Street, Kingsport, Tennessee 37660, Attention City Attorney 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 23. OCCUPANCY. If LESSEE takes possession of the Premises prior to the start of the lease term, LESSEE shall perform and observe all of its covenants under this Lease from the date upon which it takes possession. If LESSEE continues to occupy, control or encumber all or any part of the Premises after the 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, and all terms of this Lease shall continue to apply, except that use and occupancy payments shall be due in full monthly installments at a rate which shall be two times the greater of the monthly rent due under this Lease immediately prior to termination or LESSOR's then current published rent for the Premises, it being understood that such extended occupancy is a tenancy at sufferance, solely for the benefit and convenience of LESSEE and of greater rental value. LESSEE's control, occupancy or encumbrance of all or any part of the Premises beyond noon on the last day of any monthly rental period shall constitute LESSEE's occupancy for an entire additional month, and increased payment as provided in this section shall be due and payable immediately in advance. LESSOR's acceptance of any payments from LESSEE during such extended occupancy shall not alter LESSEE's status as a tenant at sufferance. LESSOR may require LESSEE to relocate to another similar facility at any time during the lease term upon prior written notice to LESSEE and on terms comparable to those herein, and LESSEE shall be liable to LESSOR for any loss, damages or expenses incurred by LESSOR if LESSEE fails to relocate as required herein.

SECTION 24. FIRE PREVENTION. LESSEE agrees to use every 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, the local fire department, LESSOR's insurer or any similar entity.

SECTION 25. 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 any "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 with 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 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 term of this Lease, the Premises are found to be in violation of any of the covenants set forth in this section 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 attorney fees), damages and obligations of any nature 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 not to interfere in any way with the use and enjoyment of other portions of the same or neighboring buildings by others 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 deionized water, chemicals which may be present at the Premises. Notwithstanding the foregoing LESSEE can store vehicles in the building of the Premises, provided the Premises are not contaminated with hazardous substances.

SECTION 26. RESPONSIBILITY. Neither LESSOR nor OWNER shall be liable to anyone for, nor shall LESSEE's obligations under this Lease be reduced because of, loss or damage caused in any way by the use, leakage, seepage, flooding or escape of water or sewage in any form or from any source, by the interruption or cessation of any service rendered customarily to the Premises or building or agreed to by the terms of this Lease, by any accident, the making of repairs, alterations or improvements, labor difficulties, weather conditions, mechanical breakdowns, trouble or scarcity in obtaining fuel, electricity, service or supplies from the sources from which they are usually obtained, by any change in any utility or service provider, or by any cause beyond LESSOR's immediate control.

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 LESSOR may prior to the termination or expiration of the term of the Lease remove compressors or spray booths and related equipment, or any items of a temporary nature installed by LESSEE during the term of this Lease. 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 said 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 same under LESSOR's control; sell 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 was still in full force and effect.

SECTION 29. LOSS AND DAMAGE TO TENANT'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 of the premises 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.

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 of which the Premises are a part 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 said parties, except that LESSOR shall only be liable for obligations occurring while 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 17 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, nor the acceptance of the security deposit and/or rent 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) 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 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. CONDEMNATION. The parties recognize that the Premises is adjacent to a road improvement project on Industry Drive. It is expected that the access from the Premises to Industry Drive will be changed during the term of this lease, and such access maybe reduced or limited. LESSEE waives any claim for any damages or compensation based on any claim of taking or inverse condemnation by the LESSEE caused by the road improvement project on Industry Drive, including damages or other compensation for partial or full destruction of or interference with the business of LESSEE. In the event of any taking the LESSOR shall be entitled to all compensation which may be paid for any such taking, and LESSEE waives all rights or claims incident to any such taking, and all compensation awarded or paid upon such taking shall belong to and be the property of the LESSOR.

SECTION 34. WAIVERS, ETC. No consent or waiver, express or implied, by LESSOR to or of any breach of any covenant, condition or duty of LESSEE 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 35. TIME. Time is of the essence in this Lease.

SECTION 36. SURVIVAL OF TERMS. Wherever in this Lease either Tenant or Landlord shall have agreed or promised to perform certain acts or otherwise where the context of this Lease would require such performance to occur after the termination or expiration of the Lease, then those agreements and covenants shall survive the termination or expiration of the Lease and continue to bind Tenant and Landlord.

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

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION VII. 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 VIII. 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 IX. That this resolution shall take effect immediately upon its adoption, the public welfare requiring it.

ADOPTED this the 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



Item X17.



AGENDA ACTION FORM

Consideration of a Resolution Approving an Amendment to the Downtown Kingsport Redevelopment Plan Expanding the Project Scope and Extending the TIF Period for the Downtown Kingsport Redevelopment District – Brickyard Village

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

Action Form No.: AF-327-2023
Work Session: November 6, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: John Rose & Steven Bower
Presentation By: McCartt & Bower

Recommendation:
Approve the Resolution.

Executive Summary:
If approved, this resolution would approve an amendment to the Downtown Kingsport Redevelopment Plan, expanding the project scope and extending the TIF period for the Downtown Kingsport Redevelopment District. The Tax Increment Financing Amendment to the Downtown Kingsport Redevelopment Plan for benefit of the Brickyard Village Project Area was approved by KHRA, Sullivan County and the City of Kingsport in 2022 and authorized Tax Increment Financing for an amount up to \$9,500,000 and for up to a 25 year increment period in order to incentivize the project developer to perform the utility/site work and cause the construction of approximately 374 new housing units to be known as Brickyard Village.

As a result of unanticipated circumstances, the developer has revised its construction schedule and expanded the scope of the Redevelopment Project by increasing the total approximate unit count for the Redevelopment Project from 374 to 464 and revising the mix of unit type. In order to extend the deadlines for construction completion by two years, the TIF Amendment must be amended to extend the final approved TIF tax year from 2054 to 2056 but still allowing for a total TIF amortization period for each project phase of no more than 25 years. The authorized Tax Increment Financing for an amount up to \$9,500,000 will not be adjusted.

The request to amend the TIF agreement was presented to and approved by the Kingsport Housing and Redevelopment Authority Board on October 5, 2023 and Sullivan County Commission on October 23, 2023.

- Attachments:**
1. Resolution
2. Amended TIF Agreement
3. Previous Resolution No. 2023-038
4. Amended Site Plan

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

Item X18.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE TAX INCREMENT FINANCING AGREEMENT FOR THE DOWNTOWN REDEVELOPMENT PLAN EXPANDING THE PROJECT SCOPE AND EXTENDING THE TIF PERIOD FOR THE DOWNTOWN KINGSPORT REDEVELOPMENT DISTRICT-BRICKYARD VILLAGE

WHEREAS, the Board of Mayor and Alderman has previously approved the *Redevelopment Plan for Core Urban Areas*, as prepared by the Kingsport Housing & Redevelopment Authority (“KHRA”), which redevelopment plan included an area in the city designated as the "Downtown Kingsport Redevelopment District;" and,

WHEREAS, on August 23, 2023 the board approved Resolution No. 2023-038, the Downtown Kingsport Redevelopment District – Brickyard Village Project Tax Increment Financing Amendment, known as the “Brickyard TIF Amendment” in the amount of \$9,500,000, and for up to a 25 year increment period; and

WHEREAS, since that time, the developer has revised its construction schedule and expanded the scope of the Redevelopment Project by increasing the total approximate unit count for the Redevelopment Project from 374 to 464 and revising the mix of unit type; and

WHEREAS, in order to extend the deadlines for construction completion by two years, the TIF Amendment must be amended to extend the final approved TIF tax year from 2054 to 2056 but still allowing for a total TIF amortization period for each project phase of no more than 25 years, and the authorized Tax Increment Financing for an amount up to \$9,500,000 will not be adjusted; and

WHEREAS, the request to amend the TIF agreement was presented to and approved by the Kingsport Housing and Redevelopment Authority Board on October 5, 2023, and Sullivan County Commission on October 23, 2023, a copy of which is attached to the Resolution as Exhibit A (the Brickyard Village Project Tax Increment Financing Amendment as Amended October 2023”); and

WHEREAS, KHRA has recommended that the Board of Mayor and Alderman approve the Brickyard Village TIF Amendment; and

WHEREAS, the Board of Mayor and Alderman has reviewed the record of said public hearing and the Brickyard Village TIF Amendment, including the provisions therein for tax increment financing, and desires to approve the same.

Now therefore,

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

SECTION I. That an Amendment to the Downtown Kingsport Redevelopment District – Brickyard Village Project Tax Increment Financing is approved to change the total unit number and type, and to extend the deadlines for construction completion from 2054 to 2056, 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 Downtown Kingsport Redevelopment District – Brickyard Village Project Tax Increment Financing is approved to change the total unit number and type, and to extend the deadlines for construction completion from 2054 to 2056, 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 amendment that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION 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 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B ROWLETT, III, CITY ATTORNEY

DOWNTOWN KINGSPORT REDEVELOPMENT DISTRICT

BRICKYARD VILLAGE PROJECT TAX INCREMENT FINANCING AMENDMENT AS AMENDED OCTOBER 2023

Tax-increment financing (“TIF”) is a redevelopment tool to be administered by housing and redevelopment authorities codified at Tenn. Code Ann. §§13-20-204 and 205, et. seq. The purpose of TIF is to provide an economic stimulus for blighted property in need of redevelopment. Upon adoption of this Amendment, TIF may be utilized to finance eligible redevelopment costs for a residential redevelopment project known as Brickyard Village (“Brickyard Village”) to be located within the existing Downtown Kingsport Redevelopment District subject to the provisions of this Amendment. The TIF shall be administered as follows:

A. District History.

The Downtown Kingsport Redevelopment District was designated as a Redevelopment District by Kingsport Housing & Redevelopment Authority (“KHRA”) in 2001 and later revised to include a TIF Amendment for the District in 2008. The Redevelopment District was expanded in 2021 to include the areas commonly known as Brickyard Park and Cement Hill. The Downtown Kingsport Redevelopment District includes over 300 acres of real property and hundreds of tax parcels which contains a wide variety of commercial and residential uses.

The Cement Hill section of the Expansion Area consists of approximately 38 acres of vacant land which was previously industrially developed land used for the Penn-Dixie Cement Plant. This property currently is subject to restrictions on disturbing portions of the land due to its industrial nature with cement kiln dust being buried. As a result, this property has been vacant for decades and is in need of redevelopment.

The Brickyard Park section of the Expansion Area consists of approximately 109 acres which was previously used for various industrial purposes including the production of bricks. However, this property has remained vacant and underutilized since the plant closed in 2008. Approximately 57 acres of this property is currently subject to a Brownfield Voluntary Agreement with the Tennessee Department of Environment and Conservation and is further subject to Land Use Restrictions of record in Deed Book 3465 Page 493 of the Register of Deeds of Sullivan County, Tennessee which place limits on the types of and manner of development of the property. This property also contains significant sections of deteriorated concrete and asphalt which will need to be removed prior to any redevelopment. A portion of this property has been redeveloped by the City of Kingsport as a park but the remaining portion remains vacant and in need of redevelopment.

The Downtown Kingsport Redevelopment District is shown on the map attached as Exhibit One (“Redevelopment District”). The Brickyard Village Project Area of the Downtown Kingsport Redevelopment District is shown on the map attached as Exhibit

Two (“Project Area”). The Brickyard Village project is adjacent to the City’s central business district of Downtown Kingsport and its redevelopment will serve as a catalyst for improvements in the entire Redevelopment District.

The Project Area of the Redevelopment District is currently vacant and consists of large concrete and asphalt areas which are dilapidated and constitutes a deleterious land use which negatively impacts the welfare of the neighboring areas. As noted above, approximately 57 acres of this property is currently subject to a Brownfield Voluntary Agreement with the Tennessee Department of Environment and Conservation and is further subject to Land Use Restrictions which place limits on the types of and manner of development of the property. Delay of the redevelopment of the Project Area will continue to have a blighting influence on the adjacent areas. The use of TIF will allow the redevelopment of a site which has remained undeveloped for many years. The existing blight within the Project Area would be eliminated by implementation of the proposed Redevelopment Project. The presence of approximately 464 new housing units will substantially increase economic activity in and around the Redevelopment District. Redevelopment of this area via the proposed Project would also help alleviate the shortage of housing options in the Kingsport and Sullivan County markets which are critical to assist area businesses in recruiting new employees to the area.

Based on the foregoing circumstances and conditions, the Board of Commissioners of KHRA has determined that the District is blighted as defined by TCA 13-20-201 et seq. The District and the Project Area experiences the following conditions:

1. Long-term vacant and underutilized property.
2. Deleterious land use.
3. Dilapidated improvements
4. Blighting effect of the continued vacancy and deterioration of the property and impact to the surrounding properties including increased crime in the Redevelopment District

It is recommended that the project be redeveloped, rehabilitated and/or renovated in order to correct such blighted and deteriorated conditions.

B. District Zoning and Land Use.

The redevelopment of the District shall comply with the Zoning Ordinances and building codes as well as other applicable rules, laws, ordinances, codes and regulations of the City. KHRA shall also review the Plan and any redevelopment projects within the District with appropriate City agencies and officials to ensure that the Plan and the proposed redevelopment activities conform with local objectives relating to appropriate land uses, improved traffic flow, public transportation, public utilities, recreation and community facilities and other public improvements and needs. For a more complete

description of the requirements and restrictions of the Zoning Ordinances of the City, reference should be made to the Ordinances themselves. This property is currently zoned Planned Development (PD) by the City of Kingsport with no plans to revise that designation.

The City and KHRA will cooperate in the planning and construction of improvements to the streets, roadways, sidewalks, curbs and gutters, parking systems, lighting, landscaping and traffic signalization and control.

C. Estimated Cost of the Project.

The total estimated costs of all the proposed improvements to be made by Brickyard TN, LLC (the “Developer”) for Brickyard Village is \$101,481,398. Substantial investment will also be made through the construction of single family homes by third party contractors on lots set aside for resale. The proposed improvements to be performed by the Developer include removal of the existing asphalt, grading, storm water and utilities, public and private roads, sidewalks, landscaping, lighting, an event space to be donated to the City and other related amenities. The housing units to be constructed are as follows:

	Approx. # of Units	Square Footage
Townhomes	92	1200-1500
Apartments	288	750 - 1300
Single Family rentals and lots for resale	83	1500 and up
Community Building	1	
 Total Units	 464	

(hereafter the “Redevelopment Project”).

In order to give KHRA and the Developer flexibility in the event of future unforeseen market or site conditions, KHRA may deem Developer to be in compliance with the above units count requirements provided the final unit count in any given category and the total unit count is at least ninety percent (90%) of the units counts listed above. In addition, KHRA will be paid an annual administration fee equal to five percent of the total annual tax increment revenue received by KHRA. The Project will be located upon a portion of the following tax parcels: Sullivan County Tax Map 046P, Group F, Control Map 046P, Parcels 009.00 and 010.50. The TIF shall be limited to eligible expenditures for the Redevelopment Project within the Project Area.

D. Sources of Revenue to Finance the Cost of the Project.

The primary sources of revenue to pay for the Redevelopment Project are developer equity and loan proceeds in the approximate amount of \$ 91,679,398.00 from a permanent loan to the Developer and tax increment based debt (to be issued by the KHRA in the form of bonds, notes, or other indebtedness) in a total amount not to exceed \$ 9,500,000.00, but in no event in an amount to exceed the estimated amount of debt that can be amortized within the time periods provided herein, all of which is hereby authorized by City of Kingsport (the "City") and Sullivan County, Tennessee (the "County"). Current projections suggest that the tax increment from the proposed improvements within the Project Area will be sufficient to retire this amount of indebtedness within a 25 year principal amortization period.

The total current property tax assessment for the Project Area is \$ 0. This results in annual property tax payments to the City in the amount of \$ 0 and annual property tax payments to the County in the amount of \$ 0. The Redevelopment Project would result in a total estimated assessed value for property within the Project Area of \$ 27,772,800 (based on a \$75,075,752 tax appraised value). Based on current tax rates, this would result in total estimated annual city taxes of \$ 554,956 and total estimated annual county taxes of \$668,269. Because Sullivan County has dedicated \$0.3369 of its \$ 2.4062 tax rate for repayment of indebtedness and the City of Kingsport has dedicated \$0.33 of its \$ 1.9982 tax rate for repayment of indebtedness, that portion of the increment, pursuant to Tenn. Code Ann. §§13-20-205 and 9-23-103, shall not be allocated as provided in Paragraph G below but shall be collected and paid to the respective taxing agency as all other property taxes are collected and paid. Thus, the estimated total available increment from Sullivan County taxes after the statutory debt service set aside but prior to any county holdback is \$574,702. The estimated total available increment from City of Kingsport taxes after statutory debt service set aside but prior to any holdback is \$ 463,305. However, this amendment provides in Paragraph G that 10% of the tax increment shall be retained by the City and County resulting in an estimated total annual available tax increment after holdbacks and KHRA administrative fees of \$ 887,497. The combined new tax revenue above the current base as a result of this Project would be \$151,036 to the County and \$137,980 for the City. A detailed calculation of these estimated projections is attached hereto as Exhibit Three. The redevelopment of the Project Area will not occur to the degree proposed without the use of tax-increment financing.

E. Amount and the Final Maturity of Bonded or other Indebtedness to be Incurred.

The principal amortization period for any indebtedness backed by the tax-increment revenue generated within the Project Area shall be no more than 25 years. In any event, the final maturity date of all indebtedness issued pursuant to this Amendment shall be on or before May 15, 2057. Upon retirement of all bonds, loans, or other indebtedness incurred and payable from tax-increment funds, or at such time as monies on deposit in the tax-increment fund or funds are sufficient for such purpose, all property

taxes resulting from the incremental development of the project shall be retained by the appropriate taxing agency for disbursement according to law.

F. Impact of the Tax-Increment Financing Provisions Upon Taxing Agencies.

The total assessment of the City of Kingsport's real property tax base for the 2019 tax year is approximately \$ 1,878,156,270. The total assessment of Sullivan County's real property tax base for the 2019 tax year is approximately \$3,847,748,820. The current assessment of the Project Area represents 0.0000% of the City of Kingsport's property tax base and 0.0% of the Sullivan County property tax base. The estimated assessment of the Proposed Improvements would represent 1.24 % of the current City of Kingsport tax base and 0.6% of the current Sullivan County tax base. Based on these small percentages, the City and the County (the two taxing agencies affected by this Redevelopment Project) will not be substantially impacted financially by this tax-increment financing provision.

The development of the Redevelopment Project will result in additional residents and economic activity within the Redevelopment District. It is estimated approximately 782 total jobs could be created during the construction phase of the Redevelopment Project with a total annual economic impact of \$ \$5,790,000 to this area. In addition, the long term impact includes the addition of residents to the Downtown Kingsport area which results in significant additional local taxes and other revenue for local governments. While all these numbers rely on certain assumptions and projections, the end result of the Redevelopment Project is that a need for housing has been met and the City and County will receive a substantial economic boost.

G. Division of Property Taxes.

Upon approval of this Amendment, the taxes levied and collected over the Project Area shall be collected by the appropriate taxing authorities in the same manner as provided by law, except that said taxes shall be divided as follows:

1. The portion of the taxes which would be produced by the rate at which the tax is levied each year by each taxing agency, upon the assessed value of such property within the Project Area as of the 2022 tax year (which is the year of approval of this TIF amendment) ("Base Assessment"), shall be allocated to, and when collected, shall be paid to, the respective taxing agencies as taxes levied by such taxing agencies on all other property are paid; provided, that in any year in which taxes of the Project Area are less than the Base Assessment and the Dedicated Taxes, there shall be allocated and paid to those respective taxing agencies only those taxes actually imposed and collected; and provided further, that, in any year or years in which the Base Assessment would be diminished solely due to a rate reduction under Title 67, Chapter 5, Part 17, of the Tennessee Code, the Base Assessment shall nevertheless be established at the amount originally determined.

2. Subject to the restraints herein and applicable law, ninety percent (90%) of all the taxes levied in each year in excess of the Base Assessment and Dedicated Taxes shall be allocated to and, when collected, shall be paid into a special fund or funds of KHRA to pay the administration fee and to pay the principal of and interest on any bonds, loans or other indebtedness incurred or to be incurred by KHRA to finance or refinance, in whole or in part, eligible redevelopment expenses of the Redevelopment Project contemplated by the Redevelopment Plan, and such other expenses as may be allowed by law. The remaining ten percent (10%) of all the taxes levied in each year in excess of the Base Assessment and Dedicated Taxes shall be allocated to and, when collected, shall be paid to the respective taxing agencies in the same manner as taxes on all other property are paid.

3. Upon retirement of all bonds, loans or other indebtedness incurred by KHRA and payable from such special fund or funds, or at such time as monies on deposit in such special fund or funds are sufficient for such purpose, all taxes levied each year in excess of the Base Assessment and Dedicated Taxes shall, when collected, be paid to the respective taxing agency as taxes levied by such taxing agencies on all other property are paid, and KHRA shall give notice to all affected taxing agencies of such retirement. Excess taxes beyond amounts necessary to fund or reserve for eligible expenditures may be applied to principal and interest of debt incurred to finance such eligible expenditures or shall revert to the taxing agency general fund. In any event, the division of property taxes required by this document shall not continue for any tax year beyond 2056.

H. Property Tax Assessments and Collection.

1. The appropriate assessor shall, in each year during the period in which taxes are to be allocated to KHRA pursuant to Paragraph G, compute and certify the net amount, if any, by which the current assessed value of all taxable property located within the Project Area which is subject to taxation by the particular taxing agency exceeds the base assessment. The net amount of any such increase is referred to in this subdivision as the incremental value for that particular year.

2. In any year in which there exists a tax increment to be allocated to KHRA, the appropriate assessor shall exclude it from the assessed value upon which the appropriate assessor computes the tax rates for taxes levied that year by the taxing agency. However, the assessor shall extend the aggregate tax rate of such taxes against the Base Assessment and the incremental value and shall apply the taxes collected therefrom as provided herein.

3. If in any year property comprising a portion of the Project Area shall be removed from the tax rolls of a taxing agency, the Base Assessment for the Project Area shall be reduced by the amount of the Base Assessment allocable to the property so removed for each subsequent year in which taxes are to be allocated to a particular authority pursuant to the above provisions.

I. Documentation for Assessor's Office.

Upon approval of this Amendment, KHRA shall transmit to the assessor of property and the chief financial officer for each taxing agency affected, a copy of the description of all land within the Project Area (including tax parcel numbers), the date or dates of the approval of the redevelopment plan or amendment thereto, a copy of the resolution approving the redevelopment plan or approving an Amendment thereto, a map or plat indicating the boundaries of such property and the Base Assessment with respect to the Project Area, and taxes shall thereafter, when collected, be allocated and paid in the manner provided herein.

J. Excluded Taxes.

Notwithstanding anything to the contrary in this section, taxes levied upon property subject to tax-increment financing provisions by any taxing agency for the payment of principal of and interest on all bonds, loans or other indebtedness of such taxing agency, and taxes levied by or for the benefit of the State of Tennessee (herein "Dedicated Taxes"), shall not be subject to allocation as provided in Paragraph G but shall be levied against the property and, when collected, paid to such taxing agency as taxes levied by such taxing agency on all other property are paid and collected.

K. Interpretation.

This tax-increment financing amendment is being proposed pursuant to *Tenn. Code Ann. § 13-20-201, et. seq.* and *Tenn. Code Ann. § 9-23-101, et. seq.* and all relevant provisions are hereby incorporated herein by reference. All provisions of this Amendment shall be construed in a manner consistent with said Code sections.

L. Conditions of Tax Increment.

KHRA shall enter into a redevelopment agreement with Developer which requires Developer to pursue and complete the Redevelopment Project in a diligent manner, and in accordance with plans and specifications approved by KHRA including provisions that obligate the Developer to construct or cause the construction of the housing units and other improvements as set forth in this plan. The redevelopment agreement to be entered into between KHRA and Developer shall contain such terms as KHRA believes reasonably necessary to accomplish this purpose. The tax increment financing authorized pursuant to this Amendment may be divided into multiple separate TIF loans which may be phased in such manner, in such amounts and on such terms as KHRA deems advisable. KHRA shall also have the authority to group the various tax parcels to be created within Project Area into separate TIF zones as it deems advisable and pledge the TIF revenue from each separate TIF zone for the repayment of separate TIF loans as it deems advisable to achieve the purposes of this Amendment. However in no event shall the combined loan amounts for the Project Area as a whole exceed \$9,500,000.00,

nor shall the principal amortization period for any TIF Indebtedness exceed 25 years and in no event shall the TIF Revenue from any portion of the Project Area be allocated beyond the tax year 2056. Pursuant to Tenn. Code Ann. 9-23-103, KHRA may separately group one (1) or more parcels within the Project Area for purposes of calculating and allocating the tax increment revenues hereunder, and in such cases, the allocation of tax increment revenues shall be calculated and made based upon each such parcel or group of parcels, and not the entire area subject to the plan. KHRA may also allocate the tax increment revenues with respect to any parcel or group of parcels within the Project Area to begin in different years in order to match tax increment revenues with the purposes for which such revenues will be applied as determined in KHRA's discretion but in no event shall the TIF Revenue for any portion of the Project Area be allocated for more than 25 years in total.

EXHIBIT ONE

MAP OF DOWNTOWN KINGSPORT REDVELOPMENT DISTRICT

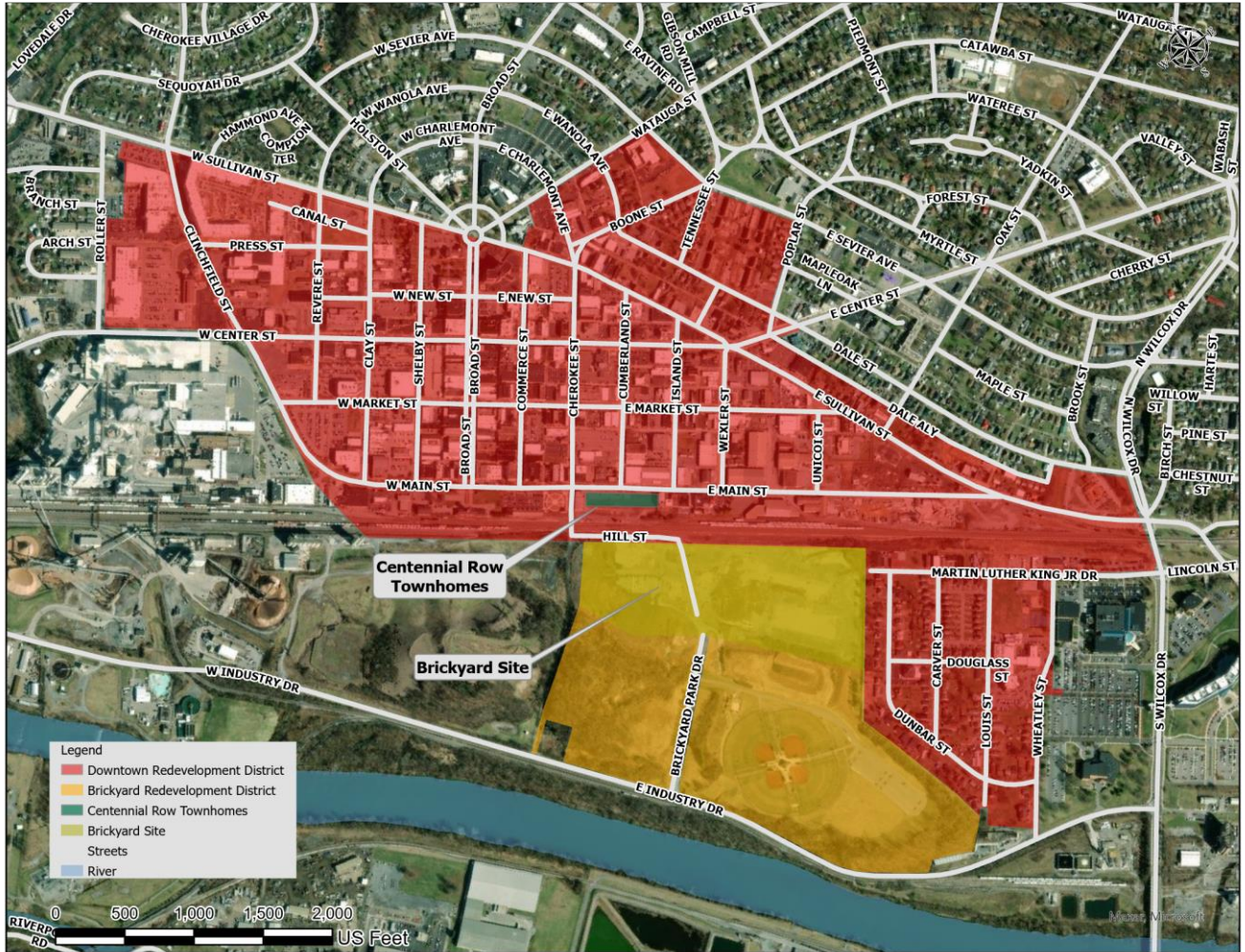
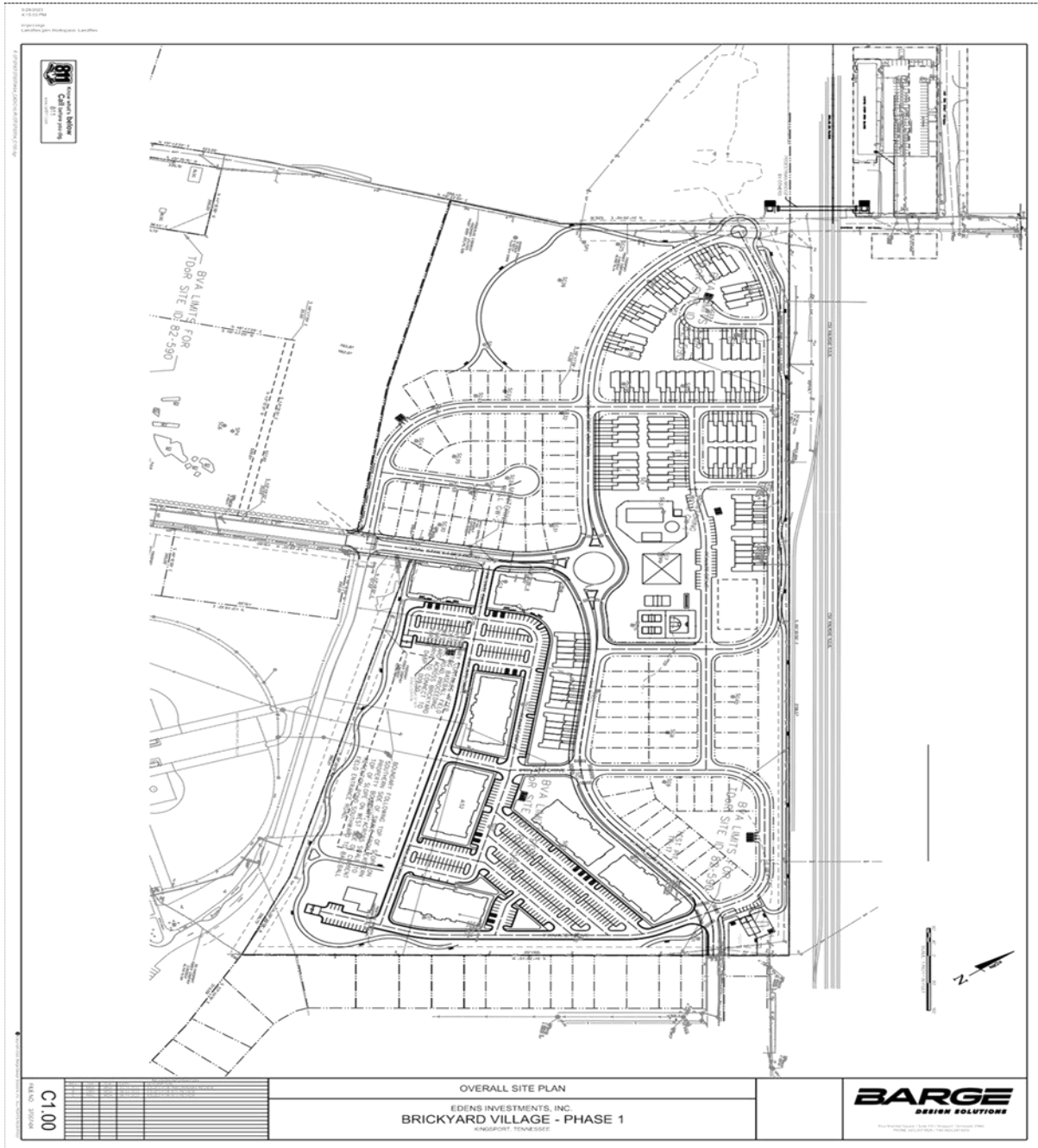


EXHIBIT TWO

MAP OF DOWNTOWN KINGSPORT REDVELOPMENT DISTRICT
BRICKYARD VILLAGE PROJECT AREA



Item X18.

EXHIBIT THREE

TIF ESTIMATE
BRICKYARD VILLAGE PROJECT AREA
DOWNTOWN KINGSPORT
REDEVELOPMENT DISTRICT

Total Original Assessed Base Value	\$0.00
County Tax Rate	2.4062
City Tax Rate	1.9982
Total New Assessed Value	\$27,772,800.00
County Debt Service Rate	.3369
City Debt Service Rate	.33
Total County Taxes	\$668,269.11
Base County Taxes	\$0.00
County Increment	\$668,269.11
County Debt Service Set Aside	\$93,566.56
Available County Increment after Debt Service	\$574,702.55
County Increment after 10% Holdback	\$517,232.30
County Increment after Admin Fee	\$491,370.68
Total City Taxes	\$554,956.09
Base City Taxes	\$0.00
Proposed City Increment	\$554,956.09
City Debt Service Set Aside	\$91,650.24
Available City Increment after Debt Service	\$463,305.85
City Increment after 10% Holdback	\$416,975.26
City Increment after Admin Fee	\$396,126.50
Total City and County Increment available for Debt Service	\$887,497.18

Annual New Benefits to City (retained increment & debt service)	\$137,980.82
Annual New Benefits to County (retained increment & debt service)	\$151,036.82

Total Admin Fee to KHRA	\$46,710.38
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RESOLUTION NO. 2023-038

A RESOLUTION APPROVING A TAX INCREMENT FINANCING AMENDMENT FOR THE DOWNTOWN KINGSPORT REDEVELOPMENT DISTRICT – BRICKYARD VILLAGE PROJECT

WHEREAS, the Board of Mayor and Alderman has previously approved the *Redevelopment Plan for Core Urban Areas*, as prepared by the Kingsport Housing & Redevelopment Authority ("KHRA"), which redevelopment plan included an area in the city designated as the "Downtown Kingsport Redevelopment District;" and,

WHEREAS, KHRA held a public hearing on August 17, 2022, and thereafter approved the *Downtown Kingsport Redevelopment District – Brickyard Village Project Tax Increment Financing Amendment*, a copy of which is attached to this Resolution as Exhibit A (the "Brickyard Village TIF Amendment"); and,

WHEREAS, KHRA has recommended that the Board of Mayor and Alderman approve the Brickyard Village TIF Amendment; and

WHEREAS, the Board of Mayor and Alderman has reviewed the record of said public hearing and the Brickyard Village TIF Amendment, including the provisions therein for tax increment financing, and desires to approve the same.

Now therefore,

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

SECTION I. That the *Downtown Kingsport Redevelopment District – Brickyard Village Project Tax Increment Financing Amendment* and the factual findings therein are hereby affirmed and adopted and the city recorder is directed to file a copy thereof as an official record of the city.

SECTION II. That the use of tax increment financing in support of a residential redevelopment project known as Brickyard Village as described in the Brickyard Village TIF Amendment is hereby approved.

SECTION III. That KHRA is hereby authorized and empowered to implement the Downtown Kingsport Redevelopment Plan and Brickyard Village TIF Amendment on behalf of the City of Kingsport, Tennessee.

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.

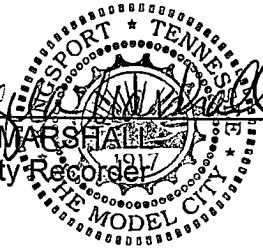
SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 23rd day of August, 2022.

Patrick W. Shull
PATRICK W. SHULL, Mayor

ATTEST:

Angela Marshall
ANGELA MARSHALL
Deputy City Recorder



APPROVED AS TO FORM:

Rodney B. Rowlett, III
RODNEY B. ROWLETT, III, City Attorney

EXHIBIT A

DOWNTOWN KINGSPORT REDEVELOPMENT DISTRICT BRICKYARD VILLAGE PROJECT TAX INCREMENT FINANCING AMENDMENT

Tax-increment financing ("TIF") is a redevelopment tool to be administered by housing and redevelopment authorities codified at Tenn. Code Ann. §§13-20-204 and 205, et. seq. The purpose of TIF is to provide an economic stimulus for blighted property in need of redevelopment. Upon adoption of this Amendment, TIF may be utilized to finance eligible redevelopment costs for a single family residential redevelopment project known as Brickyard Village ("Brickyard Village") to be located within the existing Downtown Kingsport Redevelopment District subject to the provisions of this Amendment. The TIF shall be administered as follows:

A. District History.

The Downtown Kingsport Redevelopment District was designated as a Redevelopment District by Kingsport Housing & Redevelopment Authority ("KHRA") in 2001 and later revised to include a TIF Amendment for the District in 2008. The Redevelopment District was expanded in 2021 to include the areas commonly known as Brickyard Park and Cement Hill. The Downtown Kingsport Redevelopment District includes over 300 acres of real property and hundreds of tax parcels which contains a wide variety of commercial and residential uses.

The Cement Hill section of the Expansion Area consists of approximately 38 acres of vacant land which was previously industrially developed land used for the Penn-Dixie Cement Plant. This property currently is subject to restrictions on disturbing portions of the land due to its industrial nature with cement kiln dust being buried. As a result, this property has been vacant for decades and is in need of redevelopment.

The Brickyard Park section of the Expansion Area consists of approximately 109 acres which was previously used for various industrial purposes including the production of bricks. However, this property has remained vacant and underutilized since the plant closed in 2008. Approximately 57 acres of this property is currently subject to a Brownfield Voluntary Agreement with the Tennessee Department of Environment and Conservation and is further subject to Land Use Restrictions of record in Deed Book 3465 Page 493 of the Register of Deeds of Sullivan County, Tennessee which place limits on the types of and manner of development of the property. This property also contains significant sections of deteriorated concrete and asphalt which will need to be removed prior to any redevelopment. A portion of this property has been redeveloped by the City of Kingsport as a park but the remaining portion remains vacant and in need of redevelopment.

The Downtown Kingsport Redevelopment District is shown on the map attached as Exhibit One ("Redevelopment District"). The Brickyard Village Project Area of the Downtown Kingsport Redevelopment District is shown on the map attached as Exhibit Two ("Project Area"). The Brickyard Village project is adjacent to the City's central business district of Downtown Kingsport and its redevelopment will serve as a catalyst for improvements in the entire Redevelopment District.

The Project Area of the Redevelopment District is currently vacant and consists of large concrete and asphalt areas which are dilapidated and constitutes a deleterious land use which negatively impacts the welfare of the neighboring areas. As noted above, approximately 57 acres of this property is currently subject to a Brownfield Voluntary Agreement with the Tennessee Department of Environment and Conservation and is further subject to Land Use Restrictions which place limits on the types of and manner of development of the property. Delay of the redevelopment of the Project Area will continue to have a blighting influence on the adjacent areas. The use of TIF will allow the redevelopment of a site which has remained undeveloped for many years. The existing blight within the Project Area would be eliminated by implementation of the proposed Redevelopment Project. The presence of approximately 377 new housing units will substantially increase economic activity in and around the Redevelopment District.

Redevelopment of this area via the proposed Project would also help alleviate the shortage of housing options in the Kingsport and Sullivan County markets which are critical to assist area businesses in recruiting new employees to the area.

Based on the foregoing circumstances and conditions, the Board of Commissioners of KHRA has determined that the District is blighted as defined by TCA 13-20-201 et seq. The District and the Project Area experiences the following conditions:

1. Long-term vacant and underutilized property.
2. Deleterious land use.
3. Dilapidated improvements
4. Blighting effect of the continued vacancy and deterioration of the property and impact to the surrounding properties including increased crime in the Redevelopment District

It is recommended that the project be redeveloped, rehabilitated and/or renovated in order to correct such blighted and deteriorated conditions.

B. District Zoning and Land Use.

The redevelopment of the District shall comply with the Zoning Ordinances and building codes as well as other applicable rules, laws, ordinances, codes and regulations of the City. KHRA shall also review the Plan and any redevelopment projects within the District with appropriate City agencies and officials to ensure that the Plan and the proposed redevelopment activities conform with local objectives relating to appropriate land uses, improved traffic flow, public transportation, public utilities, recreation and community facilities and other public improvements and needs. For a more complete description of the requirements and restrictions of the Zoning Ordinances of the City, reference should be made to the Ordinances themselves. This property is currently zoned Planned Development (PD) by the City of Kingsport with no plans to revise that designation.

The City and KHRA will cooperate in the planning and construction of improvements to the streets, roadways, sidewalks, curbs and gutters, parking systems, lighting, landscaping and traffic signalization and control.

C. Estimated Cost of the Project.

The total estimated costs of all the proposed improvements to be made by Edens Investments, Inc. (the "Developer") for Brickyard Village is \$101,481,398. Substantial investment will also be made through the construction of single family homes by third party contractors on lots set aside for resale. The proposed improvements to be performed by the Developer include removal of the existing asphalt, grading, storm water and utilities, public and private roads, sidewalks, landscaping, lighting, an event space to be donated to the City and other related amenities. The housing units to be constructed are as follows:

	Approx. # of Units	Square Footage
Townhomes	70	1200-1500
Apartments	204	750 - 1300
Duplexes	52	1200-1500
Single Family rental	30	1500-2000
Single Family lots for resale	21	1500-2000

(hereafter the "Redevelopment Project").

In addition, KHRA will be paid an annual administration fee equal to five percent of the total annual tax increment revenue received by KHRA. The Project will be located upon the following tax parcels: Sullivan County Tax Map 046P, Group F, Control Map 046P, Parcels 009.00 and 010.50. The TIF shall be limited to eligible expenditures for the Redevelopment Project within the Project Area.

D. Sources of Revenue to Finance the Cost of the Project.

The primary sources of revenue to pay for the Redevelopment Project are developer equity and loan proceeds in the approximate amount of \$ 91,679,398.00 from a permanent loan to the Developer and tax increment based debt (to be issued by the KHRA in the form of bonds, notes, or other indebtedness) in a total amount not to exceed \$ 9,500,000.00, but in no event in an amount to exceed the estimated amount of debt that can be amortized within the time periods provided herein, all of which is hereby authorized by City of Kingsport (the "City") and Sullivan County, Tennessee (the "County"). Current projections suggest that the tax increment from the proposed improvements within the Project Area will be sufficient to retire this amount of indebtedness within a 25 year principal amortization period.

The total current property tax assessment for the Project Area is \$ 0. This results in annual property tax payments to the City in the amount of \$ 0 and annual property tax payments to the County in the amount of \$ 0. The Redevelopment Project would result in a total estimated assessed value for property within the Project Area of \$ 23,306,823 (based on a \$ 61,023,308 tax appraised value). Based on current tax rates, this would result in total estimated annual city taxes of \$463,805 and total estimated annual county taxes of \$560,808. Because Sullivan County has dedicated \$0.3369 of its \$ 2.4062 tax rate for repayment of indebtedness and the City of Kingsport has dedicated \$0.33 of its \$ 1.99 tax rate for repayment of indebtedness, that portion of the increment, pursuant to Tenn. Code Ann. §§13-20-205 and 9-23-103, shall not be allocated as provided in Paragraph G below but shall be collected and paid to the respective taxing agency as all other property taxes are collected and paid. Thus, the estimated total available increment from Sullivan County taxes after the statutory debt service set aside but prior to any county holdback is \$482,288. The estimated total available increment from City of Kingsport taxes after statutory debt service set aside but prior to any holdback is \$ 386,893. However, this amendment provides in Paragraph G that 10% of the tax increment shall be retained by the City and County resulting in an estimated total annual available tax increment after holdbacks and KHRA administrative fees of \$ 743,150. The combined new tax revenue above the current base as a result of this Project would be \$126,749 to the County and \$115,601 for the City. A detailed calculation of these estimated projections is attached hereto as Exhibit Three. The redevelopment of the Project Area will not occur to the degree proposed without the use of tax-increment financing.

E. Amount and the Final Maturity of Bonded or other Indebtedness to be Incurred.

The principal amortization period for any indebtedness backed by the tax-increment revenue generated within the Project Area shall be no more than 25 years. In any event, the final maturity date of all indebtedness issued pursuant to this Amendment shall be on or before May 15, 2055. Upon retirement of all bonds, loans, or other indebtedness incurred and payable from tax-increment funds, or at such time as monies on deposit in the tax-increment fund or funds are sufficient for such purpose, all property taxes resulting from the incremental development of the project shall be retained by the appropriate taxing agency for disbursement according to law.

F. Impact of the Tax-Increment Financing Provisions Upon Taxing Agencies.

The total assessment of the City of Kingsport's real property tax base for the 2019 tax year is approximately \$ 1,878,156,270. The total assessment of Sullivan County's real property tax base for the 2019 tax year is approximately \$3,847,748,820. The current assessment of the Project Area represents 0.0000% of the City of Kingsport's property tax base and 0.0% of the Sullivan County property tax base. The estimated assessment of the Proposed Improvements would represent 1.24 % of the current City of Kingsport tax base and 0.6% of the current Sullivan County tax base. Based on these small percentages, the City and the County (the two taxing agencies affected by this Redevelopment Project) will not be substantially impacted financially by this tax-increment financing provision.

The development of the Redevelopment Project will result in additional residents and economic activity within the Redevelopment District. It is estimated approximately 782 total jobs could be created during the construction phase of the Redevelopment Project with a total annual economic impact of \$5,790,000 to this area. In addition, the long term impact includes the addition of residents to the Downtown Kingsport area which results in significant additional local taxes and other revenue for local governments. While all these numbers rely on certain assumptions and projections, the end result of the Redevelopment Project is that a need for housing has been met and the City and County will receive a substantial economic boost.

G. Division of Property Taxes.

Upon approval of this Amendment, the taxes levied and collected over the Project Area shall be collected by the appropriate taxing authorities in the same manner as provided by law, except that said taxes shall be divided as follows:

1. The portion of the taxes which would be produced by the rate at which the tax is levied each year by each taxing agency, upon the assessed value of such property within the Project Area as of the 2022 tax year (which is the year of approval of this TIF amendment) ("Base Assessment"), shall be allocated to, and when collected, shall be paid to, the respective taxing agencies as taxes levied by such taxing agencies on all other property are paid; provided, that in any year in which taxes of the Project Area are less than the Base Assessment and the Dedicated Taxes, there shall be allocated and paid to those respective taxing agencies only those taxes actually imposed and collected; and provided further, that, in any year or years in which the Base Assessment would be diminished solely due to a rate reduction under Title 67, Chapter 5, Part 17, of the Tennessee Code, the Base Assessment shall nevertheless be established at the amount originally determined.

2. Subject to the restraints herein and applicable law, ten percent (10%) of all the taxes levied in each year in excess of the Base Assessment and Dedicated Taxes shall be allocated to and, when collected, shall be paid into a special fund or funds of KHRA to pay the administration fee and to pay the principal of and interest on any bonds, loans or other indebtedness incurred or to be incurred by KHRA to finance or refinance, in whole or in part, eligible redevelopment expenses of the Redevelopment Project contemplated by the Redevelopment Plan, and such other expenses as may be allowed by law. The remaining ninety percent (90%) of all the taxes levied in each year in excess of the Base Assessment and Dedicated Taxes shall be allocated to and, when collected, shall be paid to the respective taxing agencies in the same manner as taxes on all other property are paid.

3. Upon retirement of all bonds, loans or other indebtedness incurred by KHRA and payable from such special fund or funds, or at such time as monies on deposit in such special fund or funds are sufficient for such purpose, all taxes levied each year in excess of the Base Assessment and Dedicated Taxes shall, when collected, be paid to the respective taxing agency as taxes levied by such taxing agencies on all other property are paid, and KHRA shall give notice to all affected taxing agencies of such retirement. Excess taxes beyond amounts necessary to fund or reserve for eligible expenditures may be applied to principal and interest of debt incurred to finance such eligible expenditures or shall revert to the taxing agency general fund. In any event, the division of property taxes required by this document shall not continue for any tax year beyond 2054.

H. Property Tax Assessments and Collection.

1. The appropriate assessor shall, in each year during the period in which taxes are to be allocated to KHRA pursuant to Paragraph G, compute and certify the net amount, if any, by which the current assessed value of all taxable property located within the Project Area which is subject to taxation by the particular taxing agency exceeds the base assessment. The net amount of any such increase is referred to in this subdivision as the incremental value for that particular year.

2. In any year in which there exists a tax increment to be allocated to KHRA, the appropriate assessor shall exclude it from the assessed value upon which the appropriate assessor

computes the tax rates for taxes levied that year by the taxing agency. However, the assessor shall extend the aggregate tax rate of such taxes against the Base Assessment and the incremental value and shall apply the taxes collected there from as provided herein.

3. If in any year property comprising a portion of the Project Area shall be removed from the tax rolls of a taxing agency, the Base Assessment for the Project Area shall be reduced by the amount of the Base Assessment allocable to the property so removed for each subsequent year in which taxes are to be allocated to a particular authority pursuant to the above provisions.

I. Documentation for Assessor's Office.

Upon approval of this Amendment, KHRA shall transmit to the assessor of property and the chief financial officer for each taxing agency affected, a copy of the description of all land within the Project Area (including tax parcel numbers), the date or dates of the approval of the redevelopment plan or amendment thereto, a copy of the resolution approving the redevelopment plan or approving an Amendment thereto, a map or plat indicating the boundaries of such property and the Base Assessment with respect to the Project Area, and taxes shall thereafter, when collected, be allocated and paid in the manner provided herein.

J. Excluded Taxes.

Notwithstanding anything to the contrary in this section, taxes levied upon property subject to tax-increment financing provisions by any taxing agency for the payment of principal of and interest on all bonds, loans or other indebtedness of such taxing agency, and taxes levied by or for the benefit of the State of Tennessee (herein "Dedicated Taxes"), shall not be subject to allocation as provided in Paragraph G but shall be levied against the property and, when collected, paid to such taxing agency as taxes levied by such taxing agency on all other property are paid and collected.

K. Interpretation.

This tax-increment financing amendment is being proposed pursuant to *Tenn. Code Ann. § 13-20-201, et. seq.* and *Tenn. Code Ann. § 9-23-101, et. seq.* and all relevant provisions are hereby incorporated herein by reference. All provisions of this Amendment shall be construed in a manner consistent with said Code sections.

L. Conditions of Tax Increment.

KHRA shall enter into a redevelopment agreement with Developer which requires Developer to pursue and complete the Redevelopment Project in a diligent manner, and in accordance with plans and specifications approved by KHRA including provisions that obligate the Developer to construct or cause the construction of the housing units and other improvements as set forth in this plan. The redevelopment agreement to be entered into between KHRA and Developer shall contain such terms as KHRA believes reasonably necessary to accomplish this purpose. The tax increment financing authorized pursuant to this Amendment may be divided into multiple separate TIF loans which may be phased in such manner, in such amounts and on such terms as KHRA deems advisable. KHRA shall also have the authority to group the various tax parcels to be created within Project Area into separate TIF zones as it deems advisable and pledge the TIF revenue from each separate TIF zone for the repayment of separate TIF loans as it deems advisable to achieve the purposes of this Amendment. However in no event shall the combined loan amounts for the Project Area as a whole exceed \$9,500,000.00, nor shall the principal amortization period for any TIF Indebtedness exceed 25 years and in no event shall the TIF Revenue from any portion of the Project Area be allocated beyond the tax year 2054. Pursuant to *Tenn. Code Ann. 9-23-103*, KHRA may separately group one (1) or more parcels within the Project Area for purposes of calculating and allocating the tax increment revenues hereunder, and in such cases, the allocation of tax increment revenues shall be calculated and made based upon each such parcel or group of parcels, and not the entire area subject to the plan. KHRA may also allocate the tax increment revenues with respect to any parcel or group of parcels within the Project Area to begin in different years in order to match tax increment revenues with the purposes for which such revenues will be applied as determined in KHRA's discretion but in no event shall

the TIF Revenue for any portion of the Project Area be allocated for more than 25 years in total.

EXHIBIT ONE

MAP OF DOWNTOWN KINGSFORT REDEVELOPMENT DISTRICT

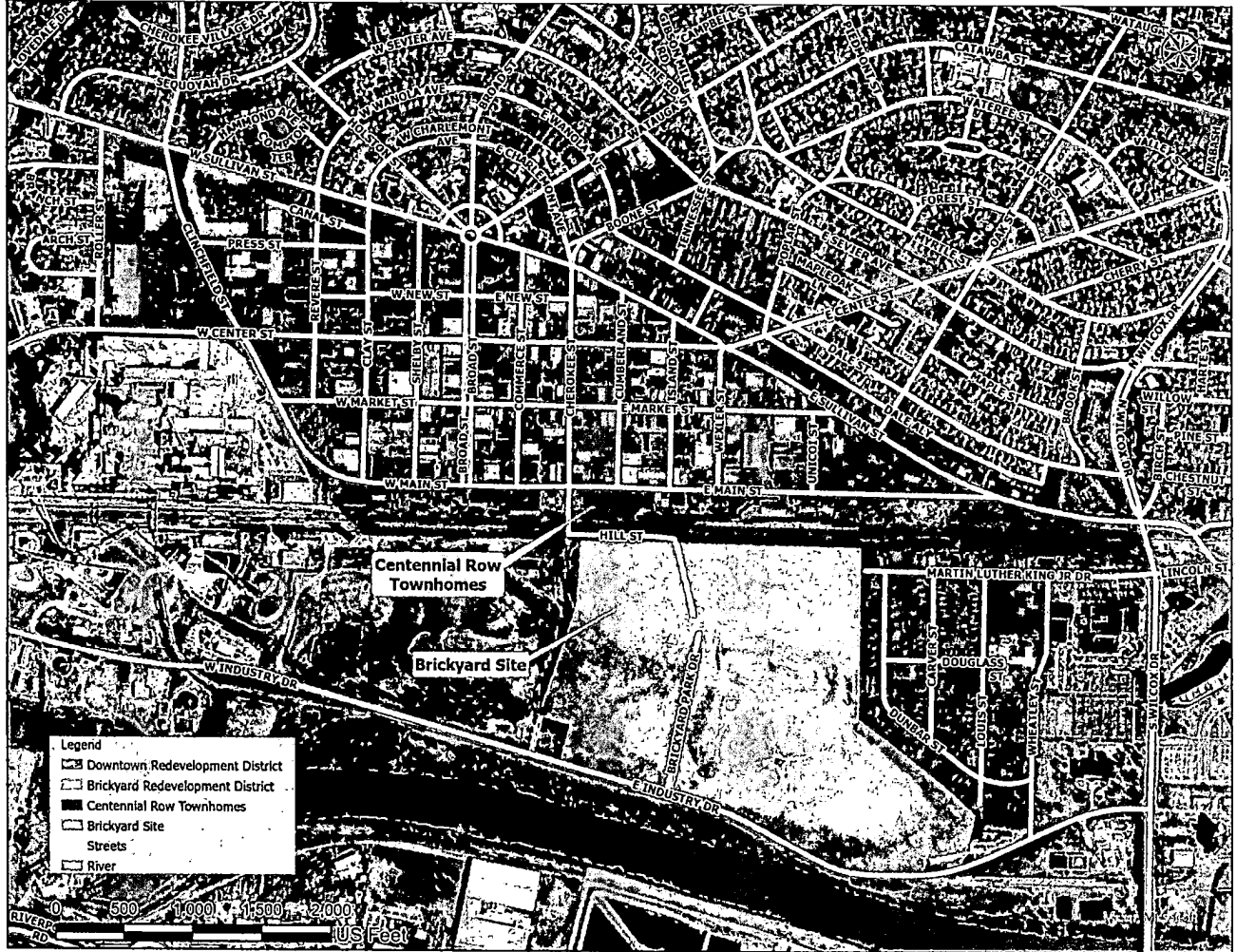


EXHIBIT TWO

MAP OF DOWNTOWN KINGSFORT REDEVELOPMENT DISTRICT
BRICKYARD VILLAGE PROJECT AREA

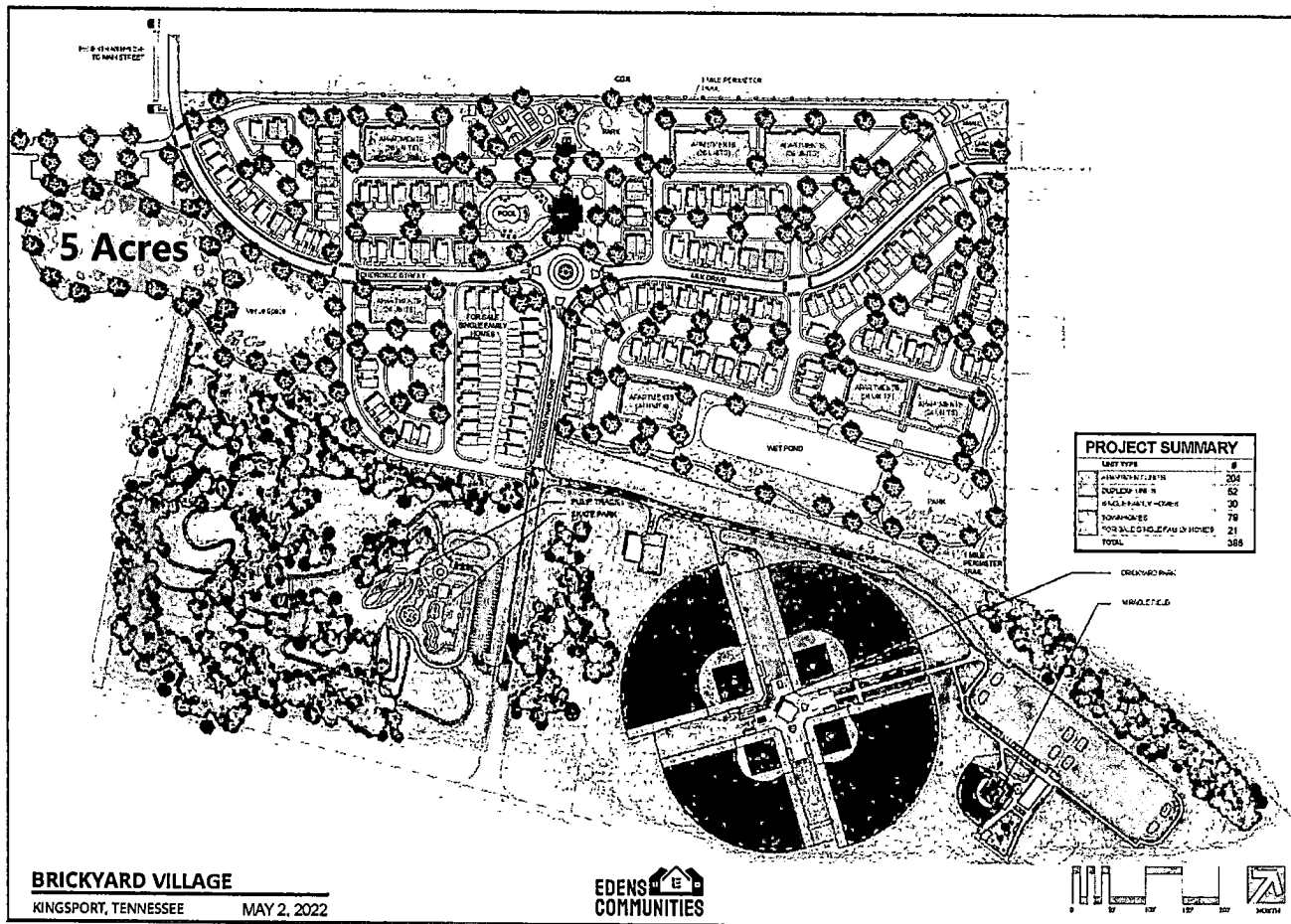


EXHIBIT THREE

TIF ESTIMATE
BRICKYARD VILLAGE PROJECT AREA
DOWNTOWN KINGSPORT
REDEVELOPMENT DISTRICT

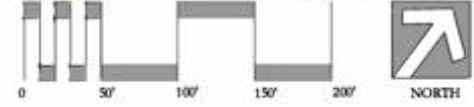
Total Original Assessed Base Value	\$0.00
County Tax Rate	2.4062
City Tax Rate	1.99
Total New Assessed Value	\$23,306,823.00
County Debt Service Rate	.3369
City Debt Service Rate	.33
Total County Taxes	\$560,808.78
Base County Taxes	\$0.00
County Increment	\$560,808.78
County Debt Service Set Aside	\$78,520.69
Available County Increment after Debt Service	\$482,288.09
County Increment after 10% Holdback	\$434,059.28
County Increment after Admin Fee	\$412,356.32
Total City Taxes	\$463,805.78
Base City Taxes	\$0.00
Proposed City Increment	\$463,805.78
City Debt Service Set Aside	\$76,912.52
Available City Increment after Debt Service	\$386,893.26
City Increment after 10% Holdback	\$348,203.94
City Increment after Admin Fee	\$330,793.74
Total City and County Increment available for Debt Service	\$743,150.05
Annual New Benefits to City (retained increment & debt service)	\$115,601.84
Annual New Benefits to County (retained increment & debt service)	\$126,749.50



BRICKYARD VILLAGE

KINGSPORT, TENNESSEE OCTOBER 11, 2023

Item XI8.





AGENDA ACTION FORM

Consideration of a Resolution Approving a Financial Contribution if Needed to the Industrial Development Board of the City of Kingsport Relative to the Fort Henry Mall Redevelopment and Improvements

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

Action Form No.: AF-345-2023
Work Session: November 6, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: John Rose & Steven Bower
Presentation By: Chris McCartt & Steven Bower

Recommendation:
Approve the Resolution.

Executive Summary:
If approved, this resolution will authorize a financial contribution to the Industrial Development Board of Kingsport (KEDB) in an amount not to exceed \$2,800,000 to facilitate the redevelopment and improvement of the Fort Henry Mall property.

KEDB has negotiated an incentive package for Hull Property Group, the current owners of the mall property for an economic development project that is vital to the continued growth of the area and will serve as a regional draw. The proposed incentive facilitates development of the new IMAX Theater building, NCG Cinema improvements and upgrades, construction of a new sanitary sewer line, and out-parcel development.

The financial contribution will allow KEDB to secure a loan in an amount not to exceed \$2,800,000 and will not be secured until the 2025 fiscal year.

The city is authorized pursuant to state law to make contributions to an eligible industrial development corporation for economic or industrial development.

- Attachments:**
1. Resolution
2. Fort Henry Mall Concept Site Plan

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

Item X19.

RESOLUTION NO. _____

A RESOLUTION APPROVING A FINANCIAL CONTRIBUTION, IF NEEDED, TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KINGSPORT, TENNESSEE FOR ECONOMIC OR INDUSTRIAL DEVELOPMENT PURPOSES RELATIVE TO THE FORT HENRY MALL REDEVELOPMENT AND IMPROVEMENTS, AUTHORIZING SUCH AGREEMENTS AS MAY BE NEEDED TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION; EXPRESSING THE INTENT OF THE BOARD OF MAYOR AND ALDERMEN TO ESTABLISH ONE OR MORE PROJECT ACCOUNTS IN AN ORDINANCE APPROPRIATING FUNDS TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION, IF NEEDED; AND TO FIX THE EFFECTIVE DATE OF THIS RESOLUTION

WHEREAS, the board has previously authorized the incorporation of the Industrial Development Board of the City of Kingsport, Tennessee (a/k/a KEDB) as an industrial development board duly organized and existing under the provisions of Title 7, Chapter 53 of the Tenn. Code Ann. (Act); and

WHEREAS, KEDB has negotiated an incentive package for the Hull Property Group, the current owners of the Fort Henry Mall property; and

WHEREAS, this project is vital to the continued growth of the area and will serve as a regional draw and

WHEREAS, the proposed incentive facilitates development of the new IMAX Theater building, NCG Cinema improvements and upgrades, construction of a new sanitary sewer line, and out-parcel development; and

WHEREAS, KEDB seeks city's agreement to contribute financially to this project so it can secure a loan in an amount not to exceed \$2,800,000.00; and

WHEREAS, it is anticipated that the loan will not be secured until sometime during the 2025 fiscal year; and

WHEREAS, city is authorized by Tenn. Code Ann. § 6-54-118 to make contributions to an eligible industrial development corporation for economic or industrial development; and

WHEREAS, KEDB is an eligible industrial development corporation.

Now therefore,

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

SECTION I. That the board incorporates herein by reference and adopts the findings set forth above.

SECTION II. That the board authorizes, if necessary, a contribution to KEDB in an amount not to exceed \$2,800,000.00, which contribution, if needed, could be used to secure a

loan for an incentive package with the Hull Property Group, for the Fort Henry Mall redevelopment and improvements.

SECTION III. That an agreement with KEDB is approved to provide a contribution in an amount not to exceed \$2,800,000.00 , which contribution, if needed, could be used to secure a loan for an incentive package with the Hull Property Group, for the Fort Henry Mall redevelopment and improvements and the mayor or in his absence, incapacity or failure to act the vice mayor is authorized to sign the same upon approval as to form by the city attorney.

SECTION IV. That the board recognizes that other agreements with KEDB may be needed to effectuate the purpose of this resolution and, accordingly, approves such agreements, as needed, to effectuate the purpose of this resolution, as determined by the mayor in consultation with the city attorney, and authorizes and directs the mayor to execute such agreement.

SECTION V. That the board finds that the expenditure of any funds pursuant to this resolution is for the public purpose of economic development or industrial development, is in the public interest, and will promote the health, comfort, and prosperity of the citizens of the city.

SECTION VI. That to carry out the intent of this resolution, the board will establish, by Ordinance, as needed, one or more project accounts and to fund such project account(s) in the upcoming budgets, and the city manager is directed to authorize and establish such project account(s), when and as needed.

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

ADOPTED this the 7th day of November, 2023.

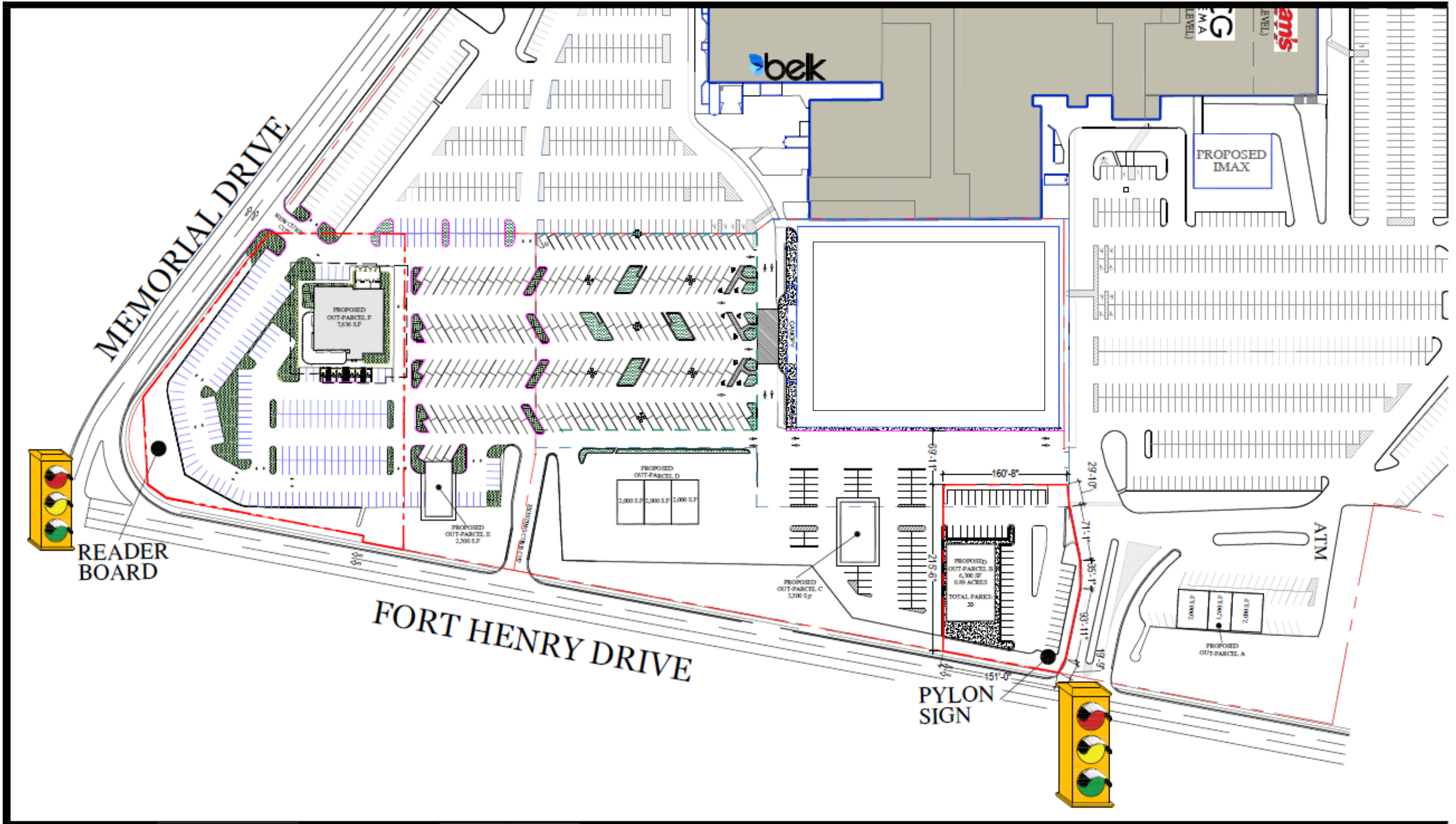
PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



No.	Description	Date

Kingsport
Town Center
Kingsport, TN

Proposed
Multi-Tenant
Outparcel

Item X19.

HULL PROPERTY GROUP

1190 Interstate Parkway, Augusta, GA 30909 | P. 706.863.2222 | www.hullpg.com

Scale 1" = 120'
Date 10/30/2023
Drawn by M. MITCHEL
Checked by J. BUNCH
A-0001



AGENDA ACTION FORM

Consideration of a Resolution to Approve an Amendment to the Preston Construction Dome Contract

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

Action Form No.: AF-337-2023
 Work Session: November 6, 2023
 First Reading: N/A
 Final Adoption: November 7, 2023
 Staff Work By: Committee
 Presentation By: David Frye

Recommendation:
 Approve the resolution.

Executive Summary:
 At the October 3, 2023 meeting, the BMA approved a contract with Preston Construction for the Buck Van Huss Dome Renovation and Associated Work at Dobyns-Bennett High School for \$20,405,085.00. The Board of Education now recommends Alternate 5 be accepted for \$315,000.00. This alternate includes renovations to some of the boys and girls locker rooms, spirit shaker and cheerleader locker rooms and public restrooms at the rear entrance to the dome.

There has also been work occurring on identifying additional value engineering reductions and there is one additional VE item being recommended. There was a price included in the base bid for fire alarm, sound system, DAS system, and structured cabling. The original bid had all these items being provided by one sub-contractor. Preston Construction has reached out to other vendors and is now able to provide these same items utilizing multiple sub-contractors at a savings of \$171,500.00.

It is recommended that the Board of Mayor & Aldermen approve an amendment to the Preston Construction Dome Renovation contract, to include alternate 5 for \$315,000 and additional value engineering reductions of \$171,500.00. The amended contract amount will be \$20,548,585.00. It is also recommended that the 4% contingency be increased by \$5,750.00, for an amended amount of \$821,950.00.

The Board of Education approved this motion on October 10, 2023.

Attachments:
 Resolution

Item XII.1.

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

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH PRESTON CONSTRUCTION COMPANY FOR THE BUCK VAN HUSS DOME RENOVATION PROJECT AND AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, bids were opened September 13, 2023, for the Buck Van Huss Dome Renovation and Associated Work at Dobyys-Bennett High School; and

WHEREAS, an agreement was executed with Preston Construction Company in the amount of \$20,405,085.00; and

WHEREAS, the Board of Education recommends amending the current agreement with Preston Construction Company to add bid Alternate Five at a cost of \$315,000.00 and deducting \$171,500.00 for a value engineering reduction for a total contract cost of \$20,548,585.00; and

WHEREAS, the Board of Education recommends increasing the 4% contingency by \$5,750.00, for an amended amount of \$821,950.00; and

WHEREAS, funding is available in the DB Dome Replacement Project GP2401.

Now therefore,

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

SECTION I. That an amendment to the Preston Construction Company agreement to add bid Alternate Five for the Buck Van Huss Dome Renovation and Associated Work at Dobyys-Bennett High School and that the total project cost be increased to \$20,548,585.00 is approved.

SECTION II. That the Mayor or in his absence, incapacity, or failure to act, the Vice-Mayor, is authorized and directed to execute, in a form approved by the City Attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the agreement with Preston Construction Company to add bid Alternate Five, to deliver the amendment and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the amendment.

SECTION III. That the contingency for this project be increased by \$5,750.00.

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 public.

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

ADOPTED this the 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B ROWLETT, III, CITY ATTORNEY



AGENDA ACTION FORM

Consideration of a Resolution for Approval to Amend the Professional Services Agreement with Thompson & Litton for Services Related to the Lincoln Elementary School HVAC Replacement Project

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

Action Form No.: AF-339-2023
Work Session: November 6, 2023
First Reading: N/A
Final Adoption: November 7, 2023
Staff Work By: Committee
Presentation By: David Frye

Recommendation:
Approve the Resolution.

Executive Summary:
On February 22, 2023, the City entered into a professional services agreement with Thompson & Litton for the Lincoln Elementary School HVAC Replacement Project for a lump sum fee not to exceed \$120,000.00 plus \$8,000.00 reimbursable expense.

At this time, the administration would like to amend that agreement to cover additional work to add a new main distribution panel to the project scope. Total cost for the additional work is a lump sum fee of \$7,500.00. The total agreement cost with the new work will be \$127,500.00 plus \$8,000.00 reimbursable expense.

Funds will come from the Schools HVAC Replacements Project GP2302.

Attachments:
Resolution
Proposal

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

RESOLUTION NO. ____

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH THOMPSON & LITTON FOR THE LINCOLN ELEMENTARY SCHOOL HVAC REPLACEMENT PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION

WHEREAS, the City requested qualifications from engineering firms in the fall of 2021 with the intent to award contracts to vendors for HVAC projects at four of its schools; and

WHEREAS, on February 22, 2023, the City entered into a Professional Services Agreement with Thompson & Litton in the amount not to exceed \$120,000.00 plus \$8,000.00 reimbursable expenses for the Lincoln Elementary School project; and

WHEREAS, work for the addition of a new main distribution panel needs to be added to the scope; and

WHEREAS, Thompson & Litton has proposed a sum of \$7,500.00 for the additional work and the administration accepts this proposal; and

WHEREAS, the total cost of the agreement with the additional work will be \$135,500.00; and

WHEREAS, funding will be from the Schools HVAC Replacements Project GP2302.

Now therefore,

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

SECTION I. That an amendment to the agreement with Thompson & Litton for engineering services for the Lincoln Elementary School HVAC Replacement project is approved for a total cost not to exceed \$127,500.00 plus \$8,000.00 reimbursable expenses.

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 with Thompson & Litton for engineering services for the Lincoln Elementary School HVAC Replacement Project and all other documents necessary and proper to effectuate the purpose of the agreement or this resolution.

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and 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 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 7th of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL
DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY



**THOMPSON
& LITTON** EST.
1956

ENGINEERS ARCHITECTS SURVEYORS

**AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE
CITY OF KINGSPORT
AND
THOMPSON & LITTON, INC.**

Project: Lincoln Elementary School HVAC Replacement
Additional Services
T&L Project No. 017255

Owner: City of Kingsport
415 Broad Street
Kingsport, Tennessee 37660

Consultant: Thompson & Litton, Inc.
P.O. Box 1909
Johnson City, Tennessee 37605

Date: October 6, 2023

Background

In February 2023, Owner and Consultant entered into agreement to provide professional services for HVAC replacements at Lincoln Elementary School. The Owner has requested additional work to add a new main distribution panel to the project scope.

Scope of Services

The Consultant will provide professional services relating to the addition of a new main distribution panel to the Lincoln Elementary School HVAC Replacement project for the City of Kingsport (Client). Deliverables for this work are outlined below.

- Remove and replace the existing main electrical switchboard at the building as part of the HVAC replacement project. The existing switchboard is located on the outside of the building and is surrounded by a chain link fence.
- The work will include the removal of the existing main electrical switchboard with the placement of new equipment at the same location. Any wiring replacement required due to this work will be addressed as part of the project through the use of an allowance.
- The work will be included in the project bid and will be added to the bid documents through the addendum process.



Schedule/Compensation

Owner agrees to pay Consultant as compensation for its services a lump sum of \$7,500.00. Budget for construction cost is assumed to be around \$125,000.00. Consultant expects to start its services promptly after receipt of Client's written notice to proceed and to substantially complete its services within 30 days.

THOMPSON & LITTON, INC.

BY: Ronald G. Helton
Ronald G. Helton, PE
Chairman

DATE: October 6, 2023

CITY OF KINGSPORT

BY: _____

DATE: _____

ATTEST:

Angela Marshall, Deputy City Recorder

APPROVED AS TO FORM:

Rodney B. Rowlett, III, City Attorney



AGENDA ACTION FORM

Approve the Issuance of Certificate of Compliance for a Retail Food Store to Sell Wine

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

Action Form No.: AF-347-2023
Work Session: November 6, 2023
First Reading: November 7, 2023
Final Adoption: November 7, 2023
Staff Work By: Angie Marshall
Presentation By: Angie Marshall

Recommendation:

Approve the issuance of a Certificate of Compliance to sell wine at Weigel's #94, 2810 East Stone Drive.

Executive Summary:

A retail food store is required to file an application with the City Recorder to obtain a Certificate of Compliance. This Certificate, which must be issued and signed by the Mayor, is a required attachment to the application that is submitted by the business to the Tennessee Alcoholic Beverage Commission to obtain a license to sell wine in a retail food store.

Tennessee Code Annotated, Section 57-3-806 directs municipalities that the Certificate must state:

1. The applicant in charge of the business has not been convicted of a felony within the past ten years; and
2. The applicant's business location complies with local zoning laws.

This application has met the requirements of TCA 57-3-806. A police background check has been conducted with nothing found that would prevent the applicant from receiving this certificate. Planning has also verified the business is properly zoned.

Attachments:

None

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



AGENDA ACTION FORM

Consideration of a Resolution to Ratify the Mayor’s Signature and Adopt the ARCH Written Standards and Grievance Policy as a Condition of Receiving the THDA HOME ARP Supportive Services Grant

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

Action Form No.: AF-335-2023
 Work Session: November 6, 2023
 First Reading: N/A
 Final Adoption: November 7, 2023
 Staff Work By: Michael Price
 Presentation By: Michael Price

Recommendation:
 Approve the Resolution.

Executive Summary:
 This resolution will adopt written standards for eligibility for grant funds as well as a grievance process as required for receipt of the Tennessee Housing Development Agency administered HOME ARP Supportive Services Grant.

On March 7, 2023 the board passed Resolution Number 2023-190 which ratified the Mayor’s signature on the application for the THDA HOME-ARP Supportive Services Grant and authorizing the Mayor to sign all documents necessary and proper to receive the grant. On October 9th, 2023 the City was awarded grant funds in the amount of \$220,000 for homeless services and the Mayor executed the grant contract.

As a condition of the grant City must adopt written standards and a grievance policy. The written standards define who is eligible for assistance and what that assistance will be. These are the same standards in use by KHRA and ARCH for similar programs.

The grievance policy gives participants the opportunity to ensure their entitlements under the grant are met.

The Grant budget is as follows:
 McKinney Vento Supportive Services \$93,500.00 funding helps people who meet HUD’s definition of Homelessness.
 Homelessness Prevention Services \$93,500.00 funding helps people who are at risk of losing their rental unit.
 Administrative Costs: \$33,000.00 this funding goes to offset the expenses associated with administering the grant.

No matching funds are required for receipt of the grant.

- Attachments:**
1. Resolution
 2. Grant Contract
 3. Grant Summary
 4. Written Standards
 5. Grievance Policy
 6. Authorized Signature Page

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

Item XII.4.

Item XII4.

RESOLUTION NO. _____

A RESOLUTION RATIFYING THE MAYORS SIGNATURE ON THE TENNESSEE HOUSING DEVELOPMENT AGENCY HOME ARP SUPPORTIVE SERVICES GRANT CONTRACT AND RECEIVING OF FUNDING THROUGH THE GRANT. AND ADOPTING THE WRITTEN STANDARDS AND GRIEVANCE POLICY AND ALL OTHER DOCUMENTS NECESSARY AND PROPER

WHEREAS, in an effort to increase services for the homeless population of Kingsport such as providing assistance to those who qualify under the McKinney Vento Act and those at risk of losing rental housing the board adopted Resolution No. 2023-190 which ratified the mayor's signature on a grant application for and authorized execution of all documents necessary and proper to receive the HOME ARP grant administered by the by Tennessee Housing Development Agency (THDA); and

WHEREAS, THDA has awarded the city grant funding through the HOME ARP Supportive Services Grant in the amount of \$220,000.00; and

WHEREAS, no matching funds are required for receipt of the grant; and

WHEREAS, as a condition of the grant City must adopt written standards as well as a grievance policy; and

WHEREAS, the written standards will define eligibility for assistance through the grant as well as what assistance is available while the grievance policy will afford applicants/recipients to ensure their entitlements under the grant are met.

WHEREAS, in order to fulfill the board's previous action it is recommended the *Written Standards for HOME Investment partnerships Program – American Rescue Plan Supportive Services Program* and *City of Kingsport HOME-ARP Supportive Services Grievance Procedure* be adopted.

Now therefore,

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

SECTION I. That the board incorporates herein by reference the foregoing averments in their entirety.

SECTION II. That the board hereby accepts the HOME ARP Supportive Services Grant funds in the amount of \$220,000.00 and further ratifies the mayor's execution of the grant contract.

SECTION III. That the board hereby adopts the *Written Standards for HOME Investment partnerships Program – American Rescue Plan Supportive Services Program* and *City of Kingsport HOME-ARP Supportive Services Grievance Procedure* as a condition of the grant.

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

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

ADOPTED this the 7th day of November, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY

**GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
TENNESSEE HOUSING DEVELOPMENT AGENCY,
AND
CITY OF KINGSPORT**

This grant contract ("Grant Contract"), by and between the State of Tennessee, Tennessee Housing Development Agency ("THDA"), hereinafter referred to as the "State" or the "Grantor State Agency," and City of Kingsport, hereinafter referred to as the "Grantee," is for the provision of Supportive Services for Qualifying Populations, 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. FEDERAL REQUIREMENTS. THDA was allocated federal funds appropriated under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) ("ARP") for the HOME Investment Partnerships Program ("HOME Program"), which is governed by Title 24 of the Code of Federal Regulations, Part 92, as amended, to provide homelessness assistance and supportive services through the HOME-American Rescue Plan Program ("HOME-ARP"). The Grantee shall comply with the requirements under the HOME Program and ARP, along with all other requirements of the U.S. Department of Housing and Urban Development ("HUD") concerning HOME-ARP funds, including, but not limited to, Notice CPD 21-10 (collectively, the "Federal Requirements").
- A.3. THDA REQUIREMENTS. The THDA-specific requirements for these activities are outlined within the following documents (collectively, the "THDA Requirements"):
- a. HOME-ARP Supportive Services Program 2023 Program Description;
 - b. HOME-ARP Support Services Program Guide.
- A.4. INCOPORATION BY REFERENCE. The Federal Requirements, THDA Requirements, and Attachments A and B are herein incorporated by this reference. In case of conflicting requirements, the more stringent requirement will apply, unless such application would result in a violation of a Federal Requirement, which in such case the Federal Requirement must be applied.
- A.5. APPROVED HOME-ARP FUNDING. Grantee has been approved by THDA for funding to provide a broad range of Supportive Services to qualifying individuals and families, as further specified in Attachment A. The eligible Supportive Services are:
- a. McKinney-Vento Supportive Services - Services adapted from the services listed in section 401(29) of McKinney-Vento;
 - b. Homelessness Prevention Services – Services adapted from eligible homelessness prevention services under 24 CFR 576.102, 24 CFR 576.103, 24 CFR 576.105, and 24 CFR 576.106, all as revised in Notice CPD 21-10; and
 - c. Housing Counseling Services - Services consistent with the definition of housing counseling and housing counseling services defined at 24 CFR 5.100 and 5.111, except as otherwise noted. **These services may only be provided by organizations and counselors certified under 24 CFR 214 to provide housing counseling.**

- A.6. ELIGIBLE COSTS. Eligible costs are limited to those identified in Notice CPD 21-10 in Section VI.D.4.c.
- a. Grantee shall document eligible costs as costs under A.5.a., A.5.b., or A.5.c. above. Any ineligible costs paid must be repaid to THDA immediately upon demand.
 - b. All supportive service costs paid for by HOME-ARP must comply with Notice CPD 21-10 and 2 CFR 200, subpart E.
 - c. All costs must be necessary and reasonable.
 - d. Grantee shall assure that there is no duplication of services or assistance. If a qualifying household is already receiving the same eligible supportive service or has been approved to receive the same service through another program or provider, the program participant does not have a need for the HOME-ARP service and the costs related to the service do not comply and will be deemed ineligible costs, which Grantee shall return to THDA.
- A.7. QUALIFYING POPULATIONS, TARGETING, PREFERENCES. Grantee shall abide by all Federal Requirements and THDA Requirements in its administration of approved activities, targeting, and preferences and shall assure that all HOME-ARP funds are used to primarily benefit individuals and families that meet the definition of Qualifying Populations as outlined in Notice CPD 21-10 and THDA Requirements for HOME-ARP, in compliance with the following exceptions from Notice CPD 21-10:
- a. If a person is homeless, then the person is eligible to be provided the supportive services as McKinney-Vento supportive services for the costs allowable in Section VI.D.4.c. of said Notice;
 - b. If a person is housed and the supportive services are intended to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing to achieve stability in that housing then the person is eligible for homelessness prevention services for the costs allowable in Section VI.D.4.c.i. of said Notice; and
 - c. Housing Counseling services may be provided regardless of whether a person is homeless or currently housed.
- A.8. DUE PROCESS. The Grantee shall establish policies and procedures for termination of assistance to beneficiaries of its HOME-ARP Supportive Services Program. Such policies and procedures must be submitted and approved by THDA. In terminating assistance to a program participant, the Grantee shall provide a formal process that recognizes the rights of individuals receiving assistance under the due process of law. During this process, the Grantee shall provide effective communication and accessibility for individuals with disabilities, including the provision of reasonable accommodations and meaningful access to persons with Limited English Proficiency. This process, at a minimum, must consist of:
- a. Providing the program participant with a written copy of the program rules and the termination process before the participant beneficiary begins to receive assistance;
 - b. Written notice to the program participant containing a clear statement of the reasons for termination;
 - c. A review of the decision in a hearing, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision;
 - d. For all decisions where the Grantee decides that termination is not warranted and that the termination should be overturned and the program participation should continue, the

Grantee shall provide the program participant written notice of such within seven (7) days of the hearing;

- e. If after review the Grantee determines termination is warranted, the Grantee shall refer the case to THDA's legal division by the next business day after the hearing and THDA will either overturn the termination, or, if it agrees termination should occur, will send a proposed notice of termination. The program participant will be given 14 days from the date of the notice to appeal THDA's decision or the decision is final;
- f. If the program participant appeals THDA's decision, the matter will be heard by THDA's hearing officer or its designee. The hearing officer will either overturn the termination or uphold it; and
- g. If the hearing officer upholds the termination, the program participant will be given 14 days to appeal in order to receive a hearing with an administrative law judge for the State of Tennessee.

B. TERM OF CONTRACT:

This Grant Contract shall be effective on July 1, 2023 ("Effective Date") and extend for a period of eighteen (18) months after the Effective Date ("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 Two Hundred Twenty Thousand and 00/100 (\$220,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment A 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, in accordance with the THDA Requirements.
 - a. 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.

- b. If Grantee is approved for HOME-ARP Supportive Services funds and incurs eligible administrative costs between the later of (1) May 1, 2023 or THDA's approval of the Environmental Review for all funded grant activities and (2) the Effective Date, Grantee may be eligible to invoice THDA for reimbursement of such costs if (i) Grantee provides THDA the amount of such accruals when requested, (ii) THDA receives an invoice for such costs within sixty (60) calendar days of the end of the calendar month of the Effective Date, and (iii) the invoice does not deviate more than 10% from the reported accrual. Grantee may not invoice THDA for any other eligible costs incurred outside of the Term.

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 forty-five (45) days of the Grant Contract end date, in form and substance acceptable to the State.

- a. 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, the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
- b. 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.
- c. The Grantee's failure to provide a final grant disbursement reconciliation report to the State as required by this Grant Contract 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.
- d. The Grantee must close out its accounting records at the end of the Term 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 Department of Finance and Administration Policy Statement 03 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:

Don Watt, Chief Programs Officer

Item XII4.

Tennessee Housing Development Agency
502 Deaderick Street, 3rd Floor
Nashville, TN 37243
DWatt@thda.org
Telephone # (615) 815-20302

The Grantee:

Patrick Shull, Mayor
The City of Kingsport
415 Broad Street
Kingsport, TN 37660
patshull@kingsporttn.gov
Telephone # (423) 224-2877

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. 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, THDA Requirements, and Federal Requirements, specifically, Notice CPD 21-10 and shall be retained, along with this Grant Contract, for a period of 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. The Grantee shall also submit a copy of the audit report to the State using the contact information in D.8.
- 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—200.326 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 five thousand dollars (\$5,000.00).
- 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. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
- 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.

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. Drug-Free Workplace. The Grantee shall provide a drug-free workplace pursuant to the "Drug-Free Workplace Act," 41 U.S.C. §§ 8101 through 8106, and its accompanying regulations.
- E.3. 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.4. Federal Funding Accountability and Transparency Act (FFATA).

This Grant Contract requires the Grantee to provide supplies or services that are funded in whole

or in part by federal funds that are subject to FFATA. The Grantee is responsible for ensuring that all applicable FFATA requirements, including but not limited to those below, are met and that the Grantee provides information to the State as required.

The Grantee shall comply with the following:

a. Reporting of Total Compensation of the Grantee's Executives.

- (1) The Grantee shall report the names and total compensation of each of its five most highly compensated executives for the Grantee's preceding completed fiscal year, if in the Grantee's preceding fiscal year it received:
 - i. 80 percent or more of the Grantee's annual gross revenues from Federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and sub awards); and
 - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and sub awards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Grantee's preceding fiscal year and includes the following (for more information see 17 CFR § 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

b. The Grantee must report executive total compensation described above to the State by the end of the month during which this Grant Contract is established.

c. If this Grant Contract is amended to extend its term, the Grantee must submit an executive total compensation report to the State by the end of the month in which the amendment to this Grant Contract becomes effective.

- d. The Grantee will obtain a Unique Entity Identifier (SAM) and maintain its number for the term of this Grant Contract. More information about obtaining a Unique Entity Identifier can be found at: <https://www.gsa.gov>.

The Grantee's failure to comply with the above requirements is a material breach of this Grant Contract for which the State may terminate this Grant Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Grantee unless and until the Grantee is in full compliance with the above requirements.

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. Equal Opportunity. As a condition for receipt of grant funds, the Grantee agrees to comply with 41 C.F. R. § 60-1.4 as that section is amended from time to time during the term.

E.7. Clean Air Act and Federal Water Pollution Control Act. As a condition for receipt of funds, the Grantee agrees to comply with the Clean Air Act, 42 U.S.C. § 7401 *et seq.* and the Federal Water Pollution Control Act, 33 U.S.C § 1251 *et seq.*, as those sections are amended from time to time during the term. Violations must be reported to HUD and the Region 4 Office of the Environmental Protection Agency.

E.8. Americans with Disabilities Act. The Grantee must comply with the Americans with Disabilities Act (ADA) of 1990, as amended, including implementing regulations codified at 28 CFR Part 35 "Nondiscrimination on the Basis of Disability in State and Local Government Services" and at 28 CFR Part 36 "Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities," and any other laws or regulations governing the provision of services to persons with a disability, as applicable. For more information, please visit the ADA website: <http://www.ada.gov>.

[SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF,

CITY OF KINGSPORT

DocuSigned by:
Patrick Shull
72D36825DF7443D...

10/9/2023 | 12:04 PM EDT

PATRICK SHULL, MAYOR

DATE

[THDA SIGNATURE PAGE ON NEXT PAGE]

[THDA SIGNATURE PAGE]

TENNESSEE HOUSING DEVELOPMENT AGENCY:

DocuSigned by:
Don Watt
3631C7E2E82C44A...

10/9/2023 | 11:29 AM CDT

DON WATT, CHIEF PROGRAMS OFFICER

DATE

ATTACHMENT A

HOME-ARP SUPPORTIVE SERVICES PROGRAM

DESCRIPTION OF GRANTEE ACTIVITIES AND GRANT BUDGET

GRANTEE: CITY OF KINGSPORT

1. Grantee hereby agrees to provide the following Supportive Services under the HOME-ARP Supportive Services Program:
 - McKinney-Vento Supportive Services - Services adapted from the services listed in section 401(29) of McKinney-Vento;
 - Homelessness Prevention Services – Services adapted from eligible homelessness prevention services under 24 CFR 576.102, 24 CFR 576.103, 24 CFR 576.105, and 24 CFR 576.106, all as revised in Notice CPD 21-10; and
 - Housing Counseling Services - Services consistent with the definition of housing counseling and housing counseling services defined at 24 CFR 5.100 and 5.111, except as otherwise noted. These services may only be provided by organizations and counselors certified under 24 CFR 214 to provide housing counseling.

2. The specific tasks Grantee shall perform are as follows:
 - a. Grantee shall provide services to persons who meet the definition of Qualifying Populations as outlined in Notice CPD-21-10 in Hawkins and Sullivan Counties. Specifically, Grantee shall use the HOME-ARP funds to support homeless individuals and school children who qualify through McKinney-Vento in the following ways:
 - i. Housing Services. Grantee shall use the HOME-ARP funds to provide temporary housing assistance to eligible families and individuals who are experiencing homelessness, including rental assistance, utility assistance, security deposits, and other expenses related to helping them secure stable housing.
 - ii. Case Management. Grantee shall provide case management services to help homeless individuals and families access resources and services they need to become self- sufficient, including referrals for employment services, education and training, healthcare services, and other related services. Grantee shall use a portion of the funding to contract additional staff to aid in case work.
 - iii. Transportation Assistance. Grantee shall provide transportation assistance to help homeless individuals and families access necessary services and resources, such as medical appointments, employment opportunities, and educational programs.
 - iv. Food Assistance. Grantee shall provide food assistance to homeless individuals and families who are experiencing food insecurity.
 - v. School Supplies. Grantee shall provide school supplies and other educational materials to school children who qualify through McKinney-Vento to help them succeed in school.
 - vi. Grantee shall provide ~~transportation~~ mental health and substance use services, including case management, Item XII.4. care coordination, medication evaluation, monitoring, and therapy ~~and substance abuse recovery services.~~

3. Grantee shall provide such Supportive Services to primarily benefit individuals and families that meet the definition of Qualifying Populations as outlined in Notice CPD 21-10 and THDA Requirements for HOME-ARP, in compliance with the following exceptions from Notice CPD 21-10:
 - a. If a person is homeless, then the person is eligible to be provided the supportive services as McKinney-Vento supportive services for the costs allowable in Section VI.D.4.c. of said Notice;
 - b. If a person is housed and the supportive services are intended to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing to achieve stability in that housing then the person is eligible for homelessness prevention services for the costs allowable in Section VI.D.4.c.i. of said Notice; and
 - c. Housing Counseling services may be provided regardless of whether a person is homeless or currently housed.
4. Grantee shall serve the Qualified Populations, but with the following Method of Prioritization:
 - a. Method of Prioritization. Grantee shall use the following Prioritization Method:
 1. QP1 – Unsheltered households with substance abuse issues or leaving jail under pretrial diversion based on time of application.
 2. QP2, QP 3, & QP4 – Sheltered households with substance abuse issues or at risk leaving jail under pretrial diversion based on time of application.
 3. All QPs based on time of application.
5. Grantee shall not request funds hereunder until the funds are needed for payment of Eligible Costs. The amount of each request must be limited to the amount needed.
6. GRANTEE BUDGET.

ACTIVITY	BUDGET
McKinney Vento Supportive Services	\$93,500.00
Homelessness Prevention Supportive Services	\$93,000.00
Housing Counseling	\$0.00
Administrative Costs (Cannot exceed 15% of the Total Budget)	\$33,000.00
Total Budget	\$220,000.00

ATTACHMENT B**Federal Award Identification Worksheet**

Subrecipient's name (must match name associated with its Unique Entity Identifier (SAM))	THE CITY OF KINGSPORT
Subrecipient's Unique Entity Identifier (SAM)	YE45C4JZC5U1
Federal Award Identification Number (FAIN)	M21-SP470100
Federal award date	2021
Subaward Period of Performance Start and End Date	7/1/2023-12/31/2024
Subaward Budget Period Start and End Date	7/1/2023-12/31/2024
Assistance Listing number (formerly known as the CFDA number) and Assistance Listing program title.	14.239 HOME Investment Partnerships Program
Grant contract's begin date	7/1/2023
Grant contract's end date	12/31/2023
Amount of federal funds obligated by this grant contract	\$220,000.00
Total amount of federal funds obligated to the subrecipient	\$220,000.00
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$53,276,184.00
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	The HOME Investment Partnerships American Rescue Plan Program (HOMEARP) provides funding to HOME PJs to reduce homelessness and increase housing stability across the country.
Name of federal awarding agency	U.S. Department of Housing and Urban Development (HUD)
Name and contact information for the federal awarding official	Walter N. Perry John J. Duncan Federal Building 710 Locust Street, Third Floor Knoxville, TN 37902-2526 (865) 545-4370
Name of pass-through entity	Tennessee Housing Development Agency (THDA)
Name and contact information for the pass-through entity awarding official	Don Watt, Chief Programs Officer 502 Deaderick Street, 3rd Floor Nashville, TN 37243 (615) 815-20302
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	N/A

THDA HOME ARP Supportive Services Grant

Project: Providing support for those facing homelessness or at risk of homelessness.

Grant Allows for Homeless Prevention and Rapid Rehousing services for homeless people.

Grant total: \$220,000.00

There is no match requirement.

ACTIVITY	BUDGET
McKinney Vento Supportive Services	\$93,500.00
Homelessness Prevention Supportive Services	\$93,500.00
Administrative Costs	\$33,000.00
(Cannot exceed 15% of the Total Budget)	
Total Budget	\$220,000.00

City of Kingsport on Homelessness
Written Standards for
HOME Investment Partnerships Program-American Rescue Plan (HOME-ARP)
Supportive Services (SS) Program

1. These written standards apply to City of Kingsport's direct services and states the HOME-ARP-SS eligible services City of Kingsport will provide and any limitations on funding amounts. These written standards will expire on the date that THDA ends the Program. Services will not be provided until City of Kingsport has a completed grant agreement with THDA.
2. The HOME-ARP-SS Program is designed to assist qualifying individuals and families who are:
 - a. homeless;
 - b. at risk of homelessness;
 - c. fleeing, or attempting to flee, domestic violence, human trafficking; or
 - d. other vulnerable individuals to provide the services necessary to help those persons regain stability quickly in temporary or permanent housing after experiencing a housing crisis and/or homelessness.
3. The objectives of the HOME-ARP-SS Program are:
 - a. Assist qualifying vulnerable individuals by providing them with the services necessary to help those persons regain stability quickly.
 - b. Reduce the length of time program participants experience homelessness;
 - c. Exit program participants to permanent housing;
 - d. Limit returns to homelessness one year after program participants exit the HOME-ARP-SS Program; and
 - e. Based on the activity, all HOME-ARP-SS Program resources are to be used to benefit Qualifying Populations as defined in herein.
4. HOME-ARP SS Program funds must be used to primarily benefit individuals or families that are:
 - a. Homeless.
 - (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - (a) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - (b) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including

congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

- (c) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
 - (a) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - (b) No subsequent residence has been identified; and
 - (c) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing.
 - (3) Unaccompanied youth under 25 years of age or families with children and youth, who do not otherwise qualify as homeless, but who:
 - (a) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 - (b) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - (c) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 - (d) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

b. At Risk of Homelessness.

- (1) An individual or family who:

- (a) Has an annual income below 30 percent of median family income for the area, as determined by HUD;
- (b) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in the Homeless definition.
- (c) Meets one of the following conditions:
 - i. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - ii. Is living in the home of another because of economic hardship;
 - iii. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
 - iv. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
 - v. Lives a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
 - vi. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - vii. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in THDA's approved consolidated plan.
- (2) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387 (3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
- (3) A child or youth who does not qualify as "homeless" under this section but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.
- c. Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD.

For HOME-ARP, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking as such terms are defined at 24 CFR 5.2003. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

- d. Other Populations, where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:
- (1) Other Families Requiring Services or Housing Assistance to Prevent Homelessness is defined as households (i.e., individuals and families) who have previously been qualified as "homeless" as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.
 - (2) At Greatest Risk of Housing Instability is defined as household who meets either paragraph (1) or (2) below:
 - (a) Has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);
 - (b) Has annual income that is less than or equal to 50% of the area median income, as determined by HUD, AND meets one of the following conditions from paragraph (iii) of the "At risk of homelessness" definition established at 24 CFR 91.5:
 - i. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - ii. Is living in the home of another because of economic hardship;
 - iii. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of

application for assistance;

- iv. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
 - v. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than
 - vi. 1.5 persons reside per room, as defined by the U.S. Census Bureau;
 - vii. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - viii. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.
- e. Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP SS Program assistance.

5. Eligible Activities

- a. Provision of McKinney-Vento Act Supportive Services as defined in section 401.
- b. Homelessness Prevention Services defined at 24 CFR 576.102, 103, 105, and 106 as revised, supplemented, and streamlined in THDA's HOME-ARP-SS Program Description.

6. Eligible Costs

- a. HOME-ARP SS funds may be used to pay eligible costs associated with an Eligible Activity in accordance with the requirements in these written standards. Eligible Costs that may be paid using HOME-ARP-SS funds are limited to only those identified in this section.
- b. Supportive Services. If a program participant is homeless, then the program participant is eligible to be provided the McKinney-Vento Act Supportive Services ("Supportive Services") for the costs allowable in these written standards.
- c. Homelessness Prevention Services. If a program participant is housed and the supportive services are intended to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing to achieve stability in that housing, then the program participant is eligible for homelessness prevention services for the costs allowable in these written standards.

(1) Eligible Costs for Supportive Services and Homelessness Prevention Services:

- (a) Child Care. The costs of childcare for program participants, including providing meals and snacks, and comprehensive and coordinated developmental activities, are eligible.

- i. The childcare center must be licensed by the jurisdiction in which it operates in order for its costs to be eligible.
 - ii. Children must be under the age of 13 unless the children have a disability.
 - iii. Children with a disability must be under the age of 18.
- (b) Education Services. The costs of improving knowledge and basic educational skills are eligible costs including:
- i. Instruction or training in consumer education, health education, substance abuse prevention, literacy, English as a Second Language, and General Educational Development (GED).
 - ii. Screening, assessment, and testing; individual or group instruction; tutoring; provision of books, supplies, and instructional material; counseling; and referral to community resources.
- (c) Employment Assistance and Job Training. The costs of establishing and/or operating employment assistance and job training programs are eligible, including classroom, online and/or computer instruction, on-the-job instruction, services that assist individuals in securing employment, acquiring learning skills, and/or increasing earning potential. The cost of providing reasonable stipends to program participants in employment assistance and job training programs is also an eligible cost.
- i. Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates.
 - ii. Services that assist individuals in securing employment consist of:
 - (i) Employment screening, assessment, or testing;
 - (ii) Structured job skills and job-seeking skills;
 - (iii) Special training and tutoring, including literacy training and prevocational training;
 - (iv) Books and instructional material;
 - (v) Counseling or job coaching; and
 - (vi) Referral to community resources.
- (d) Food. The cost of providing meals or groceries to program participants is eligible.
- (e) Housing Search and Counseling Services. Costs of assisting eligible program participants to locate, obtain, and retain suitable housing are eligible. Services include:
- i. Development of an action plan for locating housing;
 - ii. Housing search;
 - iii. Tenant counseling;

- iv. Securing utilities;
 - v. Making moving arrangements;
 - vi. Outreach to and negotiation with owners;
 - vii. Assistance submitting rental applications and understanding leases;
 - viii. Assistance obtaining utilities; and
 - ix. Tenant counseling;
 - x. Mediation with property owners and landlords on behalf of eligible program participants;
 - xi. Credit counseling, accessing a free personal credit report, and resolving personal credit issues;
 - xii. Payment of rental application fees; and
 - xiii. Other Housing counseling costs, as defined in 24 CFR 5.100, funded with or provided in connection with grant funds must be carried out in accordance with 24 CFR 5.111.
- (f) Legal Services. Eligible costs are the fees charged by licensed attorneys and by person(s) under the supervision of licensed attorneys, for advice and representation in matters that interfere with a qualifying individual or family's ability to obtain and retain housing.
- i. Eligible subject matters are child support; guardianship; paternity; emancipation; legal separation; orders of protection and other legal remedies for victims of domestic violence, dating violence, sexual assault, human trafficking, and stalking; appeal of veterans and public benefit claim denials; landlord-tenant disputes; and the resolution of outstanding criminal warrants; landlord/tenant matters, provided that the services must be necessary to resolve a legal problem that prohibits the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing in which the program participant currently resides.
 - ii. Services may include client intake, receiving and preparing cases for trial, provision of legal advice, representation at hearings, and counseling.
 - iii. Fees based on the actual service performed (i.e., fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees.
 - iv. Filing fees and other necessary court costs are also eligible.
 - v. Ineligible Legal Costs. Legal services for immigration and citizenship matters and issues relating to mortgages are ineligible costs. Retainer fee arrangements and contingency fee arrangements are ineligible costs and prohibited under HOME-ARP- SS.

- (g) Life Skills Training. The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, dating violence, sexual assault, stalking, human trafficking, substance abuse, and homelessness are eligible. These services must be necessary to assist the program participant to function independently in the community. Life skills training includes budgeting of resources and money management, household management, conflict management, shopping for food and other needed items, nutrition, the use of public transportation, and parent training.
- (h) Outreach Services. The costs of activities to engage Qualified Populations for the purpose of providing immediate support and intervention, as well as identifying potential program participants, are eligible.
 - i. Eligible costs include the outreach worker's transportation costs and a cell phone to be used by the individual performing the outreach.
 - ii. Costs associated with the following services are eligible: initial assessment; crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; actively connecting and providing people with information and referrals to homeless and mainstream programs; and publicizing the availability of the housing and/or services provided within the ARCH's geographic area.
- (i) Transportation. Eligible costs are:
 - i. The costs of a program participant's travel on public transportation or in a vehicle provided City of Kingsport to and from medical care, employment, childcare, or other services eligible under these written standards;
 - ii. Mileage allowance for service workers to visit program participants and to carry out housing inspections;
 - iii. The cost of leasing a vehicle in which staff transports program participants and/or staff serving program participants;
 - iv. The cost of gas, insurance, taxes, and maintenance for the vehicle;
 - v. The costs of City of Kingsport's staff to accompany or assist program participants to utilize public transportation; and
 - vi. If public transportation options are not sufficient within the area, ARCH may make a one-time payment on behalf of a program participant needing car repairs or maintenance required to operate a personal vehicle, subject to the following:
 - (i) Payments for car repairs or maintenance on behalf of the program participant may not exceed 10 percent of the Blue Book value of the vehicle (Blue Book refers to the guidebook that compiles and quotes prices for new and used automobiles and other vehicles of all makes,

- models, and types);
 - (ii) Payments for car repairs or maintenance must be paid by ARCH directly to the third party that repairs or maintains the car; and
 - (iii) City of Kingsport may require program participants to share in the cost of car repairs or maintenance as a condition of receiving assistance with car repairs or maintenance.
- vii. ARCH will establish policies and procedures surrounding payments for the cost of gas, insurance, taxes, the one-time payment for car repairs or maintenance as described above, and maintenance for vehicles of program participants. Such costs must be limited to program participants with the inability to pay for such costs and who, without such assistance, would not be able to participate in HOME-ARP-SS eligible services.
- (j) Case Management. The costs of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant (s) are eligible costs. Grantees providing these supportive services must have written standards for providing the assistance. Eligible costs are those associated with the following services and activities:
- i. Conducting the initial evaluation, including verifying and documenting eligibility, for individuals and families applying for supportive services;
 - ii. Counseling;
 - iii. Developing, securing and coordination services;
 - iv. Using a centralized or coordinated assessment system that complies with the requirements of a Coordinated Entry Process used by City of Kingsport;
 - v. Obtaining federal, State, and local benefits;
 - vi. Monitoring and evaluating program participant progress;
 - vii. Providing information and referrals to other providers;
 - viii. Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking;
 - ix. Developing an individualized housing and service plan, including planning a path to permanent housing stability; and,
 - x. Conducting re-evaluations of the program participant's eligibility and the types and amounts of assistance the program participant needs.
- (k) Mediation. HOME-ARP-SS funds may pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.

- (l) Credit Repair. HOME-ARP-SS Program funds may pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.
- (m) Landlord/Tenant Liaison. Costs of liaison services between property managers, owners and program participants are eligible HOME-ARP-SS costs and may include:
 - i. Landlord outreach;
 - ii. Physical inspections and rent reasonable studies as needed to secure units;
 - iii. Rental application fees and security deposits for clients, in accordance with the financial assistance costs requirements in Section D-1(R);
 - iv. Mediation services in Section D-1(R) for housing issues that may arise between owner, property manager, or other residents and clients; and,
 - v. Coordination or assistance with the provision of other HOME-ARP-SS eligible services to assist clients to maintain permanent housing.
- (n) Services for Special Populations. HOME-ARP-SS Program funds may be used to provide services for special populations, such as victim services, so long as the costs of providing these services are eligible under this section. The term victim services means services that assist program participants who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- (o) Financial Assistance. HOME-ARP-SS funds may be used to pay housing owners, utility companies, and other third parties for the following costs, as applicable:
 - i. Rental Application Fees. Rental housing application fees that are charged by the owner to all applicants.
 - ii. Security Deposits. A security deposit that is equal to no more than 2 months' rent. This assistance is separate and distinct from the provision of financial assistance for First and Last Month's rent provided under this section and cannot be used to duplicate those costs.
 - iii. Utility Deposits. HOME-ARP-SS funds may pay for a standard utility deposit or initiation fee required by the utility company or owner (if owner-paid utilities are provided) for all program participants for the following utilities: Gas; Electric; Water; and Sewer.
 - iv. Utility Payments. HOME-ARP-SS funds may pay for up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill

counts as one month. This assistance may only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant may receive more than 24 months of utility assistance within any 3-year period.

- v. Moving Costs. HOME-ARP SS funds may pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance under this section of the Notice and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.
- vi. First and Last Month's Rent. If necessary to obtain housing for a program participant, HOME-ARP SS funds may be used to make a pre-payment of the first and last month's rent under a new lease to the owner at the time the owner is paid the security deposit for the program participant's tenancy in the housing. This assistance must not exceed two month's rent and must be tracked for purposes of determining the total short- and medium-term financial assistance for rent that the program participant may receive. This assistance is separate and distinct from financial assistance for Security Deposits provided under this section and cannot be used to duplicate those costs.
- vii. Payment of Rental Arrears. HOME-ARP SS funds may be used for a one-time payment for up to 6 months of rent in arrears, including any late fees or charges on those arrears, if necessary for the household to maintain their existing housing or, for those without housing, if necessary to remove a demonstrated barrier to obtaining housing.
- viii. Short and Medium-Term Rental Assistance. Subject to the following conditions, City of Kingsport may provide a program participant with short-term or medium-term financial assistance for rent, provided that the total financial assistance provided, including any pre-payment of first and last month's rent as described above, does not exceed 24 months of rental payments over any 3-year period.
 - (i) Short-term means up to 3 months.
 - (ii) Medium-term means more than 3 months but not more than 24 months.
 - (iii) Rental payments may only be made to an owner with whom City of Kingsport has entered into a financial assistance agreement for rental payment.
 - The financial assistance agreement must set forth the terms under which

rental payments will be provided, including the requirements that apply under these written standards.

- The financial assistance agreement must provide that, during the term of the agreement, the owner must provide City of Kingsport with a copy of any notice to the program participant to vacate the housing unit or any complaint used under State or local law to commence an eviction action against the program participant. The owner must serve written notice upon the program participant at least 30 days before termination of tenancy specifying the grounds for the action. Each financial assistance agreement that is executed or renewed must comply with the requirements in 24 CFR 92.359.
 - City of Kingsport will make timely payments to each owner in accordance with the financial assistance agreement. The financial assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. Late payment penalties that incur are ineligible expenses; therefore, HOME-ARP-SS funds cannot be used.
- (iv) Rental payments cannot be provided unless the rent does not exceed the Fair Market Rent established by HUD, as provided under 24 CFR part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.
- (v) Each program participant receiving financial assistance for rental payments must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the financial assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. New leases must have an initial term of 1 year unless a shorter period is agreed upon by the program participant and owner. The lease requirements in 24 CFR 92.359 apply to this financial assistance.
- (vi) City of Kingsport will adhere to THDA's Policies and Procedures (or Written Standards) that detail the minimum requirements that must be in place to prevent the provision of short- or medium-term financial assistance for rent for the same period for which a program participant is receiving rental assistance or living in housing provided with on-going assistance, such as project-based rental assistance or operating subsidies.
- (vii) If a program participant receiving financial assistance for short- or medium-term rental payments under this section meets the conditions

for an emergency transfer under 24 CFR 5.2005(e), HOME-ARP funds may be used to pay amounts owed for breaking a lease to effectuate an emergency transfer. These costs are not subject to the 24-month limit on rental payments.

7. Ineligible Activities

- a. Under McKinney-Vento Supportive Services and Homelessness Prevention, HOME-ARP-SS Program funds may not be used for the following:
 - (1) Mortgage loan payments;
 - (2) Pet deposits;
 - (3) Late fees incurred if City of Kingsport does not pay agreed rental subsidy by agreed date;
 - (4) Payment of temporary storage fees in arrears;
 - (5) Payment of past debt not related to rent or utility; and
 - (6) Financial assistance to program participants who are receiving the same type of assistance through other public sources or to a program participant who has been provided during the same time period with replacement housing payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970(URA) as amended and implemented under regulation.
 - b. Homeowner assistance and related services are not eligible HOME-ARP-SS activities; costs for the provision of services related to mortgages and homeownership to existing homeowners are also not eligible under HOME-ARP. If a program participant is a candidate for homeownership, costs associated with pre-purchase home buying counseling, education and outreach are eligible under HOME-ARP-SS.
 - c. Ineligible costs for McKinney Vento Supportive Services and Homelessness Prevention Services: Financial assistance cannot be provided to a program participant who is receiving the same type of assistance through other public sources. Financial assistance also cannot be provided to a program participant who has been provided with replacement housing payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC 4601 et seq.) and its implementing regulations at 49 CFR part 24, or Section 104(d) of the Housing and Community Development Act of 1974 (42 USC 5304(d) and its implementing regulations at 24 CFR part 42, during the period of time covered by the replacement housing payments.
8. Additional standards such client rights and protections, antidiscrimination, and other general standards are found in the City of Kingsport CoC Written Standards.
9. Additional standards required by the written standards:
- (a) ARCH will follow ARCH CoC Written Standards, these written standards, THDA’s HOME-ARP-SS Program Description, HOME-ARP grant agreement, and any other requirements

that THDA publishes for the HOME-ARP-SS. Requirements regarding Fair Housing are located in the general ARCH CoC Written Standards.

- (b) Additional requirements that may not be fully covered in the general City of Kingsport CoC Written Standards or are unique to this program are as follows:
- (1) Tenant selection procedures in accordance with this program: Participants must meet eligibility requirements as stated in these written standards. Those receiving will be prioritized based on the City of Kingsport CoC Written Standards. City of Kingsport will only accept applications on households referred by the City of Kingsport (the CoC's CES).
 - (2) Eligibility of program participants in other HOME-ARP activities for supportive services including the length of time that program participants may be served: Participants may receive assistance based on the participants needed assistance for housing stability. However, services must end by THDA's established Program end date.
 - (3) Documentation of eligible costs: City of Kingsport will maintain records of expenditures. They must include participant eligibility and that it is an eligible cost as outlined by THDA's HOME-ARP-SS Program Description and included in these written standards.
 - (4) Requirements that allow a program participant to receive only the HOME-ARP services needed so there is no duplication of services or assistance in the use of HOME-ARP-SS funds: Recipients must ensure that services are not duplicated by other sources and that without these services the participant will remain homeless or will become homeless.
 - (5) Payments for the cost of gas, insurance, taxes, the one-time payment for car repairs or maintenance described above, and maintenance for vehicles of program participants: As in any eligible expense, City of Kingsport will ensure that this service is necessary for housing stability and documented. As in any service, payment must be made to the third party, never to the participant.
 - (6) Financial assistance for short-term and medium-term rental payments under this Notice, including requirements and procedures to prevent a duplication of rental or financial assistance provided to a program participant: City of Kingsport CoC Written Standards are to be followed. Additionally, payments are to be made to the third party, not the participant.
 - (7) Housing stability case management: This is an eligible expense and the City of Kingsport CoC Written Standards and this supplemental written standard must be followed regarding eligible expenses and that there is a housing stability plan that is participant centered maintained in the participant's case file.
 - (8) Termination of assistance to program participants, including due process: Generally, termination should occur when housing stability is considered achieved or the participant declines any additional assistance. Other situations are addressed in the

City of Kingsport CoC Written Standards.

- (9) Written standards of conduct covering the conflicts of interest and organizational conflicts of interest requirements under CPD Notice 21-10 and 2 CFR 200.318: Adhere to the City of Kingsport CoC Written Standards.
- (10) ARCH will participate in the Coordinated Entry process. Participants to receive HOME-ARP services must be enrolled in the City of Kingsport (coordinated entry system) in accordance with the City of Kingsport Written Standards.
- (11) ARCH will adhere to the HOME-ARP-SS Program Description and any other related requirements established by HUD or THDA.
- (12) Recordkeeping: City of Kingsport will maintain records in accordance to the HOME-ARP-SS Program Description as stated in Paragraph H5j (including all of its subparagraphs). Retention: records must be retained for five years with noted exceptions.

Grievance Policy

CITY OF KINGSPORT HOME-ARP Supportive Services

This policy governs the handling of a “grievance” (An actual or supposed circumstance regarded as just cause for complaint.) that a client may have with the administration of the HOME-ARP Supportive Services Grant due to an adverse action taken against the client by the organization’s case management staff.

CITY OF KINGSPORT HOME-ARP Supportive Services

GRIEVANCE PROCEDURE

I. RIGHT TO A HEARING

Upon the filing of a written request as provided in these procedures, a Client shall be entitled to a hearing before a hearing officer.

II. DEFINITIONS

For the purpose of this Grievance Procedure, the following definitions are applicable:

- (A) "Grievance" shall mean any dispute which a Client may have with respect to agency action or failure to act in accordance with the individual Client's case management or assistance payments which adversely affect the individual Client's rights, duties, welfare, or status. Grievance does not include any dispute a Client may have with Landlord or other service provider concerning a termination of tenancy or eviction that involves any activity that may threaten the health, safety, or right to peaceful enjoyment of the Landlord's public housing premises by other Clients or employees of the Landlord, or any criminal activity or drug-related criminal activity on or off such premises. Grievances can only be made towards assistance provided by CITY OF KINGSPORT's Supportive Services grant, not any actions not controlled by any other agency or entity such as medical professionals, landlords, housing authority or other. For grievances concerning the actions of landlords, service providers or other, Client must submit paperwork through the process of those specific entities.
- (B) "Complainant" shall mean any Client whose grievance is presented to the agency or at the case management office in accordance with Section III and Section IV.
- (C) "Elements of due process" shall mean a termination of assistance in which the following procedural safeguards are required:
 - (1) Adequate notice to the Client of the grounds for terminating the assistance(s);
 - (2) Right of the Client to be represented by counsel;
 - (3) Opportunity for the Client to refute the evidence presented by the agency including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the Client may have;
 - (4) A decision on the merits.
- (D) "Hearing officer" shall mean a person selected in accordance with Section IV of these procedures to hear grievances and render a decision with respect thereto.
- (E) *Client* shall mean the adult person (or persons) (other than a live-in aide):
 - (1) Who participates in the program, and who executed the assistance agreement with the case manager and Landlord for services.

- (2) Who resides in the premises, and who is the remaining head of household of the Client family residing in the premises.
 - (3) Who receives or received other assistance through CITY OF KINGSPORT under the Supportive Services funding
- (F) **Promptly** (as used in Section III, and IV. (D) Shall mean within ten business days from the date of mailing of the adverse action or grievable complaint.

III. PROCEDURES PRIOR TO A HEARING

Informal settlement of grievance: Any grievance shall be promptly and personally presented, either orally or in writing, to the case management office or to the so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the Client and one retained in the Client file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefor, and shall specify the procedures by which a hearing under these procedures may be obtained if the Client is not satisfied. **The purpose of this informal settlement of grievance is to allow the Client and management to informally discuss an issue without the need for third parties, including witnesses or representatives, to be involved. At any time that a third party, including a witness or representative becomes or should become involved in the process, the informal settlement conference may, in the sole discretion of the housing authority, become a “hearing” and the procedures found in Section IV hereof shall apply. CITY OF KINGSPORT shall notify the Client of the date and time that the hearing will take place.**

IV. PROCEDURES TO OBTAIN A HEARING

- (A) *Request for hearing:* In the event that the Client is not satisfied with the informal settlement of grievance provided for in Section III, the Client shall submit a written request for a hearing to the case management office within five (5) business days from date of mailing of the summary of discussion pursuant to Section III. The written request shall specify:
- (1) The reasons for the grievance; and
 - (2) The action or relief sought.
- (B) *Selection of Hearing Officer:* A grievance hearing shall be conducted by an impartial person appointed by CITY OF KINGSPORT other than a person who made or approved the case manager action under review or a subordinate of such person.

CITY OF KINGSPORT shall annually submit a list of prospective hearing officers to the Community Development Advisory Committee (CDAC). CITY OF KINGSPORT shall consider any comments or recommendations by the CDAC submitted in a reasonable time.

From this list, a hearing officer shall be selected.

- (C) *Failure to request a hearing:* If the Client does not request a hearing in accordance with this Section, then the case manager’s disposition of the grievance under Section III shall become final: *Provided*, That failure to request a hearing shall not constitute a waiver by the Client of the right thereafter to contest the Landlord's action in disposing of the complaint in an appropriate judicial proceeding.

- (D) *Hearing prerequisite:* All grievances shall be promptly presented in person, either orally or in writing pursuant to the informal procedure prescribed in Section III as a condition precedent to a hearing under this section: *Provided,* That if the Client shall show good cause why there was failure to proceed in accordance with Section III to the hearing officer, the provisions of this Subsection may be waived by the hearing officer.
- (F) *Scheduling of hearings:* Upon the Client's compliance with this Section, or upon the agency notifying the Client or his/her representative that a hearing will be held, a hearing shall be promptly scheduled by the hearing officer for a time and place reasonably convenient to both the Client and the case manager. A written notification specifying the date, time, place, and the procedures governing the hearing shall be delivered to the Client and the appropriate CITY OF KINGSPORT official.

V. PROCEDURES GOVERNING THE HEARING

- (A) The Client shall be afforded a fair hearing, which shall include:
 - (1) The opportunity to examine before the grievance hearing any case management documents, including records and regulations that are directly relevant to the hearing. The Client shall be provided a copy of any such document at the Client's expense. If the case manager does not make the document available for examination upon request by the Client, the case manager may not rely on such document at the grievance hearing.
 - (2) The right to be represented by counsel or other person chosen as the Client's representative and to have such person make statements on the Client's behalf;
 - (3) The right to a private hearing unless the Client requests a public hearing;
 - (4) The right to present evidence and arguments in support of the Client's complaint, to controvert evidence relied on by the case manager or project management, and to confront and cross-examine all witnesses upon whose testimony or information the case manager or project management relies; and
 - (5) A decision based solely and exclusively upon the facts presented at the hearing.
- (B) Accommodation of persons with disabilities:
 - (1) CITY OF KINGSPORT shall provide reasonable accommodation for persons with disabilities to participate in the hearing.

Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.
 - (2) If the Client is visually impaired, any notice to the Client which is required by these procedures must be in an accessible format.
- (C) At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter CITY OF KINGSPORT must sustain the burden of justifying the adverse action or failure to act against which the complaint is directed.

VI. DECISION OF THE HEARING OFFICER

- (A) The hearing officer shall prepare a written decision, together with the reasons therefor, within a reasonable time (not to exceed 10 business days) after the hearing. A copy of the decision shall be sent to the Client and the case manager. The case manager shall retain a copy of the decision in the Client's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the case manager and made available for inspection by a prospective complainant, his representative, or the hearing officer.

- (B) The decision of the hearing officer shall be binding on the case manager which shall take all actions, or refrain from any actions, necessary to carry out the decision unless CITY OF KINGSPORT's Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination, that:
- (1) The grievance does not concern case management action or failure to act in accordance with or involving the Client's lease or grant regulations, which adversely affect the Client's rights, duties, welfare or status;
 - (2) The decision of the hearing officer is contrary to applicable Federal, State or local law, Landlord regulations or requirements of the Annual Contributions Contract between CITY OF KINGSPORT and Tennessee Housing Development Agency (THDA).
- (C) A decision by the hearing officer or Community Development Advisory Committee in favor of the case manager or which denies the relief requested by the Client in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the Client may have to a trial *de novo* or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

Client Signature	Date
Case Manager Signature	Date

I have received a copy of this grievance procedure and have had an opportunity to ask questions about the procedure.



HOME-ARP SUPPORTIVE SERVICES AUTHORIZED SIGNATURE FORM

AUTHORIZED SIGNATURES FOR REQUESTS FOR PAYMENT ON THE THDA HOME-ARP- SS GRANT	
1. Grantee Name:	2. Address:
3. Contract Number:	4. Telephone Number:
TWO ORIGINAL SIGNATURES ARE REQUIRED FOR EACH PAYMENT REQUEST SUBMITTED TO THDA	
THDA recommends that four signatures be shown to permit flexibility in making draw downs. Signatures of individuals authorized to sign Requests for Payment:	
5. Typed Name and Signature:	5. Typed Name and Signature:
5. Typed Name and Signature	5. Typed Name and Signature:
I certify that the signatures of the above individuals are only those persons authorized to sign Requests for Payment	
6. Signature of Chief Elected Official:	Date:

NOTE: THE CHIEF ELECTED OFFICIAL, BOARD CHAIR, OR EXECUTIVE DIRECTOR WHO SIGNS IN BLOCK 6 MAY NOT BE ONE OF THE PERSONS AUTHORIZED TO SIGN A REQUEST FOR PAYMENT (PERSONS LISTED IN BLOCK 5). IN OTHER WORDS, AN ELECTED OFFICIAL, BOARD CHAIR, OR EXECUTIVE DIRECTOR CANNOT CERTIFY HIS OR HER OWN SIGNATURE.

A new form must be submitted whenever authorized signers change.