MURFREESBORO CITY COUNCIL
Regular Session Agenda
Council Chambers – City Hall – 6:00 PM
June 3, 2021

PRAYER

Mr. Ronnie Martin

PLEDGE OF ALLEGIANCE

Consent Agenda

1. Report of New Debt Obligation (Finance)
2. Approval of use of Competitive Sealed Proposals for Wide Area Network (WAN) Services (Information Technology)
3. Fox Collection Center Contract (Judicial)
4. Banner Request to Hang Across East Main Street for Mayors Annual New Year's Day 5k to be displayed December 21-31, 2021 (Street)
5. Approval of State Maintenance Contract for FY 2021-2022 (Street)
6. Asphalt Purchases Report (Water Resources)
7. Mechanical/Electrical Services Contract Extension (Water Resources)

Minutes

8. Approval of City Council Minutes April 22, 2021 (Finance)

Old Business

Ordinance

9. Ordinance 21-O-06 Solid Waste Ordinance Revisions (2nd and final reading) (Solid Waste)
10. Ordinance 21-O-12 FY22 Recommended Rate & Price Increases (2nd and final reading) (Water Resources)

Land Use Matters

11. Ordinance 21-OZ-09 Amending the One East College PUD zoning along East College St. (2nd and final reading) (Planning)
12. Ordinance 21-OZ-11 Zone approximately 52.9 acres located along Veterans Parkway and Burnt Knob Road (2nd and final reading) (Planning)
13. Ordinance 21-OZ-08 Rezone approximately 0.66 acres located along the west side of Lee Street north of Jackson Street (2nd and final reading) (Planning)

New Business

Resolution

14. Resolution 21-R-22 FY21 City Schools Budget Amendment #8 (Schools)

Land Use Matters

15. Sewer Allocation Variance- North Tennessee Blvd. – The Pointe at Raiders Campus Apartments (Planning)

16. Sewer Allocation Variance- Memorial Blvd. – Brookhaven, Lot 1 (Planning)

On Motion

17. Option for Right-of-Way along Butler Drive (Development Services)

18. Review City Recorder – City Treasurer Candidates (Human Resources)

19. Contract for Vehicle Purchases (Parks & Recreation)

20. Bernhard MMC, LLC AIA Contract for Patterson Park Cooling Tower and Unit Replacement (Parks & Recreation)

21. Purchase of a Storm Sewer Camera Inspection System (Street)

22. Town Creek Daylighting Proposal from Griggs & Maloney (Water Resources)

23. Modernization of the Elevators at the Water Resource Recovery Facility (Water Resources)

24. Sole Source Purchase with HACH Inc. for Equipment & Software (Water Resources)

25. Sole Source Purchase with Vortex Services for Sonar/Lidar/CCTV (Water Resources)

26. Sole Source Purchase with Southern Sales Company for UV Parts (Water Resources)

Licensing

Board & Commission Appointments

27. Pension Committee (Administration)

Payment of Statements

Other Business

Adjournment

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Report of New Debt Obligation

Department: Finance

Presented by: Melissa Wright

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☐
Direction	☐
Information	☒

Summary

Report of new debt obligation as required by state statute, which requires a summary of the new debt issuance be presented at a public meeting.

Staff Recommendation

Acknowledge receipt of CT-0253 form pertaining to the City's 2021 Bond Issue.

Background Information

The 2021 bond issuance to closed on February 26th. State statute (T.C.A. § 9-21-151) requires the reporting of the new debt obligation in a specified format (State Form No. CT-0253), which summarizes new debt issuance and presentation of this form at a public meeting.

This form was presented to the State Comptroller's Office timely but was not acknowledged from the Comptroller with a timestamped receipt until much later, receipt being emailed to the City by Cumberland Securities Company, Inc. on May 26. Due to the lack of timeliness of the receipt, the date noted as presented at a public meeting is incorrect and the new date has been added.

Council Priorities Served

Responsible budgeting

Management of debt in compliance with state law is an important part of maintaining fiscal control and oversight of City resources.

Fiscal Impact

None

Attachments

State Form CT-0253 2021 Bond Issue

Tennessee Comptroller of the Treasury
Division of Local Government Finance
Original Receipt Date: May 05, 2021

State Form No. CT-0253
Revised Effective 2/6/2020

REPORT ON DEBT OBLIGATION

(Pursuant to Tennessee Code Annotated Section 9-21-151)

1. Public Entity:

Name: Murfreesboro, Tennessee
Address: 111 West Vine Street (37130)
Murfreesboro, Tennessee 37133
Debt Issue Name: General Obligation Bonds, Series 2021

If disclosing initially for a program, attach the form specified for updates, indicating the frequency required

2. Face Amount: $ 63,800,000.00
Premium/Discount: $ 12,267,183.60

3. Interest Cost: 1.22616 %

[X] Tax-exempt [ ] Taxable

[X] TIC [ ] NIC
[ ] Variable: Index _____ plus _____ basis points; or
[ ] Variable: Remarketing Agent _____
[ ] Other: _____

4. Debt Obligation:

[ ] TRAN [ ] RAN [ ] CON
[ ] BAN [ ] CRAN [ ] GAN
[X] BOND [ ] Loan Agreement [ ] Capital Lease

If any of the notes listed above are issued pursuant to Title 9, Chapter 21, enclose a copy of the executed note with the filing with the Official State and Local Finance ("OSFL")

5. Ratings:

[ ] Unrated
Moody's Aa1 Standard & Poor's AA Fitch _____

6. Purpose:

		BRIEF DESCRIPTION
[X] General Government	100%	Providing funding for various public works projects
[ ] Education	%	
[ ] Utilities	%	
[ ] Other	%	
[ ] Refunding/Renewal	%	

7. Security:

[X] General Obligation [ ] General Obligation + Revenue/Tax
[ ] Revenue [ ] Tax Increment Financing (TIF)
[ ] Annual Appropriation (Capital Lease Only) Other (Describe): _____

8. Type of Sale:

[X] Competitive Public Sale [ ] Interfund Loan _____
[ ] Negotiated Sale [ ] Loan Program _____
[ ] Informal Bid

9. Date:

Dated Date: 2/26/2021 Issue/Closing Date: 2/26/2021

State Form No. CT-0253
Revised Effective 2/6/2020

REPORT ON DEBT OBLIGATION

(Pursuant to Tennessee Code Annotated Section 9-21-151)

10. Maturity Dates, Amounts and Interest Rates*:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2022	$ 3,000,000	5.00%	2030	$ 4,435,000	3.00%
2023	$ 3,800,000	5.00%	2031	$ 4,435,000	3.00%
2024	$ 3,800,000	5.00%	2032	$ 4,435,000	3.00%
2025	$ 4,400,000	5.00%	2033	$ 4,435,000	3.00%
2026	$ 4,440,000	5.00%	2034	$ 4,435,000	3.00%
2027	$ 4,440,000	5.00%	2035	$ 4,435,000	3.00%
2028	$ 4,440,000	5.00%	2036	$ 4,435,000	3.00%
2029	$ 4,435,000	5.00%			

If additional space is needed, attach additional sheet

If (1) the debt has a final maturity of 31 or more years from the date of issuance, (2) principal repayment is delayed for two or more years, or (3) if debt service payments are not level throughout the retirement period, then a cumulative repayment schedule (grouped in 5 year increments out to 30 years) including this and all other entity debt secured by the same source **MUST BE PREPARED AND ATTACHED.** For purposes of this form, debt secured by an ad valorem tax pledge and debt secured by a dual ad valorem tax revenue pledge are secured by the same source. Also, debt secured by the same revenue stream, no matter what lien level, is considered secured by the same source.

*This section is not applicable to the Initial Report for Borrowing Program.

11. Cost of Issuance and Professionals:

☐ No costs or professionals

		AMOUNT (round to nearest $)	FIRM NAME
Financial Advisor Fees		$ 75,000	Cumberland Securities Company, Inc.
Legal Fees			
Bond Counsel		$ 62,500	Bass, Berry & Sims PLC
Issuer's Counsel			
Trustee's Counsel			
Bank Counsel			
Disclosure Counsel			
Paying Agent Fees		$ 700	U.S. Bank
Registrar Fees			
Trustee Fees			
Remarketing Agent Fees			
Liquidity Fees			
Rating Agency Fees		$ 74,000	Moody's Rating Agency & S&P Global Ratings Agency
Credit Enhancement Fees			
Bank Closing Costs			
Underwriter's Discount	0.144%	$ 91,731	Bank of America Merrill Lynch
Take Down			
Management Fee			
Risk Premium			
Underwriter's Counsel			
Other Expenses			
Printing & Advertising Fees		$ 8,500	Print Shop, i-Deal, CUSIP,MuniHub
Issuer/Administrator Program Fees			
Real Estate Fees		$	
Sponsorship/Referral Fee			
Other Costs: Misc		$ 4,753	structuring, postage, doc product, travel, etc.
TOTAL COSTS		$ 317,184	

State Form No. CT-0253
Revised Effective 2/6/2020

REPORT ON DEBT OBLIGATION

(Pursuant to Tennessee Code Annotated Section 9-21-151)

12. Recurring Costs:

☐ No Recurring Costs

	AMOUNT (Basis points/$)	FIRM NAME (if different from #11)
Remarketing Agent		
Paying Agent/Registrar	$ 450.00	U.S. Bank
Trustee		
Liquidity/Credit Enhancement		
Escrow Agent		
Sponsorship/Program/Admin		
Other		

13. Disclosure Document/Official Statement:

☐ None Prepared
☒ EMMA Link https://emma.msrb.org/P11464366-P11135141-P11547534.pdf
☐ Copy Attached

14. Continuing Disclosure Obligations:

Is there an existing continuing disclosure obligation related to the security for this debt? ☒ Yes ☐ No
Is there a continuing disclosure obligation agreement related to this debt? ☒ Yes ☐ No
If yes to either question, date that disclosure is due 6/30/2021
Name and title of person responsible for compliance Melissa Wright, City Recorder-Finance Director

15. Written Debt Management Policy:

Governing Body's approval date of the current version of the written debt management policy 11/3/2011
Is the Debt obligation in compliance with and clearly authorized under the policy? ☒ Yes ☐ No

16. Written Derivative Management Policy:

☒ No Derivative
Governing Body's approval date of the current version of the written derivative management policy
Date of Letter of Compliance for derivative
Is the derivative in compliance with and clearly authorized under the policy? ☐ Yes ☐ No

17. Submission of Report:

To the Governing Body: on 2/26/2021 and presented at the public meeting held on ~~3/4/2021~~ 6/3/2021
Copy to Director of OSLF: on 2/26/2021 either by:
☐ Mail to: ☒ Email to:

425 Rep. John Lewis Way N
Cordell Hull Building
Nashville, TN 37243-3400

SLF.PublicDebtForm@cot.tn.gov

18. Signatures:

	AUTHORIZED REPRESENTATIVE	PREPARER
Name	M. Shane McFarland	Chris Bessler
Title	Mayor	Senior Vice President
Firm	Murfreesboro, Tennessee	Cumberland Securities Company, Inc.
Email	smcfarland@murfreesboro.gov	chris.bessler@cumberlandsecurities.com
Date	2/26/2021	2/26/2021

COUNCIL COMMUNICATION

Meeting Date: 6/3/2021

Item Title: Approval of use of Competitive Sealed Proposals for Wide Area Network (WAN) Services

Department: Information Technology

Presented by: Bill Terry, Public Safety IT Manager

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Approval to use Request for Competitive Sealed Proposals (RFCSP) for wide area network services to replace the existing I-Net connecting City facilities.

Staff Recommendation

Approve the use of RFCSP process for procurement of wide area network services.

Background Information

The existing I-Net providing connectivity to City facilities was placed in operation approximately sixteen (16) years ago. This service was provided as part of the franchise agreement between the City and the cable provider. The new franchise agreement no longer provides for this service due to changes in federal law.

Pursuant to state statute, Council approval is required to use the RFCSP process for procurement of these services.

Council Priorities Served

Safe and Livable Neighborhoods

The wide area network will provide for additional services to public safety locations to enhance the services currently provided.

Improve economic development

A managed wide area network will improve collaborative capabilities for our employees and customers of the City.

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Fox Collection Center Contract

Department: Judicial

Presented by: Vickie Ordonez, Chief Court Clerk

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Recommendation to award collection agency contract

Staff Recommendation

Approve the contract with Fox Collection Agency

Background Information

On April 6,2021 the City issued an RFCSP for collection of outstanding debts of the City. Fox Collection Center received the highest score. The contract is for one year and allows for four one-year extensions with total terms not to exceed five years.

Council Priorities Served

Responsible budgeting

Collecting outstanding money that is due is necessary support the City financial condition.

Fiscal Impact

The fiscal impact will remain the same with the same prices set forth in the previous collection contract. All expenses are offset by the collection revenues, with the City retaining 76.5% of what is collected and Fox receiving 23.5%.

Attachments

Contract with Fox Collection Center

DocuSign Envelope ID: A049446E-7BC2-4ABA-BFAB-262F6446331C

THIRD AMEDMENT
TO THE CONTRACT BETWEEN
THE CITY OF MURFREESBORO
AND
PROFESSIONAL RECOVERY MANAGEMENT , INC. DBA FOX COLLECTION CENTER COLLECTION AGENCY SERVICES

This Third Amendment ("Third Amendment") to the Contract, entered into May 5, 2016 ("Contract"), is effective as of _____, 2020, by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee and Professional Recovery Management, Inc. d/b/a Fox Collection Center, a corporation of the State of Tennessee ("Contractor").

RECITALS

WHEREAS, on May 5, 2016, the City entered into a contract with Fox Collection Center, for Collection Agency Services for the City Court Department; and,

WHEREAS, clause 2 of the contract allows the contract to be extended for four additional terms; and,

WHEREAS, on May 5, 2018, the City and Contractor entered into a Second Amendment to extend the term of the contract from May 5, 2018 to May 4, 2019; and

WHEREAS, Contractor has continued to provide uninterrupted services to City since May 4, 2019;

WHEREAS, the City and Contractor wish to formalize the extension of the Contract for two additional terms pursuant to clause 2 of the current Contract from May 5, 2019 to May 4, 2021 :

NOW THEREFORE, the City and Contractor mutually agree to extend the term of the Contract from May 5, 2019 to May 4, 2021.

CITY OF MURFREESBORO

_____
Shane McFarland, Mayor

PROFESSIONAL RECOVERY MANAGEMENT , INC. DBA FOX COLLECTION CENTER COLLECTION AGENCY SERVICES

_____
Todd Knowlton, Vice President

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
_____
43A2035E51F9481
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Main Street Banner Request

Department: Street Department

Presented by: Jami Coffelt

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Request from Murfreesboro Parks & Recreation to hang a banner across East Main Street for the Mayor's annual New Year's Day 5K.

Staff Recommendation

Approve the banner to be displayed from December 21st-31st, 2021 over East Main Street.

Background Information

The New Years Day 5K is held annually on January 1st by the Mayor to promote healthy lifestyle choices for the new year for the citizens of Murfreesboro.

Council Priorities Served

Establish strong City brand

Banners hung across East Main Street engages our community in various activities and communicates special events to the general public thereby enhancing the City reputation through an active community involvement.

Fiscal Impact

None.

Attachments

Letter of request from Parks and Recreation

City of MURFREESBORO
PARKS & RECREATION

May 25, 2021

To the Mayor and City Council,

Murfreesboro Parks and Recreation is requesting to hang a banner across East Main Street from December 21 – 31, 2021 to promote the mayor's annual **New Year's Day 5k** event which will be held January 1, 2022.

Jami Coffelt has indicated these dates are available.

Thank you,

Melinda Tate

Melinda Tate
Marketing Coordinator
Murfreesboro Parks & Recreation
(615) 890-0355 ext. 6802
mtate@murfreesborotn.gov

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Approval of State Maintenance Contract for FY 2021-2022

Department: Street Department

Presented by: Raymond Hillis, Executive Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

TDOT Maintenance Contract for Fiscal Year 2021-2022

Staff Recommendation

Approve TDOT Maintenance Contract.

Background Information

The proposed agreement allows the City to perform routine maintenance and improvements of state routes located within the city limits. TDOT will reimburse the City for all costs associated with improvements and maintenance of state routes located within the city limits not to exceed $341,261.

Council Priorities Served

Safe and Livable Neighborhoods

This contract allows the City to have more control over the selection and performance of all contracted related maintenance work.

Fiscal Impact

None.

Attachments

State of Tennessee Department of Transportation Contract

DocuSign Envelope ID: 8DA81BDF-A608-4727-A0F1-299E9CF6ED37

STATE OF TENNESSEE

DEPARTMENT OF TRANSPORTATION

CONTRACT – CITY OF MURFREESBORO

PROJECT NO. TBD
CONTRACT NO. - CMA2266
FISCAL YEAR – 2021-2022

DocuSign Envelope ID: 8DA81BDF-A608-4727-A0F1-299E9CF6ED37

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
COMMISSIONER'S OFFICE
SUITE 700, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-2848

CLAY BRIGHT
COMMISSIONER

BILL LEE
GOVERNOR

To: City of Murfreesboro
Attn: Raymond Hillis, Superintendent
Engineering Dept. – Street Division
620 West Main Street
Murfreesboro, TN 37130

Date: April 22, 2021

Re: City of Murfreesboro Maintenance Contract for 2021-2022

Enclosed, you will find the new contract for Fiscal Year 2021-2022.

Please read the contract, add labor rates on the *Exhibit B* page, sign in the appropriate places and return to our office. After you have signed the new contract and returned it to us, we will forward the contract to our office in Nashville for signatures. Once the Commissioner and our attorney have signed the contract, we will return a signed copy to you for your records.

If you have any questions, please feel free to contact me at 931.270.5030.

Thank you,

Jarrod Bonar, PE, TDOT Operations District Supervisor

CONTRACT
BETWEEN THE STATE OF TENNESSEE, DEPARTMENT OF TRANSPORTATION AND CITY OF MURFREESBORO

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the 'State" and City of Murfreesboro, hereinafter referred to as the "Contractor," is for the provision of the routine maintenance of state routes, as further defined in the "SCOPE OF SERVICES."

Contractor Edison Registration ID # 0000004110
Contract #: CMA 2266

A. SCOPE OF SERVICES:

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

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

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

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

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

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

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

B. TERM OF CONTRACT:

This Contract shall be effective on July 1, 2021 ("Effective Date"), and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Three Hundred and Forty-One Thousand, Two Hundred and Sixty Dollars and Sixty-Five Cents ($341,260.65). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

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

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

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

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

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

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

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

TN Department of Transportation
2099 Fayetteville Highway
Belfast, TN 37019

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

(1) Invoice Number (assigned by the Contractor)
(2) Invoice Date

(3) Contract Number (assigned by the State)
(4) Customer Account Name: Tennessee Department of Transportation
(5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
(6) Contractor Name
(7) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
(8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
(9) Contractor Remittance Address
(10) Description of Delivered Service
(11) Complete Itemization of Charges, which shall detail the following:

i. Service or Milestone Description (including name & title as applicable) of each service invoiced
ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
iv. Amount Due by Service
v. Total Amount Due for the invoice period

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

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

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

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

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

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

a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and

b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the

Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

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

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

D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

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

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

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

D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon

reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.9. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*.

D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

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

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

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

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

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

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

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

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

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

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

E. SPECIAL TERMS AND CONDITIONS:

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

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

The State:

Jarrod Bonar, P.E., TDOT Operations District Supervisor
State of Tennessee, Department of Transportation
2099 Fayetteville Highway
Belfast, TN 37019
jarrod.bonar@tn.gov
Telephone # (931)-270-5030
FAX # (931)-276-2333

The Contractor:

Raymond Hillis, Director, Street Division
City of Murfreesboro
620 West Main Street
Murfreesboro, TN 37130
rhillis@murfreesborotn.gov
Telephone # (615)-893-4380

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

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

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

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

IN WITNESS WHEREOF,

CITY OF MURFREESBORO:

CONTRACTOR SIGNATURE DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

APPROVED AS TO FORM AND LEGALITY

DocuSigned by:
Adam F. Tucker 5/18/2021
43A2035E51F9401...
CONTRACTOR ATTORNEY SIGNATURE DATE

Adam F. Tucker City Attorney

PRINTED NAME AND TITLE OF CONTRACTOR ATTORNEY SIGNATORY (above)

STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION:

CLAY BRIGHT, COMMISSIONER DATE

APPROVED AS TO FORM AND LEGALITY

JOHN REINBOLD, GENERAL COUNSEL DATE

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GUIDELINES COVERING MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following items where applicable are eligible for reimbursement by the State to the Contractor under the Standard Maintenance Agreement:

Activity	Maintenance Work Type	Unit Of Measure
401	Manual Spot Patching	Tons
402	Crack Repair	Pounds
404	Mechanical Continuous Patching	Tons
405	Milling	Square Yards
406	Surface Replacement	Tons
411	Concrete Pavement Repair	Cubic Yards
412	Concrete Joint Repair	Linear Feet
425	Grading Unpaved Surface (Shoulder)**	Linear Miles
427	Patching Unpaved Surface (Shoulder)**	Tons
435	Machine Mowing**	Acres
438	Debris Removal**	Man Hours
441	Litter Removal**	Roadway Miles
446	Mechanical Sweeping and Street Flushing	Miles
447	Manual Roadway Sweeping	Man Hours
460	Plowing Snow	Lane Miles
461	De-icing Salt and/or Sand for Snow & Ice Removal	Tons
463	Anti-icing (Salt Brine)	Gallons
470	Pavement Markings	Line Miles
471	Specialty Markings	Each

** Work must be inside the area eligible for reimbursements as detailed in "CITY MAINTENANCE ROADWAY TYPICAL SECTIONS".

The following items are the responsibility of the Contractor and are not eligible for reimbursement by the State:

1. Mowing right-of-way back of curbs or beyond edge of paved surface on roadway segments which are not access controlled.
2. Litter from right-of-way back of curbs or beyond edge of paved surface on roadway segments which are not access controlled.
3. Storm drainage
4. Traffic control signs and signals and any other traffic control or monitoring devices.
5. Street lighting
6. Street name signs
7. Tree removal and vegetation control on right-of-way back of curbs or beyond edge of paved surface on roadway segments which are not access controlled.
8. Sidewalks

NOTE:

1. Major resurfacing when generally required will be performed by the State as a construction project, in accordance with a program developed after consultation with the Contractor.

2. The State will furnish and maintain route markers through the Municipalities.

ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the current roadway surface area to the nearest whole square yard which will be routinely maintained, swept, or flushed by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for street maintenance, excluding machine mowing and litter removal, not to exceed the calculated maximum reimbursement below.

City of Murfreesboro- Roadway

Approved Maximum Reimbursement Per Square Yard:	$ 0.15
Total Roadway Surface Area (YD^2):	1929711
Calculated Maximum Reimbursement (Roadway Surface):	$ 289,456.65

Roadway Surface Inventory Worksheet

Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 1	Broad St./M'Boro Rd.	BEGIN	Murfreesboro City Limits to N. of Medical Center Pkwy	1G	No	9.717	15.77	31959.84	100	28	99430.61	255678.72
SR 1	Median cross-overs		Between LM9.7&LM15.77		No			6666	30		0.00	22220.00
SR 1	Broad St.	CHANGE	N. of Medical Center Pkwy to Broadmor Blvd.	1D	No	15.77	16.335	2983.2	84		0.00	27843.20
SR 1	Broad St.	CHANGE	Broadmor Blvd. To W. Lytle St.	1D	No	16.335	16.59	1346.4	96		0.00	14361.60
SR 1	Broad St.	CHANGE	W. Lytle St. to S. of Maney Ave.	1D	No	16.59	17.466	4625.28	84		0.00	43169.28
SR 1	Broad St./Mercury Blvd. Intersection	CHANGE	S. Maney Ave. to Mercury Blvd.	1D	No	17.466	17.64	918.72	42		0.00	4287.36
SR 1	Mercury Blvd	CHANGE	E. of SR 2 (US 41) Broad St.	1D	No	17.64	17.775	712.8	71		0.00	5623.20
SR 1	Mercury Blvd - Eastbound	CHANGE		1G	No	17.775	19.135	7180.8	82	26	20744.53	44680.53
SR 1	Mercury Blvd - Eastbound	CHANGE		2A	Yes	19.135	19.6	2455.2	102	26	7092.80	20732.80
SR 1	Mercury Blvd - Eastbound	CHANGE		2A	Yes	19.6	19.72	633.6	102	16	1126.40	6054.40
SR 1	John Bragg Hwy-Eastbound	END	East City Limits	2A	Yes	19.72	20.071	1853.28	100	22	4530.24	16061.76
SR 1	Median cross-overs			1C	No			2375	20		0.00	5277.78
SR 1	Median cross-overs			1C	No			575	45		0.00	2875.00

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ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

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City of Murfreesboro- Roadway (cont.)

Roadway Surface Inventory Worksheet

Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 2	Broad St.	BEGIN	S. of SR 1 (US 70S) Mercury Blvd	1C	No	0	2.24	11827.2	46		0.00	60450.13
SR 2	Manchester Pike	CHANGE	S. of Rutherford Blvd	1C	No	2.24	3.23	5227.2	42		0.00	24393.60
SR 2	Manchester Pike	CHANGE	Ramsey Road	1C	No	3.23	5	9345.6	42		0.00	43612.80
SR 2	Manchester Pike	END	N of Mount Tabor Rd/City Limits	1C	No	5	6	5280	42		0.00	24640.00

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City of Murfreesboro- Roadway (cont.)

Roadway Surface Inventory Worksheet

Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 10	Shelbyville Hwy	BEGIN	City Limits - Murfreesboro	1G	No	8	8.689	3637.92	124	36	14551.68	35570.77
SR 10	Shelbyville Hwy	CHANGE	City Limits - Murfreesboro	1C	No	8.689	9.065	1985.28	80		0.00	17646.93
SR 10	Shelbyville Hwy	CHANGE	Joe B. Jackson Pkwy	1C	No	9.065	9.336	1430.88	84		0.00	13354.88
SR 10	S Church St.	CHANGE	Barfield Crescent Rd/Veterans Pkwy	1D	No	9.336	11.034	8965.44	84		0.00	83677.44
SR 10	S Church St.	CHANGE	Westgate Blvd(I-24 Int.)	1D	No	11.034	11.366	1752.96	100		0.00	19477.33
SR 10	S Church St.	CHANGE	I-24 W Ramp Intersection	1D	No	11.366	12.197	4387.68	84		0.00	40951.68
SR 10	S Church St.	CHANGE	Rutherford Blvd.	1D	No	12.197	13.47	6721.44	60		0.00	44809.60
SR 10	Broad St.	SHIFT	Turn Left onto Broad St. 0.669 Mi.	1D	No	13.47						
SR 10	Memorial Blvd	SHIFT	Turn Right onto Memorial Blvd	1D	No	13.47	14.05	3062.4	80		0.00	27221.33
SR 10	Memorial Blvd	CHANGE		1D	No	14.05	14.375	1716	80		0.00	15253.33
SR 10	Memorial Blvd	CHANGE	Clark Blvd.	1D	No	14.375	14.506	691.68	80		0.00	6148.27
SR 10	Memorial Blvd	CHANGE		1D	No	14.506	14.91	2133.12	86		0.00	20383.15
SR 10	Memorial Blvd	CHANGE	Northfield Blvd.	1D	No	14.91	15.975	5623.2	60		0.00	37488.00
SR 10	Memorial Blvd	CHANGE		1D	No	15.975	16.57	3141.6	84		0.00	29321.60
SR 10	Memorial Blvd	CHANGE		1D	No	16.57	17.987	7481.76	60		0.00	49878.40
SR 10	Memorial Blvd	CHANGE		1C	No	17.987	18.6	3236.64	60		0.00	21577.60
SR 10	Memorial Blvd	END	City Limits - Murfreesboro	1C	No	18.6	18.894	1552.32	48		0.00	8279.04

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ROADWAY SURFACE INVENTORY FOR THE MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

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City of Murfreesboro- Roadway (cont.)

Roadway Surface Inventory Worksheet

Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 96	Franklin Hwy	BEGIN	Veterans Pkwy	1D	No	6.023	8.98	15612.96	80		0.00	138781.87
SR 96	Old Fort Pkwy	CHANGE	W of I-24	1D	No	8.98	9.182	1066.56	91		0.00	10784.11
SR 96	Old Fort Pkwy	CHANGE	At I-24	1C	No	9.182	9.445	1388.64	88		0.00	13577.81
SR 96	Old Fort Pkwy	CHANGE	E of I-24	1C	No	9.445	9.66	1135.2	96		0.00	12108.80
SR 96	Old Fort Pkwy	CHANGE	W of Market Pl	1G	No	9.66	9.858	1045.44	130	32	3717.12	11383.68
SR 96	Old Fort Pkwy	CHANGE	E of Market Pl	1C	No	9.858	10.089	1219.68	108		0.00	14636.16
SR 96	Old Fort Pkwy	CHANGE	E of Bridge Ave	1G	No	10.089	10.17	427.68	126	32	1520.64	4466.88
SR 96	Old Fort Pkwy	CHANGE	E of Bridge Ave	1G	No	10.17	10.35	950.4	142	32	3379.20	11616.00
SR 96	Old Fort Pkwy	CHANGE	W of Stones River Mall Blvd	1G	No	10.35	10.478	675.84	124	32	2402.99	6908.59
SR 96	Old Fort Pkwy	CHANGE	E of Stones River Mall Blvd	1G	No	10.478	10.96	2544.96	120	32	9048.75	24884.05
SR 96	Old Fort Pkwy	CHANGE	E of New Salem Road	1F	No	10.96	11.121	850.08	132	32	3022.51	9445.33
SR 96	Old Fort Pkwy	SHIFT	Bridge Over Broad St.	1E	No	11.121	11.515	2080.32	92		0.00	21265.49
SR 96	E Clark Blvd	SHIFT	SR 10 (US 231, Memorial Blvd.)	1D	No	11.505	12.85	7101.6	60		0.00	47344.00
SR 96	Lascassas Pike	CHANGE	E of E Clark Blvd	1C	No	12.85	13.918	5639.04	40		0.00	25062.40
SR 96	Lascassas Pike	CHANGE	Twin Oaks Drive	1C	No	13.918	14.657	3901.92	58		0.00	25145.71
SR 96	Lascassas Pike	END	North of DeJarnette Lane	1C	No	14.657	15.45	4187.04	48		0.00	22330.88

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City of Murfreesboro- Roadway (cont.)

Roadway Surface Inventory Worksheet

Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 99	Salem Pike	BEGIN	W of Clearidge Drive	1C	No	12.69	14.575	9952.8	42		0.00	46446.40
SR 99	Salem Pike	CHANGE	E of Armstrong Valley	1C	No	14.575	15.011	2302.08	52		0.00	13300.91
SR 99	New Salem Road	CHANGE	E of St. Andrews Dr	1C	No	15.011	15.503	2597.76	64		0.00	18472.96
SR 99	New Salem Road	CHANGE	W of Cason Ln	1C	No	15.503	16.104	3173.28	42		0.00	14808.64
SR 99	New Salem Road	CHANGE	E of Cason Ln	1C	No	16.104	16.31	1087.68	40		0.00	4834.13
SR 99	New Salem Road	CHANGE	W of River Rock Blvd	1C	No	16.31	16.958	3421.44	40		0.00	15206.40
SR 99	New Salem Road	CHANGE	E of River Rock Blvd	1C	No	16.958	17.116	834.24	44		0.00	4078.51
SR 99	New Salem Road	CHANGE	W of Barfield Rd	1C	No	17.116	17.428	1647.36	40		0.00	7321.60
SR 99	New Salem Road	CHANGE	SW of I-24	1C	No	17.428	17.836	2154.24	45		0.00	10771.20
SR 99	New Salem Road	CHANGE	Warrior Drive	1E	No	17.836	18.58	3928.32	96		0.00	41902.08
SR 99	New Salem Road	CHANGE	Middle Tennessee Blvd	1C	No	18.58	19.19	3220.8	44		0.00	15746.13
SR 99	New Salem Road	SHIFT	Bridge Ave	1C	No	19.19	19.47	1478.4	45		0.00	7392.00
SR 99	Bradyville Pike	SHIFT	N of New Salem rd.	1B	No	19.47	19.98	2692.8	22		0.00	6582.40
SR 99	Bradyville Pike	CHANGE	S of Middle TN Blvd	1B	No	19.98	20.148	887.04	30		0.00	2956.80
SR 99	Bradyville Pike	CHANGE	E of Toddington Drive	1C	No	20.148	20.228	422.4	32		0.00	1501.87
SR 99	Bradyville Pike	CHANGE	W of Lakeshore Dr	1C	No	20.228	20.664	2302.08	34		0.00	8696.75
SR 99	Bradyville Pike	CHANGE	E of Lakeshore Dr	1C	No	20.664	20.759	501.6	32		0.00	1783.47
SR 99	Bradyville Pike	CHANGE	Crossing Minerva Dr	1C	No	20.759	21.03	1430.88	40		0.00	6359.47
SR 99	Bradyville Pike	CHANGE	E of Rogers St	1C	No	21.03	21.163	702.24	32		0.00	2496.85
SR 99	Bradyville Pike	CHANGE	NW of and crossing Rutherford Blvd	1B	No	21.163	21.73	2993.76	40		0.00	13305.60
SR 99	Bradyville Pike	CHANGE	S of Medford Campbell Blvd	1B	No	21.73	21.855	660	32		0.00	2346.67
SR 99	Bradyville Pike	END	N of Millwood Dr	1B	No	21.855	22.184	1737.12	24		0.00	4632.32

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City of Murfreesboro- Roadway (cont.)

Roadway Surface Inventory Worksheet

Route	Street Name	Action	Crossing Boundry Description	Rdwy. Profile Type	Access Control	Beg Log Mile	End Log Mile	Roadway Length(ft.)	Roadway Width(ft.)	Median Width(ft.)	Median Area (yd.^2)	Reimbursible Area (yd.^2)
SR 268	N Thompson Ln	BEGIN	NE of SR 2 (Broad St)	1C	No	0	0.105	554.4	106		0.00	6529.60
SR 268	N Thompson Ln	CHANGE	NE of SR 2 (Broad St)	1C	No	0.105	0.278	913.44	70		0.00	7104.53
SR 268	N Thompson Ln	CHANGE	NE of SR 2 (Broad St)	1C	No	0.278	0.403	660	45		0.00	3300.00
SR 268	N Thompson Ln	CHANGE	NE of SR 2 (Broad St)	1C	No	0.403	0.513	580.8	57		0.00	3678.40
SR 268	N Thompson Ln	CHANGE	N of Royal Dr	1B	No	0.513	1.12	3204.96	45		0.00	16024.80
SR 268	N Thompson Ln	CHANGE	S of Haynes Dr	1C	No	1.12	1.206	454.08	67		0.00	3380.37
SR 268	N Thompson Ln	CHANGE	N of Haynes Dr	1C	No	1.206	1.311	554.4	57		0.00	3511.20
SR 268	N Thompson Ln	CHANGE	N of Riverbend Dr	1C	No	1.311	2.235	4878.72	41		0.00	22225.28
SR 268	N Thompson Ln	CHANGE	NE of E Primm Lane	1C	No	2.235	2.523	1520.64	43		0.00	7265.28
SR 268	N Thompson Ln	CHANGE	W of Northboro Ct	1C	No	2.523	3.097	3030.72	45		0.00	15153.60
SR 268	N Thompson Ln	CHANGE	E of Northboro Ct	1C	No	3.097	3.549	2386.56	56		0.00	14849.71
SR 268	N Thompson Ln	CHANGE	E of Northboro Ct	1C	No	3.549	3.73	955.68	60		0.00	6371.20
SR 268	N Thompson Ln	CHANGE	E of Northboro Ct	1C	No	3.73	3.787	300.96	71		0.00	2374.24
SR 268	N Thompson Ln	CHANGE	E of Northboro Ct	1C	No	3.787	4.095	1626.24	60		0.00	10841.60
SR 268	N Thompson Ln	CHANGE	W of Lebanon Pike	1D	No	4.095	4.347	1330.56	50		0.00	7392.00
SR 268	Compton Rd	CHANGE	E of Lebanon Pike	1C	No	4.347	5.079	3864.96	38		0.00	16318.72
SR 268	Compton Rd	CHANGE	E of Compton Grove	1C	No	5.079	5.228	786.72	52		0.00	4545.49
SR 268	Compton Rd	END	E of Westbrook Drive	1C	No	5.228	6.59	7191.36	44		0.00	35157.76

Total Length (mi.): 54.590 **Total Roadway Surface:** 1929711

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INVENTORY OF ELIGIBLE MACHINE MOWING FOR THE MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the eligible mowing area in acres which will be maintained by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for machine mowing, not to exceed the number of cycles and the price per acre as detailed below.

City Of Murfreesboro- Mowing

Approved Mowing Reimbursement Per Acre:	$ 45.00
Calculated Maximum Reimbursement (Mowing):	$ 33,345.00

Mowing Inventory Worksheet

Route Number	Roadway Type	Begin Termini (LM)	End Termini(LM)	Median Area (acres)	Controlled Access Area (acres)	Segment Total Area (acres)	Number of Mowing Cycles	Contract Segment Total Area (acres)
SR 1	1G	9.65	15.33	19.5		19.5	6	117.00
SR 1	1G	15.395	15.748	1.28		1.28	6	7.68
SR 1	1G	17.77	19.69	6.22	9.7	15.92	6	95.52
SR 1	1G	19.71	20	0.79	5.27	6.06	6	36.36
SR 2	1C	3.23	6	10.68		10.68	6	64.08
SR 10	1G	8	9.23	4.741	4.171	8.912	6	53.472
SR 10	1E	11.28	11.55	1.1		1.1	6	6.60
SR 96	1G	9.17	11.15	7.71	19.23	26.94	6	161.64
SR 96	1C	12.85	15.45	5.64		5.64	6	33.84
SR 99	1C	12.69	14.575	13.25		13.25	6	79.50
SR 268	1C	0	6.59	14.078		14.078	6	84.468
							Total Contract Area (acres):	741.00

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INVENTORY OF ELIGIBLE LITTER REMOVAL FOR THE MAINTENANCE
OF STATE HIGHWAYS THROUGH MUNICIPALITIES

The following Table itemizes the eligible length of litter removal in linear miles which will be maintained by the Contractor under the terms of this contract. The State agrees to reimburse said Contractor in the amount actually expended for litter removal, not to exceed the number of cycles and the price per linear mile as detailed below.

City Of Murfreesboro- Litter

Approved Litter Reimbursement Per Mile:	$ 50.00
Calculated Maximum Reimbursement (Litter)	$ 18,459.00

Litter Inventory Worksheet

Route Number	Roadway Type	Beginning Termini (LM)	Ending Termini (LM)	Segment Length (mi.)	Litter Pass Miles Per Segment	Segment Total Litter (mi.)	Price per Litter Mile	Number of Litter Cycles	Contract Segment Total Litter (mi.)	Contract Segment Total Litter ($)
SR 1	1G	9.65	15.77	6.12	1	6.12	$ 50.00	12	73.44	3672.00
SR 1	1D	15.77	17.77	2	1	2	$ 50.00	12	24	1200.00
SR 1	1G	17.77	19.14	1.37	1	1.37	$ 50.00	12	16.44	822.00
SR 1	2A	19.14	20.01	0.87	1	0.87	$ 50.00	12	10.44	522.00
SR 2	1C	0	6	6	1	6	$ 50.00	12	72	3600.00
SR 10	1G	8	9.23	1.23	1	1.23	$ 50.00	12	14.76	738.00
SR 10	1E	11.28	11.55	0.27	1	0.27	$ 50.00	12	3.24	162.00
SR 96	1G	9.17	9.33	0.16	1	0.16	$ 50.00	12	1.92	96.00
SR 96	1G	9.41	10.55	1.14	1	1.14	$ 50.00	12	13.68	684.00
SR 96	1G	10.62	11.15	0.53	1	0.53	$ 50.00	12	6.36	318.00
SR 96	1C	12.85	15.45	2.6	1	2.6	$ 50.00	12	31.2	1560.00
SR 99	1C	12.69	14.575	1.885	1	1.885	$ 50.00	12	22.62	1131.00
SR268	1C	0	6.59	6.59	1	6.59	$ 50.00	12	79.08	3954.00
								Total Contract Litter (mi.):	369.18	$ 18,459.00

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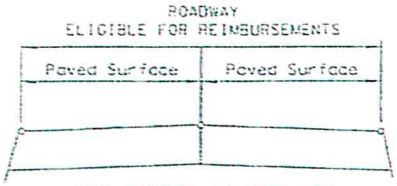
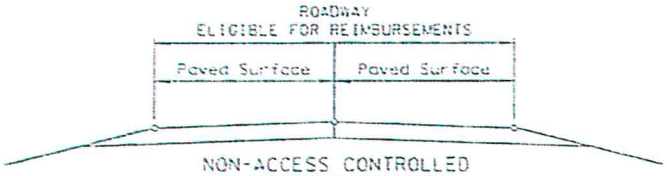
CITY MAINTENANCE
ROADWAY TYPICAL SECTIONS



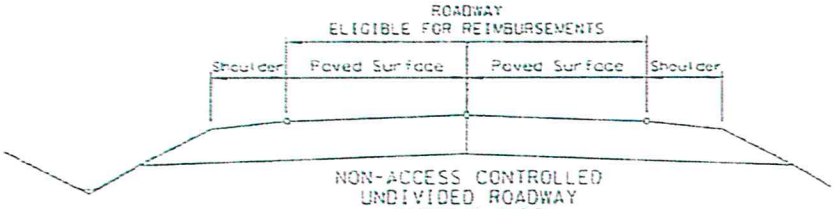
NON-ACCESS CONTROLLED
UNDIVIDED ROADWAY

FIGURE 1A



NON-ACCESS CONTROLLED
UNDIVIDED ROADWAY

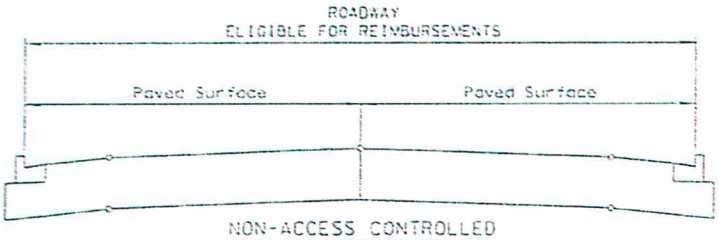
FIGURE 1B



NON-ACCESS CONTROLLED
UNDIVIDED ROADWAY
WITHOUT CURB

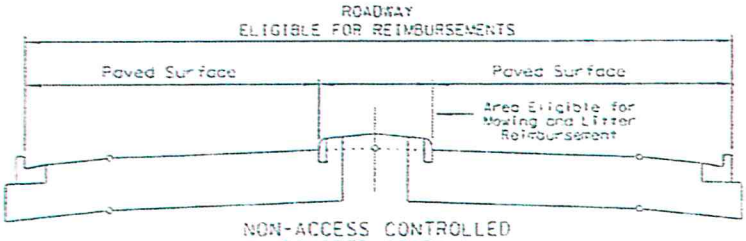
FIGURE 1C

NOTE: IN FIGURES 1A, 1B, AND 1C FOR NON-CONTROLLED ROUTES THE PAVED SURFACE WILL INCLUDE PAVED SHOULDERS.



NON-ACCESS CONTROLLED
UNDIVIDED ROADWAY
WITH CURB

FIGURE 1D



NON-ACCESS CONTROLLED
DIVIDED ROADWAY
WITH CURB

FIGURE 1E

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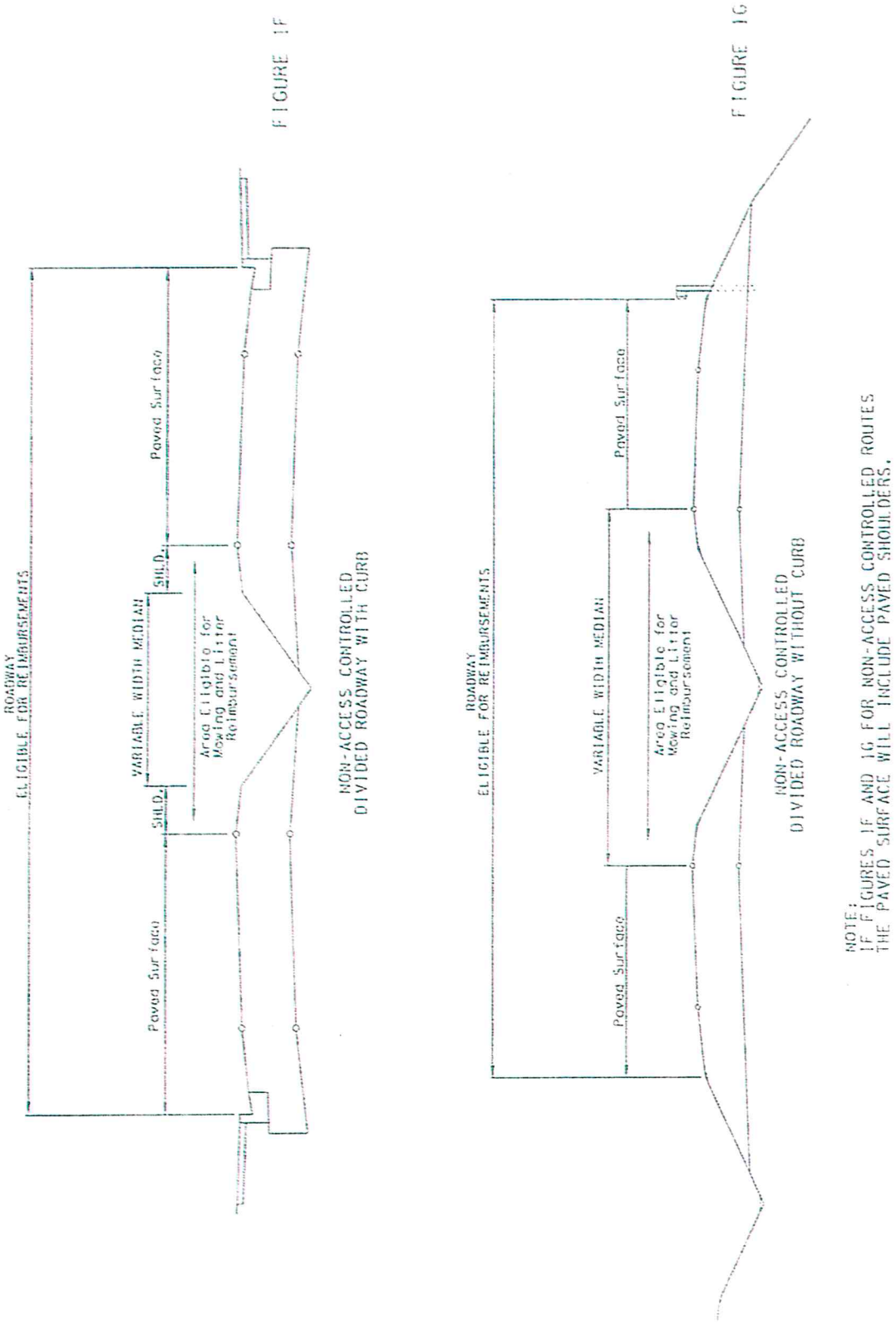
CITY MAINTENANCE
ROADWAY TYPICAL SECTIONS



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CITY MAINTENANCE
ROADWAY TYPICAL SECTIONS

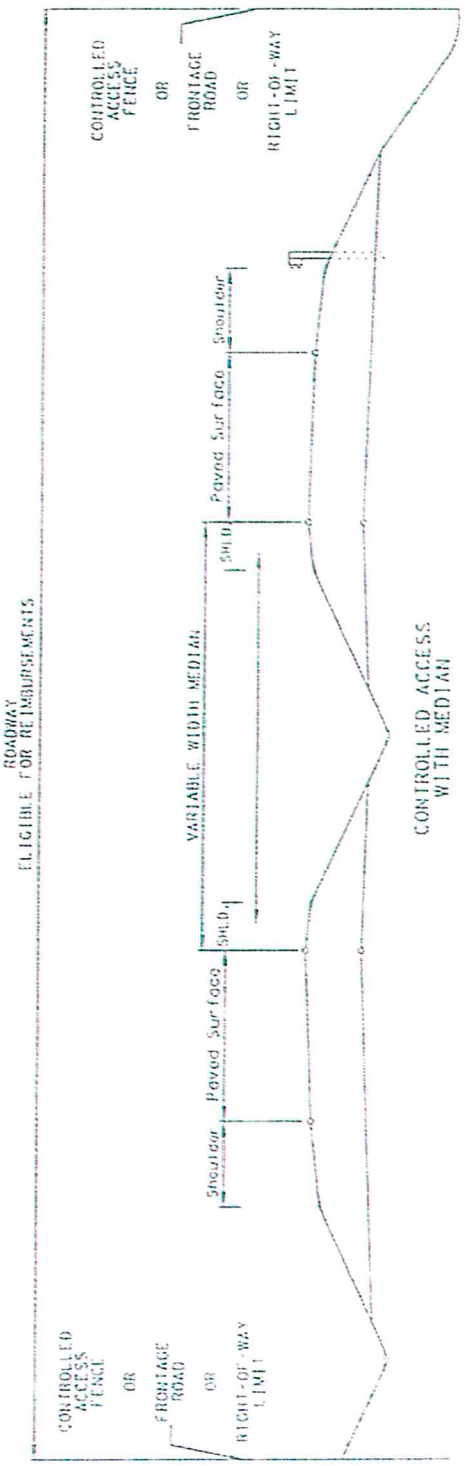

FIGURE 2A

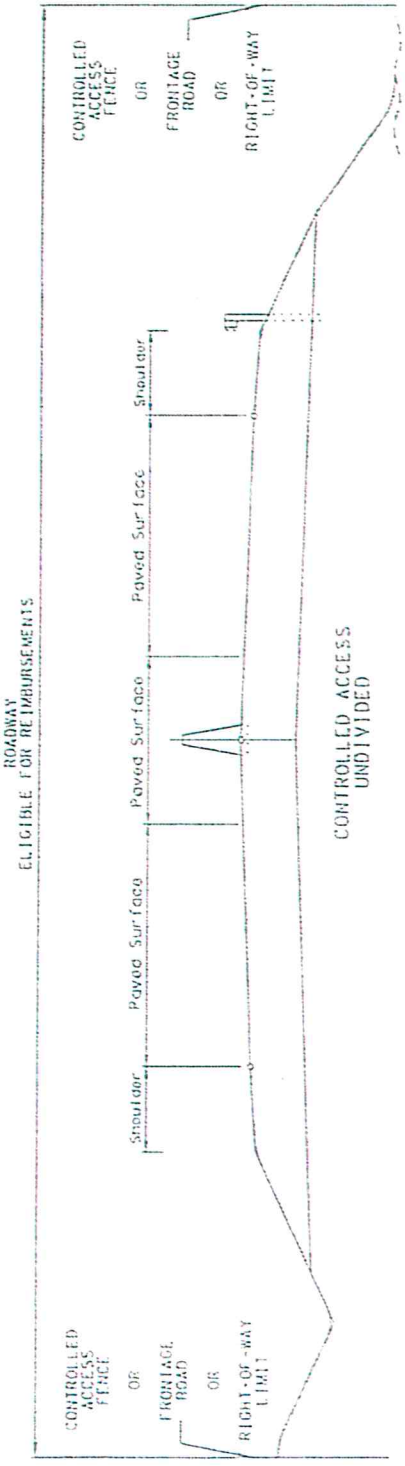

FIGURE 2B

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"EXHIBIT B"

MAXIMUM ALLOWABLE EQUIPMENT RATES

2021-2022 FISCAL YEAR

ITEM NO.	DESCRIPTION OF EQUIPMENT	RATE	UNIT
1	SEDAN, POLICE OR FULL SIZE	12.00	HR
2	TRUCK, PICKUP	11.00	HR
3	TRUCK, ¾ TO 1 TON LIGHT DUTY	12.00	HR
4	TRUCK, ¾ TO 1 TON 4X4	13.00	HR
5	TRUCK, UTILITY/SERVICE BODY	14.00	HR
6	TRUCK, DUMP UP TO 15,000 GVWR	24.65	HR
7	TRUCK, DUMP OVER 15,000 UP TO 20,000 GVWR	28.12	HR
8	TRUCK, DUMP OVER 20,000 UP TO 40,000 GVWR	42.35	HR
9	TRUCK, DUMP TANDEM AXLE OVER 40,000 GVWR	68.00	HR
10	TRUCK, STAKE OR FLATBED UP TO 10,000 GVWR	17.45	HR
11	TRUCK, STAKE OR FLATBED OVER 10,000 UP TO 20,000 GVWR	26.10	HR
12	TRUCK, STAKE OR FLATBED OVER 20,000	42.00	HR
13	TRUCK, FLATBED OVER 32,500 GVWR	54.00	HR
14	TRUCK, TRACTOR SINGLE AXLE	37.00	HR
15	TRUCK, TRACTOR TANDEM AXLE	40.15	HR
16	TRUCK, SEWER/CULVERT/CATCH BASIN/ CLEANER (VAC-ALL)	82.20	HR
17	SWEEPER, TRUCK MOUNTED	55.89	HR
18	SWEEPER, SELF-PROPELLED	43.71	HR
19	TRUCK, W/STREET FLUSHER	70.16	HR
20	TRUCK, CRANE	28.28	HR
21	TRUCK, EXCAVATOR	64.73	HR
22	TRUCK, REFUSE COLLECTION	30.50	HR
23	TRACTOR, W/SWEEPER	32.68	HR
24	TRACTOR, W/DITCHER	62.12	HR
25	TRACTOR, WHEEL	48.22	HR
26	CHIPPER, BRUSH	36.81	HR
27	TRAILER, TILT	8.04	HR
28	TRAILER, PLATFORM OR GENERAL	10.12	HR
29	TRAILER, LOW BOY TANDEM	20.78	HR
30	JOINT & CRACK SEALING MACHINE	28.55	HR
31	ASPHALT RECLAIMER/RECYCLER MACHINE	135.78	HR
32	PAVER, ASPHALT SELF-PROPELLED	154.53	HR
33	PAVER, ASPHALT PULL TYPE	7.45	HR
34	DISTRIBUTOR, ASPHALT, PULL TYPE	27.37	HR
35	CHIP SPREADER MACHINE	57.42	HR
36	EXCAVATOR, TRACK TYPE (TRACKHOE)	87.31	HR

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"EXHIBIT B"

MAXIMUM ALLOWABLE EQUIPMENT RATES

2021-2022 FISCAL YEAR

	DESCRIPTION OF EQUIPMENT	RATE	UNIT
37	DRAGLINES AND CRANES	75.99	HR
38	TRACTOR, CRAWLER (DOZER)	98.18	HR
39	MOTOR GRADER	65.30	HR
40	BACKHOE	37.90	HR
41	LOADER, FT END RUBBER TIRED (ARTICULATED) UP TO 1 CU. YD.	32.13	HR
42	LOADER, FT END RUBBER TIRED (ARTICULATED) OVER 1 UP TO 1.5 CY	47.50	HR
43	LOADER, FT END RUBBER TIRED (ARTICULATED) OVER 1.5 CU. YD.	59.71	HR
44	LOADER, FRONT END TRACK TYPE	71.50	HR
45	LOADER, SKID-STEER	58.46	HR
46	PROFILER, MILLING MACHINE	305.76	HR
47	ROLLER, WALK BEHIND	4.27	HR
48	ROLLER, STEEL WHEEL, 1 TO 5 TONS	88.84	HR
49	ROLLER, STEEL WHEEL, OVER 5 TONS	41.93	HR
50	GENERATOR, PORTABLE	8.30	HR
51	AIR COMPRESSOR, PORTABLE OR PULL TYPE	36.40	HR
52	WELDER, PORTABLE OR PULL TYPE	5.76	HR
53	CONCRETE MIXER, PORTABLE OR PULL TYPE	32.07	HR
54	CURBING MACHINE	65.74	HR
55	PAINT MACHINE, WALK BEHIND	31.57	HR
56	PAINT MACHINE, TRUCK MOUNTED (LARGE)	84.61	HR
57	THERMOPLASTIC MARKING MACHINE, WALK BEHIND	23.24	HR
58	TRAFFIC LINE REMOVER (WATER BLASTER)	43.68	HR
59	ARROW BOARD, TRAILER OR TRUCK MOUNTED	4.15	HR
60	MESSAGE SIGN, TRAILER MOUNTED	1.14	HR
61	LIGHT TOWER, TRAILER MOUNTED	24.18	HR
62	TRUCK MOUNTED ATTENUATOR	10.00	HR

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"EXHIBIT B"

CITY OF **********

MAXIMUM ALLOWABLE LABOR RATES

(To be supplied by the City at this time)

Beginning July 1, 2021 and ending June 30, 2022

Job Title Classification	Low Rate	High Rate
Executive Director	85.89	128.84
Asst. Director - Street	50.93	76.40
Transportation Director	86.44	129.67
Deputy Director - Transportation	82.53	123.80
Traffic Signal Technician	43.07	64.61
Sign Technician	37.54	56.30
Public Works Crew Leader	39.42	59.14
Heavy Equipment Operator	31.43	47.15
Equipment Operator	29.43	44.14
Refuse / Custodial Crew Supervisor	32.43	48.65
Maintenance Worker	42.94	64.42
Laborer	22.73	34.09
Budget Analyst	47.36	71.03
Public Works Inspector	36.72	55.08
Senior Public Works Inspector	51.48	77.22

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Asphalt Purchases Report

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☐
Direction	☐
Information	☒

Summary

Report of asphalt purchases.

Staff Recommendation

The asphalt reporting of purchases, consistent with purchases associated as perishable, fuel-based commodity is provided as information only.

Background Information

Purchases of asphalt are made throughout the month and reported with MWRD's O&M's construction projects. The attached report is provided pursuant to City Code, § 2-10(E)(7) in compliance with this reporting requirement.

Pursuant to the City Code, a purchase of perishable commodities made on the open market does not require public advertisement and competitive bids if a record is made by the person authorizing the purchase which specifies the amount paid, the items purchased and from whom the purchase was made in accordance with T.C.A. §6-56-304(7).

Council Priorities Served

Responsible budgeting

Proper procurement ensures best cost savings to the Department and our customers.

Maintain public safety

Maintaining safe drivability of roadways affected by water resources operations focuses on customer service.

Fiscal Impacts

The overall costs associated with asphaltic material purchases for these O&M projects are in the range of $150,000 to $175,000 per year. Costs are appropriately budgeted.

Attachments

Asphalt Purchases Report

MWRD - OPERATIONS & MAINTENANCE

Asphalt Quotes FY 2021

	Blue Water		Hawkins		Vulcan		Notes
	Binder	*Topping*	*Binder*	*Topping*	*Binder*	*Topping*	
Jul	*$65.00*	*$75.00*	$54.50	$62.50	$55.22	$63.13	
Aug	*$65.00*	*$75.00*	$53.50	$61.50	$54.17	$62.06	
Sep	*$65.00*	*$75.00*	$53.50	$61.50	$54.03	$61.97	
Oct	*$65.00*	*$75.00*	$53.50	$61.50	$53.93	$61.83	
Nov	*$65.00*	*$75.00*	$53.85	$61.75	$53.79	$61.65	
Dec	*$65.00*	*$75.00*	$53.75	$61.75	$53.58	$61.37	
Jan	*$65.00*	*$75.00*	$53.75	$61.75	Closed		
Feb	*$65.00*	*$75.00*	$54.00	$62.00	Closed		
Mar	*$65.00*	*$75.00*	$55.25	$62.50	$56.38	$64.67	
Apr	*$65.00*	*$75.00*	$56.75	$64.50	$57.11	$65.65	
May	*$65.00*	*$75.00*	$57.25	$65.00	$57.48	$66.14	
Jun							

MWRD OPERATIONS & MAINTENANCE

Asphalt Purchases FY 2021

Invoice Date	Approval	Vendor	Type	Rate	Qty	Total	FY Total
7/29	DH	Hawkins	411-E	$62.50	14.74	$921.25	$921.25
7/31	DH	Hawkins	307-BM	$54.50	54.40	$2,964.80	$3,886.05
8/24	DH	Hawkins	307-BM	$54.50	72.15	$3,932.18	$7,818.23
8/25	DH	Hawkins	307-BM	$54.50	54.22	2,954.99	$10,773.22
8/25	DH	Hawkins	307-BM	$54.50	17.95	978.28	$11,751.49
8/25	DH	Hawkins	307-BM	$54.50	17.87	973.92	$12,725.41
9/18	DH	Hawkins	411-E	$61.50	6.69	$411.44	$13,136.84
9/21	DH	Hawkins	411-E	$61.50	51.86	$3,189.39	$16,326.23
9/24	DH	Hawkins	411-E	$61.50	17.99	$1,106.39	$17,432.62
9/29	DH	Hawkins	307-BM	$53.50	17.95	$960.33	$18,392.94
10/15	DH	Hawkins	307-BM	$53.50	29.96	$1,602.86	$19,995.80
10/16	DH	Hawkins	411-E	$61.50	14.21	$873.92	$20,869.72
11/6	DH	Vulcan	307-BM	$53.79	43.09	$2,317.81	$23,187.53
11/9	DH	Vulcan	307-BM	$53.79	6.73	$362.01	$23,549.53
2/25	DH	Hawkins	411-E	$62.00	35.36	$2,192.32	$25,741.85
2/28	DH	Hawkins	411-E	$62.00	26.07	$1,616.34	$27,358.19
3/17	DH	Hawkins	307-BM	$55.25	15.94	$880.69	$28,238.88
3/17	DH	Hawkins	411-E	$62.50	15.04	$940.00	$29,178.88
3/26	DH	Hawkins	307-BM	$55.25	63.05	$3,483.51	$31,722.29
3/26	DH	Hawkins	411-E	$62.50	8.01	$500.63	$32,222.92
4/13	DH	Hawkins	307-BM	$56.75	66.49	$3,773.31	$35,996.23
4/13	DH	Hawkins	307-BM	$56.75	11.86	$673.06	$36,669.29
4/19	DH	Hawkins	411-E	$60.63	18.88	$1,144.69	$37,813.98
4/19	DH	Hawkins	411-E	$60.63	15.03	$911.27	$38,725.25
4/29	DH	Hawkins	307-BM	$56.75	24.29	$1,378.46	$40,103.71

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Mechanical/Electrical Services Contract Extension

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

To extend the existing Mechanical Electrical Services Contract with John Bouchard & Sons (JB&S) for the final year allowed by the contract.

Staff Recommendation

Extend the existing Mechanical Electrical Services Contract with JB&S.

Background Information

Staff accepted bids on February 21, 2018 for one base-bid task order (18-01) along with supplemental unit prices for outside labor and equipment services. The bid was awarded to John Bouchard and Sons Co (JB&S), and the agreement was executed on May 17, 2018. The agreement allowed for the provision of extending the supplemental unit prices an additional three, 12-month terms. Staff is requesting approval from the Board to extend the agreement with JB&S an additional twelve months to June 30, 2022.

The attached task order summary identifies the task orders entered into with J&B. Task order 18-01 was the basis for awarding the bid. Task Orders 18-02 through 21-03 are task orders using the supplemental unit pricing provided by JB&S over the last three years. Staff has been satisfied with JB&S. They have been able to complete work MWRD maintenance staff could not due to lack of resources.

Council Priorities Served

Responsible budgeting

Using established unit prices for labor and equipment to execute large plant electrical and mechanical repair and replacement projects have afforded the Department adequate resources for preventive maintenance activities and consistent pricing for budgeting large repair projects.

Maintain public safety

Rehabilitating and replacing plant infrastructure allows for uninterrupted operation of MWRD's plants, thereby safeguarding the public through proper treatment drinking water and wastewater effluent resources.

Fiscal Impact

A lot of the costs associated with JB&S's help can be classified as reactive maintenance due to unforeseen repairs and equipment breakdowns and will likely be requested as funded from working capital reserves. However, the Department's 5-yr capital improvements plan does account for $1.5M in rate funded vehicle and equipment replacement that may fund a portion of the costs associated with JB&S services.

Attachments

1. Draft Extension #3 Agreement
2. Task Order Summary

MURFREESBORO WATER RESOURCES DEPARTMENT
MURFREESBORO, TENNESSEE

EXTENSION OF AGREEMENT

This Agreement Extension is made as of this ___ day of _____ pursuant to the terms of the **Water/Wastewater System Mechanical/Electrical Services Contract** (the "Agreement") dated May 17, 2018, by and between John Bouchard and Sons Co ("Contractor") and the City of Murfreesboro, Tennessee (the "Owner").

Recitals

A. Article 9-Contract Documents of the Agreement incorporates by reference the Instructions to Bidders as set forth in the Contract Documents and Specifications for the Water/Wastewater System Mechanical/Electrical Services Contract dated January 30, 2018.

B. Part 10.2 and 15.7 of the Information for Bidders of the Agreement provides that Contractor and the City may agree to extend the Agreement for a period of twelve months no more than three times.

C. Two previous extensions of the Agreement have been made and Owner and Contractor desire to extend the Agreement for an additional twelve-month period.

Agreement

1. Contractor and the Owner mutually agree to extend this agreement an additional 12 months, from June 30, 2021 to June 30, 2022, in accordance with Part 10.2 and 15.7 of the Instructions to Bidders of the Agreement.

2. No provisions of the Agreement except as specifically stated herein are amended.

John Bouchard and Sons Co.

David Proctor IV

By: David Proctor IV
Its: Project Manager

CITY OF MURFREESBORO

_____
Shane McFarland, Mayor

Approved as to Form:

_____
Adam Tucker, City Attorney

Murfreesboro Water Resources Task Order List - 2018-2021					
Task Order #	**Description**	**Status**	**Amount/Estimate**	**Final Amount**	**JBS Project#**
18-01	Orig Bid - WTP RW Pump Replace & Membrane Feed Pumps #1 & 4 Refurbishments	Complete	$576,800.00	$576,511.50	18-C6355/6373/6356
18-02	Thompson Lane PS - Valve Replacement	Complete - Mech	$8,532.55	$6,312.64	18-C6375
18-03	Aerator 2A Gearbox Remove & Reinstall at WWTP (remove & re-install)	Complete - Machine Shop	$22,220.00	$11,359.00	18-C6366
18-03	Aerator 2A Gearbox Replacement - 2A (install new gearbox)	Complete - Machine Shop		$22,336.65	19-C6492
18-04	Aerator 2A Gearbox Rebuild at WWTP (did not get rebuilt - owner ordered new gearbox)	Complete - Machine Shop	$20,970.00	$7,304.79	18-C6367
18-05	Lake RW Intake VFD Replacement	Complete - Electrical	$215,710.50	$191,710.59	19-C6439
18-06	Overall Creek PS Improvements-SSR Engineered	Budgeted 12/5/18 - In Progress	$245,246.00		C6522/C6527
18-06 adder #1	Overall Creek - Add Soft Starts	budgeted 3/31/20 - In Progress	$102,248.90		C6527
18-06 adder #2	Overall Creek - Add'l Valves & Pumping Costs	budgeted 4/26/21 - In Progress	$15,704.00		C6522
18-07	Lake RW Pump #2 - Emergency Motor Rebuild	Complete - Machine Shop	$23,702.67	$23,702.67	18-48628
18-08	Pall Air Compressor Purchase & Install	Complete - Compressor	$35,289.90	$31,929.67	18-C6408
19-01	Press & Pump Installation in Biosolids - Mech & Elec	Complete - Mech & Elec	$79,872.00	$68,705.11	C6523/C6525
19-02	Biosolids Dryer & Nat Gas Regulators at WWTP - SSR Engineered	Complete - Mech & Elec	$100,645.00	$86,621.81	C6444/C6445
19-03	Replace 36" Water Valve & Gearbox at WTP	Budgeted 2/21/19 - MWRD fixed problem	$70,509.00	N/A	N/A
19-04	Aerator 2B Rebuild at WWTP	Complete - Machine Shop	$43,190.00	$57,523.49	C-6467
19-05	Install 3 New Aerators at WWTP - scheduled for Feb 2020	Complete - Machine Shop	$23,349 each	$43,906.23	C-6591
19-06	RW#5 Pump Rebuild	Complete - Machine Shop	$28,000.00	$29,514.08	C-6501
19-07	Aux Pump Station Meter Vault Modifications - Mag Meter & Vault Lid	Complete - Mechanical	$59,695.00	$64,290.00	C-6520
19-08	WRRF Old Oxidation Ditch Six (6) VFDs Replacement	Complete - Electrical	$58,153.00	$46,638.28	C-6526
19-09	Angle Brackets for RW Trough(WTP)	Approved - prob spring 2020	$10,250.00	$9,556.89	C-6521
19-10	New Drain Piping in GAC Room (WTP) - Replace Piping & Hangers/Paint	Complete - Mechanical	$15,264.34	$13,543.89	C-6519
19-11	HS Pump VFD#1 Replacement	Complete - Electrical	$193,597.00	$201,537.91	C-6540
19-12	Pall Membrane Pump Motors #1 & 2 Rebuild - Bearings - WTP	Complete - Machine Shop	$17,277.08	$17,277.08	C-6534 & C-6542
19-13	Electrical Service at WTP	Complete - Electrical	$16,203.50	$15,683.50	C-6562
19-14	Replace 7 Auto Transfer Switches at WWTP	Complete - Electrical	$48,768.00	$30,340.65	C-6602
20-01	Silo Flex Connectors at WTP	Complete - Mechanical	$6,985.51	$6,125.51	C-6577
20-02	Aerator 2A Replacement	Complete - Machine Shop	$34,825.00	$29,859.90	C-6580
20-03	Air Compressor Replacement (RDP)	Complete - Machine Shop	$21,868.72	$24,892.91	C-6581
20-04	8" Force Main Bypass Install	budgeted 7/16/20-MWRD Completed	$19,121.28		
20-05	WRRF Traveling Irrigator Repairs	Complete - Machine Shop	$12,330.00		C-6629
20-06	WRRF #1 Clarifier Repairs	Complete - Machine Shop	$9,750.00	$9,713.76	C-6623
20-07	New Floor Drains in Pretreatment	Complete - Mechanical	$11,901.33	$11,119.32	C-6617
20-08	Chilled Water Pump at WTP	Complete - Machine Shop	$5,875.60	$5,875.00	C-6626
20-09	Pall CIP: Sodium Hydroxide & Citric Acid Tank Replacement	Budgeted 1/15/21	$35,035.44		
21-01	Aerator 1B Replacement	Budgeted 1/28/21	$35,100.00		
21-02	Biosolids Dryer Demolition	Budgeted 3/29/21	$14,657.00		
21-03	Oakleigh Pump Station	Budgeted 4/12/21	$273,890.00		
			$2,489,188.32	$1,643,892.83	
Not yet assigned:					
	HVAC Service on HP-11-2 at Sinking Ck WWTP	budgeted 4/27/18	$1,542.75		
	Sand Filter Building HVAC Replacement	budgeted 5/23/18	$8,272.60		
	PTAC HVAC unit replacement for office	budgeted 7/18/18	$2,085.53		
	Pump Station Electrical Relocation (5 locations - price per location)	budgeted 3/09/18	$38,839.00		
	High Service Pump Drives	budgeted 2/4/19	$572,784.30		
	Polymer Feed System	budgeted 3/7/19	$134,122.00		
	Add Drains & Piping for Lime Storage Room	budgeted 8/21/19	$11,901.00		
	Wimco Pump #1 Seals	budgeted 1/16/20	$10,290.00		
	Wimco Pump #1 Laser Align	budgeted 1/16/20	$1,375.00		
?	Aerator 3C MT7011 burned wiring & Aerator 3C Motor Rebuild - WWTP				19-58074

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Minutes of City Council Meetings

Department: Finance

Presented by: Melissa Wright

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Review and approval of City Council meeting minutes.

Staff Recommendation

Approve minutes as listed.

Background Information

City Council meetings are available on the City's website for reference to actions taken and discussion made as items are considered. In accordance with Meeting procedures, Council approves meeting minutes in order for these to become the official minutes of the meeting.

Attachments

April 22, 2021 (Regular Meeting)

April 22, 2021

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, consistent with the Governor's order, members of the City Council are participating by electronic means as has been determined necessary to protect public health, safety, and welfare in light of the coronavirus pandemic at 6:00 p.m. on Thursday, April 22, 2021, with Mayor Shane McFarland present and presiding and with the following Council Members present and in attendance, to wit:

Madelyn Scales Harris
Rick LaLance
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright

Vice-Mayor Scales Harris participated telephonically at this meeting.

The following representatives of the City were also present:

Craig Tindall, City Manager
Adam Tucker, City Attorney
Jennifer Brown, Assistant Finance Director
Gary Whitaker, Assistant City Manager
Darren Gore, Assistant City Manager
Sam Huddleston, Executive Director/
Development Services
Angela Jackson, Executive Director/
Community Services
Mark Foulks, Fire and Rescue Chief
Kayla Walker, Project Development Director
Chad Gehrke, Airport Director
Greg McKnight, Planning Director
Nate Williams, Parks and Recreation Director
Russell Gossett, Solid Waste Director
Randolph Wilkerson, Assistant Human Resources Director
Joshua Miller, Administrative Assistant

Mayor McFarland commenced the meeting with a prayer followed by the Pledge of Allegiance.

Mr. Randolph Wilkerson, Assistant Human Resources Director, recognized STARS Award recipient Mr. Carson Elders, Street Department Crew Leader, who went above and beyond the call of duty by demonstrating his concern for safety by sharing his expertise regarding safe chainsaw usage in the form of a day-long training class he himself developed. Mayor McFarland presented a plaque recognizing Mr. Elder's ability to represent the best of what Murfreesboro City Employees have to offer, exhibiting core values and creating a better quality of life for citizens.

The Consent Agenda was presented to the Council for approval:

1. Approach Management Grant Amendment (Airport)
2. Taxiway A and Ramp Pavement Rehabilitation Design Grant (Airport)
3. Community Investment Program Funds Transfer (Finance)
4. MOU with Motlow State Community College for Fire Rescue Department Training (Fire Rescue)

5. Approval to Purchase Extrication Tools from Single Source Provider (Fire Rescue)
6. Cannonsburgh Sidewalk Improvements by Rollins Excavating (Parks & Recreation)
7. Jordan Farms Lighting Project – Electric Easement (Parks & Recreation)
8. CIP Equipment Purchase (Solid Waste)
9. Banner Request to Hang Across East Main Street: Exchange Club of Murfreesboro for Prevention of Child Abuse Month (Street)
10. Purchase of Vehicle and Equipment (Street)
11. Asphalt and Concrete Purchase Report (Street)

(Insert letters from Airport (2), Finance, Fire Rescue (2), Parks & Recreation (2), Solid Waste & Street (3) Departments here.)

Mr. LaLance made a motion to approve the Consent Agenda. Mr. Wright seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye".

The following letter from the City Recorder/Finance Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to approval of Minutes of City Council Meetings from April 8, 2021.)

Mr. Wade made a motion to approve the minutes as written and presented for the public comment meeting held on April 8, 2021 and the regular meeting held on April 8, 2021. Mr. Martin seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye".

The following letter from the Assistant City Manager was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to Solid Waste Ordinance Revisions.)

Mr. Darren Gore, Assistant City Manager, answered questions from the Council regarding notification to residents regarding solid waste changes, future of the solid waste model the City currently operates under and the policy for solid waste collection regarding residents with disabilities.

An ordinance, entitled "ORDINANCE 21-O-06 amending the Murfreesboro City Code, Chapter 14, GARBAGE, WEEDS, TRASH AND OTHER SOLID WASTE," was read to the Council and offered for passage on first reading upon motion made by Mr. Martin, seconded by Mr. Wade. Upon roll call said ordinance was passed on first reading by the following vote:

Aye: Madelyn Scales Harris
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright
Shane McFarland

Nay: None

The following letter from the City Recorder/Finance Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to
Resolution 21-R-12 – Unclaimed Property Request.)

The following RESOLUTION 21-R-12 was read to the Council and offered for adoption upon motion made by Mr. LaLance, seconded by Mr. Wade. Upon roll call said resolution was adopted by the following vote:

Aye: Madelyn Scales Harris
Rick LaLance
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright
Shane McFarland

Nay: None

(Insert RESOLUTION 21-R-12 here requesting unclaimed balance of
accounts remitted to State Treasurer under Unclaimed Property Act.)

The following letter from the Assistant Planning Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to scheduling public hearings
for May 20, 2021 for zoning application [2021-402] for approximately 0.66
acres located along Lee Street; zoning application [2021-404] to amend
the One East College PUD zoning for approximately 2.42 acres;
zoning application [2021-405] for approximately 116.7 acres
along Burnt Knob road, Blackman Road and Vaughn Road;
and a zoning application [2021-406] for approximately
52.9 acres located along Veterans Parkway, Burnt
Knob Road and Vaughn Road.)

The following RESOLUTION 21-R-PH-08 was read to the Council and offered for adoption upon motion made by Mr. Wade, seconded by Mr. LaLance. Upon roll call said resolution was adopted by the following vote:

Aye: Madelyn Scales Harris
Rick LaLance
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright
Shane McFarland

Nay: None

(Insert RESOLUTION 21-R-PH-08 here with regards to scheduling a public
hearing for May 20, 2021 to consider zoning application for approximately
0.66 acres located along Lee Lane to be rezoned from CM-R and CCO
to PRD (Lee Street Towns PRD); Lee Street Partnership,
applicant [2021-402].)

The following RESOLUTION 21-R-PH-09 was read to the Council and offered for adoption upon motion made by Mr. Wade, seconded by Mr. LaLance. Upon roll call said resolution was adopted by the following vote:

Aye: Madelyn Scales Harris

Rick LaLance
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright
Shane McFarland

Nay: None

(Insert RESOLUTION 21-R-PH-09 here with regards to scheduling a public hearing for May 20, 2021 to consider amending the One East College PUD zoning for approximately 2.42 acres located along East College Street, North Spring Street, East Lytle Street and North Church Street; 705 4th Avenue South Holding Company, LLC, applicant [2021-404].)

The following RESOLUTION 21-R-PH-10 was read to the Council and offered for adoption upon motion made by Mr. Wade, seconded by Mr. LaLance. Upon roll call said resolution was adopted by the following vote:

Aye: Madelyn Scales Harris
Rick LaLance
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright
Shane McFarland

Nay: None

(Insert RESOLUTION 21-R-PH-10 here with regards to scheduling a public hearing for May 20, 2021 to consider zoning application for approximately 116.7 acres located along Burnt Knob Road, Blackman Road and Vaughn Road to be zoned GDO-3 and 101.7 acres to be rezoned from P to CH; City Administration Department, applicant [2021-405].)

The following RESOLUTION 21-R-PH-11 was read to the Council and offered for adoption upon motion made by Mr. Wade, seconded by Mr. LaLance. Upon roll call said resolution was adopted by the following vote:

Aye: Madelyn Scales Harris
Rick LaLance
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright
Shane McFarland

Nay: None

(Insert RESOLUTION 21-R-PH-11 here with regards to scheduling a public hearing for May 20, 2021 to consider zoning application for approximately 52.9 acres located along Veterans Parkway, Burnt Knob Road and Vaughn Road to be zoned GDO-1; City Administration Department, applicant [2021-406].)

The following letter from Parks and Recreation Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to Boyce Ballard Construction Contract Change Order No. 1 for Indoor Soccer Facility Foundation.)

Mr. Nate Williams, Parks and Recreation Director, presented the request of the Parks and Recreation Department to approve Change Order No. 1 with Boyce Ballard Construction in the amount of $22,880, funded through the CIP Budget for Siegel Soccer Park improvements, to reflect increased material costs from Spring 2020 to Spring 2021.

Mr. LaLance made a motion to approve Change Order No. 1 with Boyce Ballard Construction funded through the CIP Budget for Siegel Soccer Park improvements in the amount of $22,880 to reflect increased material costs from Spring 2020 to Spring 2021. Mr. Martin seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye".

The following letter from the Parks and Recreation Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to ClearSpan Fabric Structures Agreement for Indoor Soccer Training Facility.)

Mr. Nate Williams, Parks and Recreation Director, presented the request of the Parks and Recreation Department to approve the contract with ClearSpan Fabric Structures International, LLC in the amount of $2,637,292, funded through the CIP Budget for Siegel improvements, for construction of a prefabricated 90,000 square foot indoor practice facility at the Richard Siegel Soccer Complex.

Mr. Martin made a motion to approve the contract with ClearSpan Fabric Structures International, LLC in the amount of $2,637,292, funded through the CIP Budget for Siegel improvements, for construction of a prefabricated 90,000 square foot indoor practice facility at the Richard Siegel Soccer Complex. Mr. LaLance seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye".

The following letter from the Parks and Recreation Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to Musco Lighting Agreement for Jordan Farm Soccer Fields at Richard Siegel Park.)

Mr. Nate Williams, Parks and Recreation Director, presented the request of the Parks and Recreation Department to approve the Agreement with Musco Sports Lighting, LLC in the amount of $1,122,792, funded through the CIP Budget for Siegel Soccer Park improvements, for installation of LED lighting on six of the Jordan Farm Fields at the Richard Siegel Soccer Complex.

Mr. LaLance made a motion to approve the Agreement with Musco Sports Lighting, LLC in the amount of $1,122,792, funded through the CIP Budget for Siegel Soccer Park improvements, for installation of LED lighting on six of the Jordan Farm Fields at the Richard

Siegel Soccer Complex. Mr. Martin seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye" except Mr. Wade who voted "Nay".

The following letter from the Parks and Recreation Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to Warner's Athletic Construction Change Order No. 2 for Soccer Park Turf.)

Mr. Nate Williams, Parks and Recreation Director, presented the request of the Parks and Recreation Department to approve Change Order No. 2 with Warner's Athletic Construction Co., LLC, in the amount of $3,101,722, funded through the CIP Budget for Siegel Soccer Park improvements, for turf work for four fields at the Richard Siegel Soccer Complex.

Mr. Wade asked what the total material cost increase amount was, and Mayor McFarland moved the vote on this item to the end of the agenda to give Mr. Williams time to find the amount.

Mayor McFarland announced that, due to emails the Council had been receiving regarding how much park land the City had, the total number of park land in the City was 1,138 acres.

The following letter from the Executive Director of Public Works was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to roof replacement on Street Department's Salt Barn.)

Mr. Russell Gossett, Solid Waste Director, presented the request of the Street Department to approve awarding the Salt Barn Roof Replacement Contract to the low bidder Stubblefield Construction, LLC, pending Legal approval, in the amount of $164,000, funded through the Fiscal Year 2021 CIP Budget.

Mr. Wade made a motion to approve awarding the Salt Barn Roof Replacement Contract to the low bidder Stubblefield Construction, LLC, pending Legal approval, in the amount of $164,000, funded through the Fiscal Year 2021 CIP Budget. Mr. LaLance seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye".

The following letter from the City Recorder/Finance Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to Beer Permit Applications for Big Bobby's BBQ at 2805 Old Fort Parkway, Suite O; Boro Quick Stop at 3208 Memorial Boulevard, Suite A; 7-Eleven #41937H at 1509 Joe B. Jackson Parkway and Special Event Permits for Center for the Arts, Inc. on 5/7/21, 5/8/21 and 5/9/21 at Cannonsburgh Village, 312 S Front Street.)

Mr. Wade made a motion to approve Beer Permits for Big Bobby's BBQ, 2805 Old Fort Parkway, Suite O (New Location); Boro Quick Stop, 3208 Memorial Boulevard, Suite A (Ownership Change); 7-Eleven #41937H, 1509 Joe B. Jackson Parkway (New Location), pending building and codes completion and Special Event Beer Permits for Center for the Arts, Inc. on 5/7/21, 5/8/21 and 5/9/21 at Cannonsburgh Village, 312 South Front Street. Mr. Martin seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye".

The Assistant Finance Director announced that there were not any Board or Commission Appointments nor any Statements to be considered.

Mr. Nate Williams, Parks and Recreation Director, stated that the total material cost increase for turf work was $379,574

Mr. LaLance made a motion to approve Change Order No. 2 with Warner's Athletic Construction Co., LLC, in the amount of $3,101,722, funded through the CIP Budget for Siegel Soccer Park improvements, for turf work for four fields at the Richard Siegel Soccer Complex. Mr. Shacklett seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye" except Mr. Wade and Mr. Wright who voted "Nay".

Under other business the following letter from the Project Development Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to
Sports*Com Emergency Pipe Repair Construction Contract.)

Ms. Kayla Walker, Project Development Director, presented the request to approve a time and material Construction Contract with Rice Construction Co., LLC in the estimated amount of $250,000 funded from the General Fund's Unforeseen account for emergency pipe repair at Sports*Com.

Mr. LaLance made a motion to approve a time and material Construction Contract with Rice Construction Co., LLC in the estimated amount of $250,000 funded from the General Fund's Unforeseen account for emergency pipe repair at Sports*Com. Mr. Wright seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye".

The following letter from the Project Development Director was presented to the Council:

(Insert letter dated April 22, 2021 here with regards to Sports*Com
Emergency Pipe Repair Professional Services Contract.)

Ms. Kayla Walker, Project Development Director, presented the request to approve the Professional Services Contract with Robert Warren & Associates in the estimated amount

of $15,700 funded from the General Fund's Unforeseen account for emergency pipe repair at Sports*Com.

Mr. Wright made a motion to approve the Professional Services Contract with Robert Warren & Associates in the estimated amount of $15,700 funded from the General Fund's Unforeseen account for emergency pipe repair at Sports*Com. Mr. LaLance seconded the motion. A roll call vote was conducted and all members of the Council voted "Aye".

Mr. Darren Gore, Assistant City Manager, updated Council on the potential expansion of Middle Point Landfill, explained the timeframe that Republic Services must follow to potentially gain approval to expand and which governing bodies Republic must gain approval from for expansion.

Mayor McFarland stated that he had a meeting with representatives from Republic Services in which he asked them to withdraw their application for expansion, he was hopeful that they would withdraw their application, his recommendation was that the Council wait on passing a resolution voicing opposition to the landfill expansion Council agreed that if Republic did not withdraw their application they would still like representatives from Republic come speak before the Council regarding the landfill expansion.

Mr. Craig Tindall, City Manager, gave a scheduling update on the upcoming City Council meetings.

Mr. Rick LaLance gave an update on the MED Proceeds Community Investment Study Group meeting.

There being no further business, Mayor McFarland adjourned this meeting at 6:56 p.m.

_____
SHANE MCFARLAND – MAYOR

ATTEST:

_____
MELISSA B. WRIGHT - CITY RECORDER

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Solid Waste Ordinance Revisions – SECOND READING

Department: Solid Waste Department

Presented by: Darren Gore

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Proposed amendment of the Solid Waste Ordinance – first reading.

Background Information

The City Council reviewed the solid waste ordinance revisions at their April 14, 2021 workshop. City Code Section 14 – Garbage, Weeds, Trash and Other Solid Waste is presented as amended to reflect current solid waste practices, codify the solid waste fee, as well as establish fees for curbside bulk item pick-up and atypical curbside pick-up services for solid waste and brush, limb and yard waste.

- All grass clippings that are bagged in biodegradable yard waste bags year-round are picked up free of charge; loose grass clippings are charged a $5.00 per pick-up fee.
- All leaves required to be bagged in biodegradable yard waste bags from January 16th through October 9th. During peak leaf disposal (Oct. 10th through January 15th), leaves may be loosely piled at the curbside for pickup.
- Further clarification that private lawn and tree service establishments must not place the grass clippings or brush and limb at the curb for City pickup; however, affords private establishments to utilize the City's brush recycling facility per a unit price charge.
- Incorporation of a Resolution to establish solid waste fees from time to time; establishing proposed fees for:
    - Monthly solid waste collection fees for residential and commercial customers,
    - "Go back" refuse pick-up service for customers who fail to place their roll-out containers by the curbside during normal weekly or bi-weekly collection.
    - Bulk item pick-up on a per item basis,
    - Brush, limb and yard waste collection for greater than 8 cubic yards (6'x6'x6'),

    - Fees for commercial entities to use the City's mulching recycling facility for a fee
    - Payment for replacement of solid waste carts that are damaged, and
    - Fees for special event solid waste services, such as events on the square and Cannonsburgh.
- Incorporation of Solid Waste Collection Design Criteria adopted July 10, 2019 by City Council
- Establishes discontinuation of service as defined in accordance with MWRD and CUD policies.

Council Priorities Served

Responsible budgeting

Affordable services with the goal of achieving long-term sustainability is the highest priority of the solid waste staff.

Maintain public safety

Proper collection, transport and disposal of solid waste is critical to maintaining the public health and welfare.

Fiscal Impacts

There are no fiscal impacts to expenses associated with implementing the proposed ordinance changes. The proposed schedule of fees do include charging for bulk item pick-up, loose grass clipping and larger volume brush and limb pickups, solid waste cart replacement, and special event service, so revenue is expected to increase.

Attachments:

1. Ordinance 21-O-06; amending Solid Waste City Code Chapter 14
2. Resolution 21-R-11; establishing solid waste fee schedule

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ORDINANCE 21-O-06 amending the Murfreesboro City Code, Chapter 14, GARBAGE, WEEDS, TRASH AND OTHER SOLID WASTE, involving a complete amendment of the chapter.

WHEREAS, it is in the City's best interest to modify City Code Section 14 – Garbage, Weeds, Trash and Other Solid Waste to reflect current solid waste practices, codify the solid waste fee, as well as establish fees for curbside bulk item pick-up and atypical curbside pick-up services for solid waste and brush, limb and yard waste; and,

WHEREAS, the City Council reviewed the solid waste ordinance revisions at their April 14, 2021 workshop and provided their input which has been included herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. Chapter 14, GARBAGE, WEEDS, TRASH AND OTHER SOLID WASTE, of the Murfreesboro City Code is hereby amended by deleting the chapter in its entirety and substituting in lieu thereof Attachment A.

SECTION 2. That this Ordinance shall take effect July 1, 2021 after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

_____
Shane McFarland, Mayor

ATTEST:

_____
Melissa B. Wright
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
_____
Adam F. Tucker
City Attorney

SEAL

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Chapter 14 - GARBAGE, WEEDS, TRASH AND OTHER SOLID WASTE

ARTICLE I. - REFUSE COLLECTION AND SERVICE

Section 14-1 - Title.

This article shall be known and may be cited as the "Murfreesboro Refuse Collection and Service Ordinance."

(Ord. of 11-05-47 § 1; Ord. No. 77-24 § 1, 08-11-77; Ord. No. 90-27 § 1, 06-07-90)

Cross reference— Code § 28-27, maintenance of vehicles hauling garbage and trash.

Section 14-2 - Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein:

(A) *"Ashes."* The residue from the burning of wood, coal, coke, or other combustible materials.

(B) *"Bulk refuse."* Items of solid waste which are too large, heavy or bulky to be disposed of in the automated garbage collection system refuse container and which are not grass, leaves or yard waste. Bulk refuse items include boxes, furniture, and toys. Bulk refuse does not include any item otherwise excluded from City collection.

(C) *"Biodegradable paper bags."* – The term "biodegradable paper bags" means bags made from brown kraft paper (not stitched or sewn). No plastic bags are accepted in yard waste collection.

(D) *"Collector."* The term "collector" shall mean any person, firm, corporation, or political subdivision that collects, transports, or disposes of any refuse within the corporate limits of the City of Murfreesboro.

(E) *"Commercial refuse."* All waste from retail, wholesale, or industrial businesses of any nature.

(F) *"Commercial solid waste."* The term "commercial solid waste" shall mean solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment, and multiple housing facilities.

(G) *"Construction waste."* The term "construction waste" shall mean materials from construction, demolition, remodeling, construction site preparation, including but not limited to rocks, trees, debris, dirt, bricks, fill, plaster, and all types of scrap building materials.

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(H) *"Base rate of collection"*. The term "base rate of collection" is a per cart fee to be set by the City Council and Mayor.

(I) *"Fuel Surcharge."* The term "fuel surcharge" is an extra fee to cover the fluctuating cost of fuel. It is calculated as a percentage of the base rate.

(J) *"Garbage."* Putrescible animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

(K) *"Garbage Bag."* The term "garbage bag" shall mean 0.7 mil to 1.0 mil thick with either a drawstring or flaps to tie the waste securely. Plastic shopping bags or grocery bags are not acceptable as garbage bags.

(L) "*'Go Back' Refuse Pick-up Service*." The term "go back" refuse pick-up service refers to a residential or commercial customer failing to have their refuse roll out container at the curbside during normal weekly or bi-weekly collection, and requesting that the Solid Waste Department retrieve and dispose of their refuse during an unscheduled period, thus requiring a solid waste vehicle and driver "go back" to service the residential or commercial customer exclusively.

(M) *"Grass refuse."* Grass cuttings and trimmings, including weeds and roots from which all dirt has been removed.

(N) *"Hazardous refuse."* Any chemical, compound, mixture, substance, or article which may constitute a hazard to health or may cause damage to property by reason of being explosive, flammable, poisonous, corrosive, unstable, irritating, radioactive, or otherwise harmful.

(O) *"Industrial waste."* All such waste peculiar to industrial, manufacturing, or processing plants, and shall include hazardous refuse.

(P) *"Infectious wastes."* The term "infectious waste" means waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease. For purposes of this policy, the following waste shall be considered to be infectious waste:

(1) *Isolation wastes*. Wastes contaminated by patients who are isolated due to communicable disease, as provided in the U.S. Centers for Disease Control Guidelines for Isolation Precautions Preventing Transmission of Infectious Agents in Healthcare Settings, (2007).

(2) *Cultures and stocks of infectious agents and associated biologicals*. Cultures and stocks of infectious agents, including specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures.

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(3) *Human blood and blood products*. Waste human blood and blood products such as serum, plasma, and other blood components.

(4) *Pathological wastes*. Pathological wastes, such as tissues, organs, body parts, and body fluids.

(5) *Contaminated sharps*. All discarded sharps (e.g. hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in patient care or which have come into contact with infectious agents during use in medical, research, or industrial laboratories.

(6) *Contaminated animal carcasses, body parts, and bedding*. Contaminated carcasses, body parts (including fluids), and bedding of animals that were intentionally exposed to pathogens in research, in the production of biologicals, or in the in vivo testing of pharmaceuticals

(7) *Facility-specified infectious wastes*. Other wastes determined to be infectious by a written facility policy.

(Q) *"Leaves."* The fallen leaves of deciduous trees; leaves does not mean yard waste including tree branches or dead shrubs.

(R) *"Public place."* Parks, docks, water, or open adjacent spaces thereto and public yards, grounds, and areas and all open spaces between buildings and streets, and in view of such streets.

(S) *"Refuse."* All putrescible and nonputrescible solid waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

(T) *"Residential solid waste."* The term "residential solid waste" shall mean solid waste resulting from the maintenance and operation of dwelling units, excluding those residential complexes that do not meet the Solid Waste Collection Design Criteria approved by Council on July 10, 2019 and as periodically amended. This also excludes specific wastes defined and/or included in other parts of this chapter.

(U) *"Roll out container."* The term "roll out container" shall mean a standard city issued container designed for the storage of solid waste prior to collection.

(V) *"Rubbish."* Nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

(W) *"Solid waste."* The term "solid waste," as hereinafter referred to in this chapter, shall include garbage, rubbish, and all other putrescible and nonputrescible, combustible and noncombustible materials originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling and sale of produce, and other similar unwanted materials, from residences and

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establishments, public and private, but shall not include sewage, body waste, recognizable industrial or medical by-products.

(X) *"Tipping fees."* The term "tipping fee(s)" shall mean the fee(s) imposed at the transfer station on all waste brought to the facility for transfer to an appropriate disposal site.

(Y) *"Yard refuse."* Shrub and tree trimmings or clippings, and shrubs or trees from which all dirt has been removed.

(Ord. of 11-05-47 § 2; Ord. No. 77-24 § 1, 08-11-77; Ord. No. 90-27 § 1, 06-07-90; Ord. No. 03-O-54 § 1, 02-05-04)

Section 14-3 - Refuse collection by City; exceptions.

(A) *Refuse collection by City.* The City shall have right of first refusal to collect all refuse accumulated in the City. If the City elects not to collect a property's refuse, the property owner or tenant may contract with a private refuse hauler for collection, conveyance and disposal.

(B) *Exception for actual producers.* This article shall not prohibit the actual producers of refuse, or the owners of premises upon which refuse has accumulated, from personally collecting, conveying, and disposing of such refuse, provided such producers or owners comply with the provisions of this article and with the other governing laws or ordinances.

(C) *Exception for outside collectors.* This article shall not prohibit collectors of refuse from outside of the City from hauling such refuse over City streets, provided such collectors comply with the provisions of this article and with any other governing law or ordinances.

(D) *Exception for licensed collectors.* This article shall not prohibit a landowner or occupier from contracting with a licensed collector of waste for the disposal of same.

(E) *Exception for yard refuse and grass refuse collection.* This article shall prohibit residents who hire nurserymen, landscapers, tree and shrub trimmers or grass trimmers, to place yard refuse or grass refuse at the curbside for City collection, conveyance and disposal. All hired services that perform such work for economic gain and generate such grass and yard refuse shall be so removed by the person causing and creating its accumulation.

(Ord. of 11-05-47 § 2; Ord. No. 77-24 § 1, 08-11-77; Ord. No. 90-27 § 1, 06-07-90)

Section 14-4 - Jurisdiction of City Manager.

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The removal and disposition of garbage, rubbish, commercial refuse, and industrial waste from premises in the City shall be under the jurisdiction of the City Manager. The City Manager may provide for the collection and removal of garbage and rubbish from any place or premise at times in addition to those when regular collection service is provided. The City Manager shall have the authority to provide for the collection and removal of garbage above and beyond the extent of any contract in time of an emergency.

(Ord. of 11-05-47 § 3; Ord. No. 77-24 § 1, 08-11-77; Ord. No. 90-27 § 1, 06-07-90)

Section 14-5 - Rules and regulations to implement chapter.

(A) The City Manager, subject to the prior approval of the Council, may make such rules and regulations as are consistent with the provisions of this chapter and as may be necessary or desirable to aid in the administration of and obtaining compliance with the provisions of this chapter. Any person aggrieved by a regulation shall have the right to a due process hearing before the City Manager or designee, who shall have the authority to confirm, modify, or revoke any such regulation.

(B) The Solid Waste Director or authorized representative, shall have the authority to make and modify regulations as necessary concerning the days of collection, location of containers, and such other matters pertaining to the collection, transporting and disposal of solid waste refuse; provided that such regulations are not in violation of the provisions of this chapter.

(C) The Solid Waste Director or authorized representative shall be responsible for the enforcement of this chapter.

(D) All refuse (including garbage and rubbish) as heretofore defined shall be collected sufficiently and frequently to prevent the occurrence of nuisances and public health problems. The collection of refuse within the City of Murfreesboro shall be under the jurisdiction of the Solid Waste Department.

(E) All site plans must be reviewed and approved by the Solid Waste Director or designee before building permits may be issued. Only areas conforming with the Solid Waste Collection Design Criteria shall receive City refuse collection services.

(Ord. of 12-01-27 § 1; Ord. No. 77-24 § 1, 08-11-77; Ord. No. 85-19 § 6, 06-27-85; Ord. No. 90-27 § 1, 06-07-90)

Section 14-6 – Pre-collection practices.

(A) *Preparation of refuse.*

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(1) *Garbage.* All cans and bottles, which have contained food or liquids, shall be thoroughly rinsed and drained before being deposited for collection.

(2) *Bulk refuse.* No bulk refuse shall be placed outside for collection until the owner has contacted the Solid Waste Department and confirmed a pickup date. Between January 9 and December 24 of each year, pickup of bulk waste will generally be available with 48 hours advance notice. No bulk refuse item should be placed outside for collection before 7:00 p.m. prior to the day of collection and no later than 6:00 a.m. on the day of collection. All bulk items shall be placed on the private property of the occupant not less than 5 feet from the curb. No garbage or any other type of waste or refuse shall be picked up when a bulk item is picked up. Limit of one bulk collection per 30 days. Amount collected to be to be limited to 4 items or less. For new residents that move into residential properties that the Solid Waste Department services, the Solid Waste Department provides a one-time pick-up of boxes. This special box pickup must be scheduled with the Solid Waste Department for collection.

(3) *Grass.* Grass if cut by the homeowner will only be collected if placed in a biodegradable paper bag. Only a biodegradable and compostable paper bag may be used. Loose unbagged grass will be collected for a fee defined in the Solid Waste Fee Schedule resolution. Bagged grass shall be deposited to the front property line or, where alley pickup of garbage is provided, at the back property line, bags should be left open or rolled shut, bags that are taped, wired, stapled, tied with rope or string will not be collected. Biodegradable bags of mulch, rock, dirt and garbage will not be collected. It shall be unlawful to place grass on the sidewalk, in the street, in a storm drainage ditch or so near a storm drainage ditch that grass will float into the City storm drainage system. No grass, loose or in bags, shall be placed in the automated garbage collection system refuse container. Grass and other yard waste will only be collected at one spot on the property.

(4) *Leaves.* Loose leaves will only be collected between October 1st and January 31st. During the remainder of the year leaves must be placed in biodegradable bags. The biodegradable paper bags of leaves shall be deposited to the front property line or, where alley pickup of garbage is provided, at the back-property line, for collection, bags should be left open or rolled shut, bags that are taped, wired, stapled, tied with rope or string will not be collected. Biodegradable bags of mulch, rock, dirt and garbage will not be collected. It shall be unlawful to place loose leaves on the sidewalk, in the street, in a storm drainage ditch or so near a storm drainage ditch that leaves will float into the City storm drainage system. No leaves, loose or in bags, shall be placed in the automated garbage collection system refuse container. Leaves and other yard waste will only be collected at one spot on the property.

(5) *Yard waste.*

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(a) Trimmings and clippings of shrubs and trees from residential properties shall be neatly piled adjacent to the front property line. Tree trimmings, hedge clippings, shrubs, and trees shall be cut to lengths not to exceed six feet and eight inches in diameter before being deposited for collection. Limbs or logs in excess of eight inches in diameter or six feet in length will not be collected by the City. Yard waste shall not be placed in bags used for grass or leaves nor shall yard waste be placed in the automatic garbage collection system refuse container. Christmas trees will be picked up as yard waste only if all ornaments, ornament hangars, tinsel lights, and stands have been removed and if the tree was not flocked. Yard waste will only be collected at one spot on the property. Only one pile of yard waste not exceeding six (6) cubic yards in size (72 inches by 72 inches by 54 inches or the equivalent thereof) will be collected from a residence at one time. Additional brush may be collected after an additional fee assessment. Businesses that have opted out of service or do not have solid waste garbage collection can have brush collected after paying a predetermined collection fee.

(b) It shall be the responsibility of each occupant to place their yard waste (including leaves and grass) on the property side of the curb or street, or at the edge of the alley where serviceable alleys are available, or in a City approved location for pick-up. Yard waste shall be placed in such a location as to be readily accessible for removal by the City. The yard waste shall be placed in such a manner as not to interfere with overhead power lines or tree branches, parked cars, vehicular traffic, or in any other way that would constitute a public hazard or nuisance. Yard waste shall not be placed, without the express permission of the City, on a public sidewalk, in the street, or in a drainage ditch.

(6) *Refuse.* All refuse to be placed in an automated garbage collection system refuse container shall be placed in a plastic garbage bag that is securely tied securely to prevent spillage when dumping before being placed in the container. No refuse shall be placed loose in the refuse container. All garbage and rubbish shall have been drained of all liquids before being deposited for collection. All fluorescent lighting bulbs shall be bagged, wrapped, or taped to prevent unconfined breakage when compacted.

(7) *Personal trash cans prohibited.* No collection service will be provided to items placed in personal trash cans.

(8) *City Collection is not available for the following:* Appliances; industrial and hazardous waste; pathogenic and radioactive waste; contagious disease refuse; inflammable or explosive refuse; building debris such as scrap lumber, plaster, roofing, concrete, brick vats, paint, paint cans, sanding and dust; plumbing debris such as pipes, plastic pipes, and plumbing fixtures; automotive waste such as batteries, gasoline, engine oil, tires, and rubber tubes; chemicals including pesticides and insecticides; carpet; carpet padding;

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riding lawnmowers and similar equipment; air conditioners; and metal objects.

(9) *Biohazard bags prohibited.* No bag, which is red in color or marked "biohazard" shall be used in bagging grass, leaves, or garbage.

(B) *Refuse containers.*

(1) *Automated garbage collection system refuse containers.* Each owner or occupant using or occupying any building, dwelling unit, or structure shall utilize refuse containers approved by the Solid Waste Department for the storage and collection of refuse and no other container. Refuse containers shall be issued by the City and shall remain the property of the City. Refuse containers shall remain at the address where delivered and shall not be removed from the premises by any person. Markings and identification on the refuse containers shall not be defaced, altered, or removed.

(2) *Duty to maintain refuse containers.* Refuse containers shall be maintained by the occupant of the premises in good, clean and sanitary condition. If a refuse container is damaged in the course of normal and reasonable usage, or is damaged, destroyed or stolen but not through abuse, neglect, or improper use by the occupant, the refuse container shall be repaired or replaced by the City at no charge. Refuse containers which are damaged, destroyed, or stolen through neglect, improper use, or abuse by the occupant shall be replaced by the City at the expense of the occupant or the owner, at the current cost of refuse containers.

(3) *Volume of refuse.* Refuse placed in the refuse container shall not exceed 96 gallons or 200 pounds for a standard size cart If a dwelling unit regularly exceeds the gallon or pounds limitation, the occupant or owner of the dwelling unit may be required to pay for one additional refuse container. The cost for an additional refuse container will be the same as the purchase price then paid by the City and shall be paid by the occupant or owner. The City will own the additional refuse container; however, in the event the occupant relocates in the City, the occupant may take the second refuse container to the occupant's new location in the City, except in the case of an occupant who is a tenant and the landlord paid the purchase price for the second refuse container.

(4) *Use of automated refuse container.* All refuse must be placed inside an automated refuse container and the lid closed. Refuse will not be picked up if the refuse container lid is not closed flat or if the refuse is placed outside the refuse container or is propped up against the refuse container except during the Christmas period of December 26 through January 9. The City will not pick up refuse unless it is properly stored within a closed automated refuse container unless a waiver has been issued by the City.

(5) *Refuse containers if automated garbage collection system is not used.* Should any citizen be unable to comply with these requirements and need reasonable

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accommodation pursuant to the Americans With Disabilities Act or otherwise, the citizen must submit a written request to the Director of the Solid Waste Department. If the Solid Waste Department determines that the automated garbage collection system is not appropriate for use at a particular location, the owner or occupant shall use plastic bags with a minimum strength of two mils and a minimum capacity of 20 gallons and a maximum capacity of 30 gallons. Each bag must be securely tied at the top and must not contain more than 40 pounds of refuse. The maximum refuse collected for each residence or apartment unit not using the automated refuse container shall be three 30-gallon bags or the equivalent thereof. If the Solid Waste Department determines that an alternate site or method of pickup is appropriate, the designation shall be changed and a record of such change, and the conditions justifying the change, shall be maintained.

(C) *Storing of refuse.*

(1) No person shall place any refuse in any street, alley, or other public place, or upon any private property whether owned by such person or not, within the City unless it is in proper containers for collection or under express approval granted by the City Manager, nor shall any person throw or deposit any refuse in any stream or other body of water.

(2) Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and prohibited. Failure to remove any existing accumulation of refuse within 30 days after the effective date of this article shall be deemed a violation of this article.

(3) No person shall cast, place, sweep, or deposit anywhere within the City any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place, or into any occupied premises within the City.

(D) *Collection area.*

(1) Refuse containers shall be placed for collection in the area designated on each property by the Solid Waste Department. Usually, this placement designation shall not be on a public sidewalk, in a public street, or in a drainage ditch. Containers shall be placed in the designated area so as to be readily accessible for removal by the City through the automated garbage collection system.

(2) It shall be the responsibility of each occupant, on the scheduled day of collection, to place their container on the property side of the curb or street, or at the edge of the alley where serviceable alleys are available, or in a city approved location for pick-up. Containers shall be placed in such a location as to be readily accessible for removal by the City. The City provided cart must have (3) three feet clearance from any object including another city provided cart. The container shall be placed in such a manner as not to interfere with overhead power lines or tree branches, parked cars, vehicular

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traffic, or in any other way that would constitute a public hazard or nuisance. Garbage containers shall not be placed, without the express permission of the city, on a public sidewalk, in the street, or in a drainage ditch.

(3) Only roads and alleys conforming with the Solid Waste Collection Design Criteria shall receive City refuse collection services.

(4) All waste placed in the City provide cart for waste collection must be placed in and tied securely in a proper plastic garbage bag.

(E) *Time of collection.* Refuse containers shall be placed for collection in the designated area no earlier than 6:00 P.M. on the day before the designated collection day. In order to ensure collection on the collection day, all refuse containers should be at their designated collection area by 6:00 A.M. on the collection day. A refuse container is to be removed from the collection area on the collection day and shall be stored out of sight from the public street. Containers must be removed from the curb, street, or alleyway no later than 6:00 P.M. on the day of collection. A refuse container may not be stored or maintained in the area commonly known and referred to as the front yard.

(F) All residents shall use a city issued refuse container to properly store one week's accumulation of refuse (including garbage and rubbish),

(G) The Solid Waste Department Director may require any residential household regularly exceeding 90 gallons or 200 pounds of garbage in a collection period, to make other approved disposal arrangements, or to purchase a second container from the City, which requires a second monthly payment for collection.

(H) The Solid Waste Department is herein authorized to confiscate or to remove unsatisfactory storage containers from the premises of residences and establishments, public and private, when in the discretion of the Solid Waste Department Director or designated representative, such containers do not meet the requirements of this chapter. Such unsatisfactory containers shall be removed and disposed of at a place and in a manner designated by the official collecting agency only after the agency has diligently attempted to notify the owner or owners of such containers.

(I) The owner or developer of all new, residential construction and development, within the City of Murfreesboro, shall supply, at their expense, a city-approved garbage container for that residence or housing unit, which shall become the property of the City of Murfreesboro. As a condition of the issuance of the city building permit, the owner or developer shall pay the sum as specified in the Solid Waste Fee Schedule Resolution, per city-approved container, that will remain at that address. This fee is payable to the City when the building permit is issued.

(J) The containers shall remain the property of the City at the property address where delivered and are provided and assigned to residences for the health, safety, convenience and general welfare of the occupants. Containers that are damaged, destroyed, or stolen through neglect, improper use or abuse by the

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occupant-users shall be replaced by the City at the expense of the occupants or the owner of the residence. Containers which are damaged in the course of normal and reasonable usage or which are damaged or destroyed, through no abuse, neglect, or improper use of the occupant-users or residence owner shall be repaired or replaced by the City at no charge to the occupant-users or residence owners. The containers shall not be damaged, destroyed, defaced, or removed from the premises by any person; markings and identification devices on the containers except as placed or specifically permitted by the City are expressly prohibited and shall be regarded as damage to the containers.

(K) Construction waste and yard waste, as defined in this chapter, are hereby prohibited from being placed in the city issued refuse container or other city approved residential garbage collection containers.

(L) Solid Waste Department employees shall not enter houses, stores, garages, or open gates for the collection of garbage or rubbish.

(M) Garbage and refuse shall not be stored in close proximity to other personal effects which are not desired to be collected but shall be separated by at least ten-feet in order that the collectors can clearly distinguish between what is to be collected and what is not.

(N) Businesses using regulation city issued refuse containers for collection shall provide sufficient containers to properly store one week's accumulation of refuse. The cost of a city issued refuse container shall be as specified in the Solid Waste Fee Schedule Resolution. All businesses requiring any combination of four or more regulation city issued refuse containers, for weekly service shall be required to acquire regulation bulk containers for service.

(O) Nothing in this section shall prohibit commercial establishments or private residents from removing their own solid waste or from contracting with a private collector for such removal; however, private citizens who contract with a private collector for removal will still be subject to the monthly refuse collection service fee from the City.

(1949 Code, Ch. 12 § 6; Ord. No. 77-24 § 1, 08-11-77; Ord. No. 90-27 § 1, 06-07-90; Ord. No. 90-45 §§ 1, 2, 09-27-90; Ord. No. 96-O-18 §§ 2-4, 03-21-96; Ord. No. 03-O-54 §§ 2, 3, 02-05-04)

Section 14-7 - Collection and disposal of industrial waste; pathogenic and radioactive waste; contagious disease refuse; inflammable or explosive refuse.

(A) *Industrial and hazardous waste.* All industrial and hazardous waste shall be disposed of by the industry, manufacturer, or processing plant generating such waste under such methods and conditions as shall be approved by the City Manager or designee. Such industries may apply for a special permit as a private collector or may dispose of industrial waste by licensed private collectors.

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(B) *Pathogenic and radioactive waste.* All pathogenic and radioactive waste shall be disposed of by the hospital or institution generating such waste under such conditions as shall be approved by the Tennessee Department of Public Health and Environment. If the health officer approves, such waste may be disposed of by collections from the City or the waste may be disposed of by the hospital as a special private collector or through licensed private collectors. Garbage and rubbish not consisting of pathogenic and radioactive waste may be collected by the City; provided, however, that if the person disposing of pathogenic or radioactive waste also desires to dispose of garbage and rubbish generated on the premises, the City shall allow such by granting a special permit to the hospital or institution if so classified by volume for itself as a special private collector or through use of a licensed private collector. All pathological waste from hospitals, nursing homes, physicians' clinics, dental clinics, blood banks and medical laboratories shall be separate from normal waste, placed in durable disposable bags that can be tied and sealed when full, and clearly marked. The bags shall be stored in metal containers with tight fitting lids while in the process of being filled. Containers shall be kept in places restricted from access by the public. Needles shall be separated from disposable syringes by breaking them off at the hub immediately after use. Fluids may be flushed down the commode. These materials shall only be placed at the collection point on the day they are to be collected. Storage, collection, and disposal of pathological waste shall be in accordance with regulations of the health officer.

(C) *Contagious disease refuse.* The removal of wearing, bedding or other refuse from homes, hospitals, medical clinics, nursing homes or other places where highly infectious or contagious diseases have prevailed should be performed under the supervision and direction of the City Manager or designee. Such refuse shall not be placed in containers for regular collection.

(D) *Inflammable or explosive refuse.* Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the City Manager or designee, at the expense of the owner or possessor thereof.

(E) *Needles, syringes, lancets, and other sharp objects.* Needles, syringes, lancets, and other sharp objects shall not be placed in trash receptacles for regular collection until such objects are placed in hard-plastic or metal containers with a screw-on or tightly secured lid. The hard-plastic or metal container used to dispose of needles, syringes, lancets, and other sharp objects may not be steel or plastic containers that will be recycled or returned to a store. The proper method for disposal of such sharp objects is to place used sharps in a plastic (normally a liquid detergent bottle) or steel (coffee) container; when full seal or screw on the lid and tape the container shut, then place in a garbage bag then place in the City provided cart per the Environmental Protection Agency.

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(Ord. of 12-30-46 § 1; Ord. No. 77-6 § 1, 08-04-77; Ord. No. 90-27 § 1, 06-07-90; Ord. No. 91-14 § 1, 02-28-91)

Section 14-8 - Collection practices.

(A) *Frequency and volume of collection.*

(1) Refuse accumulated by residences shall be collected once each week except that apartment complexes consisting of five or more units shall be collected twice each week.

(2) Refuse accumulated by businesses shall be collected twice each week. Where necessary to protect the public health, the City Manager shall have the authority to require that more frequent collections be made at a fee.

(B) *Implementation.* The City Manager shall implement Code § 14-8(A) as soon as practical after enactment of this article.

(C) *Collection by actual producers and outside collectors.*

(1) The actual producers of refuse or the owners of premises upon which refuse is accumulated who desire personally to collect and dispose of such refuse, or persons who desire to dispose of waste material not included in the definition of the refuse, or collectors of refuse from outside of the City who desire to haul refuse over City streets, shall use a watertight vehicle provided with a tight cover and so operated as to prevent offensive odors from escaping and refuse from being blown, dropped, leaked, or spilled.

(2) Disposal of refuse by persons so permitted under Code § 14-8(A) above shall be made outside the City limits unless otherwise specifically authorized by the City Manager.

(3) The City Manager shall have the authority to make such other reasonable regulations concerning individual collection and disposal and relating to the hauling of refuse over City streets by outside collectors as necessary, subject to the right to a due process hearing before the City Manager.

(D) *Refuse property of City.* Ownership of refuse material and recyclable material set out for collection shall be vested in the City.

(Ord. of 12-01-27 § 1; Ord. No. 77-24 § 1, 08-11-77; Ord. No. 90-27 § 1, 06-07-90; Ord. No. 96-O-18 § 5, 03-21-96)

Section 14-9 - Fees.

(A) Solid waste fees shall be set by resolution and revised from time to time.

(B) Solid waste fees shall in general be categorized as follows:

(1) Weekly Residential refuse pick-up recurring monthly fees

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(2) Bi-weekly Commercial refuse pick-up recurring monthly fees

(3) "Go Back" Residential and Commercial refuse pick-up per occurrence

(4) Brush, Limb and Yard Waste pick-up per occurrence fees.

(5) Bulk item disposal pick-up per occurrence fees.

(6) Special event refuse pick-up and property clean-up per occurrence fees.

(7) Transfer Station disposal tipping fees paid on a per ton basis

(C) All accounts shall be considered delinquent in accordance with the policies for discontinuation of Murfreesboro City water or Rutherford County Consolidated Utility District (CUD) for failure to pay bills for the same, as said policy may from time to time be amended.

(D) *Schedule of fees, rates, credits. ECT for collection and disposal.* The City Mayor and Council shall establish by resolution a schedule of fees, rates and/or credits for the following:

(1) The collection and disposal of all solid waste generated within the corporate limits of the City of Murfreesboro.

(2) The collection and disposal of all solid waste generated through any solid waste authority, utility district, or other entity controlled by the City.

(3) Disposal of all solid waste in any City owned or controlled, Class 1-class 4 disposal site, transfer station, convenience center and/or recycling station or center. A copy of said schedule shall be posted on the City's website for public inspection and the appropriate rates shall be posted at all solid waste and disposal facilities.

(E) *Billing of service fees.* The solid waste service fee for collection, removal and disposal of refuse by the City shall be included as a separate item each month on the bills rendered by the City's Water Resources Department or Rutherford County's Consolidated Utility District. The account shall be paid monthly at the same time electric/water bills are paid.

(F) *Failure to pay service fee.* Water service shall be discontinued for failure to pay any solid waste collection or disposal fee in accordance with the City's or CUD's policy for discontinuation of water for failure to pay bills for the same, as said policy may from time to time be amended. When service commences or ceases, applicable fees may be prorated. If water shall be supplied to a location, the occupant or tenant of which has vacated said premises, and the City is satisfied that there has been a termination of the need for refuse collection, then the City, on application owner or agent therefore, may suspend liability for such solid waste fees, and said fees shall be reinstated with the next water bill rendered to an occupant or tenant of the premises.

(G) *Responsibility for service fees.* In case of premises containing more than one dwelling unit or place of business, and where each such unit or place of business is billed separately for water such solid waste fees shall be billed to each person in possession, charge or control who is a water customer of the City of Murfreesboro system. In the case of premises containing more than one dwelling

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unit or place of business which are served through a single water meter, so that the occupants or tenants cannot be billed separately, the customer responsible for the water bill shall be liable for the solid waste service fees for the premises.

(1949 Code, Ch. 12 § 9; Ord. No. 90-27 § 1, 06-07-90; Ord. No. 90-45 § 3, 09-27-90)

Section 14-10 - Places of disposal.

The City may establish or designate, through contract with other public or private agencies, sanitary landfills, transfer stations, incinerators, or other places of disposal as may be necessary. No person shall use any other place of disposal except with the prior written approval of the City Manager, after the advice and consent of the Mayor and Council.

(1949 Code, Ch. 12 § 10; Ord. No. 83-4 §§ 1, 2, 04-07-83; Ord. No. 90-27 § 1, 06-07-90)

Section 14-11 - Collection schedules.

The City reserves the right to establish collection schedules and requirements as may be necessary.

(1949 Code, Ch. 12 § 11; Ord. No. 77-22 § 1, 08-04-77; Ord. No. 83-4 § 1, 04-07-83; Ord. No. 90-27 § 1, 06-07-90)

Section 14-12 - Nurseryman duty to remove yard waste including grass.

Every nurseryman or other person who cuts trees or trims shrubs or grass shall remove or cause to be removed all such grass and yard waste from the premises serviced by said nurseryman.

Nurserymen, landscapers, tree and shrub trimmers or grass trimmers, are prohibited from placing yard refuse or grass refuse at the curbside for City collection, conveyance and disposal. All hired services that perform such work for economic gain and generate such grass and yard refuse shall be so removed by the person causing and creating its accumulation.

Nurserymen, landscapers, tree and shrub trimmers or grass trimmers may recycle such brush at the city's brush recycling facility at the per unit cost identified in the Solid Waste Fee Schedule resolution.

(1949 Code, Ch. 12 § 12; Ord. No. 77-22 § 2, 08-04-77; Ord. No. 83-4 § 1, 04-07-83; Ord. No. 90-27 § 1, 06-07-90; Ord. No. 03-O-54 § 4, 02-05-04)

Section 14-13 - Contractor duty to remove trash.

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Every contractor, roofer, or other person who repairs, remodels, builds, or demolishes a building or structure shall remove or cause to be removed all rubbish from the premises serviced by said independent contractor.

(1949 Code, Ch. 12 § 13; Ord. No. 83-4 § 1, 04-07-83; Ord. No. 90-27 § 1, 06-07-90)

Section 14-14 - Building debris removal.

Building debris such as scrap lumber, plaster, roofing, concrete, brick bats, paint cans, metal fencing, metal pipes, plastic pipes, plumbing fixtures, and sanding particles and dust resulting from the construction, repair, remodeling, or demolition of any building or appurtenances on private property will not be removed by the City. The owner must cause such materials and waste to be privately moved.

(1949 Code, Ch. 12 § 14; Ord. No. 83-4 § 1, 04-07-83; Ord. No. 90-27 § 1, 06-07-90)

Section 14-15 - Appliances, batteries, and tires.

Appliances, air conditioners, batteries, engine oil, chemicals, acids, rubber tires, rubber tubes, pesticides and insecticides, and vehicle parts will not be removed by the City. The owner must cause such materials and wastes to be privately moved and disposed of in accordance with local, state, and federal regulations.

(Ord. No. 83-4 §§ 1, 2, 04-07-83; Ord. No. 90-27 § 1, 06-07-90)

Section 14-16 - Nuisances prohibited.

It shall be unlawful for any person in possession, charge of, or control of any premises to keep, cause to be kept, or allow the keeping on any premises within the City of garbage or rubbish in such manner that it will become offensive or deleterious to health or likely to cause disease and the same is hereby declared a public nuisance.

(Ord. No. 83-4 § 1, 04-07-83; Ord. No. 90-27 § 1, 06-07-90)

Section 14-17 - Interference with containers.

(A) No person other than the owner or person lawfully in control of any premises, or any authorized employee of the City, or any authorized employee of a person licensed and contracting for the collection or removal of garbage or rubbish, shall interfere in any manner with a container used for the accumulation or handling of garbage, rubbish, or recyclable materials, or remove any such container from the location where it shall have been placed by the owner or person lawfully in control of the premises, nor shall any such person remove the contents from any such container.

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(B) It shall be unlawful for any person to deposit, or permit or suffer its agents or employees to deposit, household, industrial, or commercial refuse in or about the anti-litter cans or like receptacles provided by the City in various public places in the community.

(Ord. No. 83-4 § 1, 04-07-83; Ord. No. 85-19 §§ 3, 4, 06-27-85; Ord. No. 90-27 § 1, 06-07-90)

Cross reference— Code § 14-101 et seq., anti-litter.

Section 14-18 - Waste materials.

It shall be unlawful for any person to dispose or cause to be disposed any garbage, rubbish, or other waste materials upon any property other than a garbage dump, convenience center or sanitary landfill.

(Ord. No. 85-19 § 2, 06-27-85; Ord. No. 90-27 § 1, 06-07-90)

Section 14-19 - Littering.

It shall be unlawful for any person to place any garbage, trash, rubbish, or refuse on any street, sidewalk, alley, public park, parkway, shopping center parking lot, business parking lot, or the premises occupied by another, or to violate any of the requirements of this chapter.

(Ord. No. 90-27 § 1, 06-07-90)

Cross reference— Code § 14-101 et seq., anti-litter.

Section 14-20 - Hauling refuse through streets.

It shall be unlawful, and it is hereby declared to be a nuisance, for any person to haul or transport by any means upon, along or over the streets, alleys, squares, or public places of the City the refuse matter of any animals, fish, or fowl or any filth, offal, or refuse matter unless the same be contained in tightly covered receptacles or containers so that noisome or offensive odors shall not escape therefrom.

(Ord. No. 90-27 § 1, 06-07-90)

Sections 14-21, 14-22 - Reserved.

Section 14-23 - Penalty.

A violation of Code §§ 14-1—14-22 shall be punishable as provided in Code § 1-8.

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(Ord. No. 90-27, § 1, 06-07-90)

Sections 14-24—14-49 - Reserved.

ARTICLE II. - WEEDS AND REFUSE

Section 14-50 - Title.

This article shall be known as the "Weed and Refuse Ordinance."

(Ord. No. 90-27 § 1, 06-07-90)

Section 14-51 - Owner responsibility if property leased to tenant.

The term "owner" used herein shall include any "tenant" (unless the real property is an apartment complex of five units or more) and this article shall apply to owners and tenants as follows:

(A) When the City Manager has prior knowledge that the subject real estate is rented or leased, or learns that same is rented or leased within ten days of the notice to the owner (as set forth in Code § 14-55), the City official shall also give notice to the tenant at the tenant's last known address. The notice to the tenant shall be in addition to the notice to the owner.

(B) If the owner proves that a written lease requires the tenant to maintain the premises and to perform the functions required by Code § 14-52 and Code § 14-53, the primary responsibility hereunder shall be that of the tenant but with the owner having secondary responsibility. In the event the City is required to take the action set forth in Code § 14-57(A) and the tenant fails to pay the cost of same within 30 days of billing, the owner shall then be liable to the City for payment of same. Specifically, the owner will be subject to Code § 14-57(B) and Code § 14-57(C). Nothing mentioned herein will affect the respective duty of the tenant and owner to the other. For the purpose of this article the term "written lease" means a lease agreement in writing signed by the owner and tenant.

(Ord. No. 90-27 § 1, 06-07-90)

Section 14-52 - Nuisance declared; penalty.

(A) *Nuisance declared.* It shall be unlawful for any owner to permit or suffer weeds to grow, or motor vehicles, rubbish, or garbage to accumulate, on the owner's property to such an extent that a nuisance is created which is injurious to the health, safety, or welfare of the inhabitants of the City. When premises in the City are not maintained in a sanitary condition as required by the laws of the

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State or the laws of the City, including specifically the International Property Maintenance Code and its provisions on weeds, motor vehicles, and rubbish and garbage, §§ 302.4, 302.8 and 305, respectively, and said premises have become a menace to public health, safety, or welfare, the City Manager shall declare the premises to be a nuisance. An adjudication of a violation of such a law by a court is not a prerequisite for the premises to be declared a nuisance in accordance with the terms of this article.

(B) *Penalty.* Failure to carry out this Code provision, and §§ 14-53 and 14-54 shall be considered a misdemeanor and subject to punishment as set forth in Murfreesboro City Code § 1-8.

(Ord. No. 90-27 § 1, 06-07-90; Ord. No. 01-O-77 § 1, 01-17-02)

Section 14-53 - Height to which grass must be cut; exemption.

(A) *Small tracts of land.* Small tracts of land, whether improved or unimproved within the City, shall be kept cut, clipped, or controlled through chemical means as frequently as necessary to ensure that weeds, rank grass, and noxious growths do not exceed a height of 12 inches. Small tracts are defined as building lawns, sidewalk neutral strips, walkways, gardens, decorative landscaped areas, and unimproved lots of two acres or less.

(B) *Large tracts of land.* Large tracts shall be cut, clipped or controlled through chemical means at least twice between March 1 and November 30 of each year with cuttings or clippings being at least three months apart. Cuttings or clippings shall be to a height not exceeding 12 inches. Large tracts are defined as unimproved property of a size two acres in area or larger, except that if large tracts are adjacent to improved residential property, they shall be kept clipped to the same standards as small tracts within 50 feet of such improved residential property.

(C) *Exemption.*

(1) Any area designated as a water quality protection area ("WQPA") within the meaning of the City's stormwater ordinance is exempt from the requirement of this section.

(2) Any area whose landscaping and/or features were part of a City approved site plan and stormwater management system (eg. "rain garden") is exempt from the requirement of this section.

(3) Any tract, or a portion or portions of any tract, recognized by the State of Tennessee as a wetland is exempt from the requirement of this section.

(4) Any tract, or portion or portions of a tract existing as a heavily wooded area to the extent that grasses and weeds are not present due to the shade canopy is exempt from the requirement of this section.

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(5) Any tract, or a portion or portions of any tract, which an owner wishes to maintain in a natural state or as a wilderness area may request exemption from the City. The owner of said tract must submit a written description of the exemption request, a map of the tract if less than the entire tract is to be used for this purpose, which map shall delineate specifically any areas so proposed which are within 50 feet of improved residential property, and the required fee. The City shall post the proposed exemption area and shall notify all landowners within 250 feet of any area proposed for exemption of the request. If any such landowner shall object to City in writing within 30 days, the Board of Zoning Appeals shall hold a public hearing on the request for an exemption prior to granting, in whole or in part, or rejecting the request. If a public hearing is not necessary, a portion of the fee shall be refunded to the owner. Any exemption granted may be revoked by the City upon 15 days' notice to the owner if the City believes that a fire or other hazard to the health, safety and welfare of the public has resulted from the exemption.

(Ord. No. 90-27 § 1, 06-07-90; Ord. No. 11-O-23 §§ 1, 2, 07-14-11)

Section 14-54 - Definition of weeds and noxious growth.

Weeds and noxious growth, as referred to in this article, shall not be interpreted so as to require the property owner to cut down trees, shrubs, crops, flowers, or other ornamental plants.

(Ord. No. 90-27 § 1, 06-07-90)

Section 14-55 - Notice to property owner to cut and clean up.

(A) Upon the failure of any owner of property within the City to cut, or have cut, weeds, rank grass, or noxious growths, or to remove rubbish, refuse, or trash, it shall be the duty of the City Manager to serve a notice on the owner of such property to cut all weeds, grass, or noxious growths upon the owner's property or remove all trash, rubbish, or refuse from the property within ten days of the service of such notice. Such notice shall be mailed to the last known address of such owner by regular first-class mail or it may be personally served on the owner. Should the foregoing fail after diligent effort, notice may be posted on the property on which such weeds, grass, noxious growths, trash, rubbish, or refuse exists. Service of notice by any of the above methods shall be due notice to such owner.

(B) The notice required in Code § 14-55(A) may be satisfied by reducing same to writing and stating in plain language the following:

(1) a brief statement of the law including the consequences of failing to remedy the violation or condition;

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(2) the person, office, address, and telephone number of the administrative official giving notice;

(3) a statement that the owner may appeal the decision by written request filed with the Building Official within ten days of receipt of the letter or ten days of posting same on the property.

(Ord. No. 90-27 § 1, 06-07-90; Ord. No. 01-O-77 § 2, 01-17-02; Ord. No. 11-O-23 § 3, 07-14-11)

Section 14-56 - Hearing on notice.

Any owner aggrieved by the determination of the City Manager that a nuisance is maintained on the owner's premises may request a hearing. The request for a hearing must be in writing and filed with the Building Official within ten days from the date of the service of such notice. Failure to appeal within the specified time and in the specified manner shall constitute waiver of the right of appeal. The hearing shall be conducted at a meeting of the Construction Board of Adjustments and Appeals. At the hearing, the City Manager or designee shall present the facts concerning the condition of the premises. The owner shall be entitled to present evidence and to be represented by counsel. Members of the public shall also be heard. At such hearing the determination of the City Manager shall either be confirmed, modified, or set aside.

(Ord. No. 90-27 § 1, 06-07-90; Ord. No. 01-O-77 § 3, 01-17-02)

Section 14-57 - Cutting by City.

(A) In addition to the fine provided for in Code § 1-8, upon the failure of any owner to cut or cause to be cut weeds, grass, or noxious growths or to remove trash, rubbish, or refuse from the property described in the notice mentioned in Code § 14-55 within ten days thereof or within ten days of the action of the Construction Board of Adjustments and Appeals, if a hearing was requested and conducted, the City Manager is authorized and directed to have such weeds, grass, and noxious growths cut or any trash, rubbish, or refuse removed, and a statement of the costs thereof shall be filed with the City Recorder or designee. A lien is hereby declared on such property for all costs and expenses of cutting or removal so incurred. Work performed under this section by the City may be accomplished by cutting or by chemical control, and with City forces or by retention of services from a private contractor to perform on the City's behalf in accordance with the City's contracting and purchasing procedures. The responsible party shall be responsible for the total cost of same, together with an administrative handling expense of an additional 20%.

(B) Upon receipt of the statement of costs of cutting weeds or chemical control of grass or noxious growths or for the removal of trash, rubbish, or refuse pursuant to this

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section, the City Manager may transmit a true copy thereof to the City Attorney, who shall forthwith institute suit or take such other proceedings as may be necessary to enforce the lien on such property. In the event the statement of cost is referred to the City Attorney for handling, the responsible party/parties shall also be liable and responsible for reasonable attorney's fees and a service charge of 1½% per month on the unpaid balance relating back to the initial date of the first statement of costs.

(C) All uncollected costs for cutting or chemical control of weeds, grass, or noxious growths or for the removal of trash, rubbish, or refuse for the current year shall be certified to the City Treasurer on or before December 31 st of each year. When taxes are collected for the next succeeding year, the City Treasurer shall collect any such certified amount as a special tax against said real estate. The cost for cutting or chemical control of weeds, grass, and noxious growths or the removal of trash, rubbish, or refuse pursuant to this section is hereby declared to be a special tax to be collected as general taxes levied by the City.

(Ord. No. 90-27 § 1, 06-07-90; Ord. No. 01-O-77 § 4, 01-17-02)

Section 14-58 - Citations.

Any employee of the Building and Codes Department or any City Police Officer may issue citations to City Court to people who violate the provisions of this chapter. Any person aggrieved by a violation of this chapter may seek a warrant from the City Judge.

(Ord. No. 90-27 § 1, 06-07-90; Ord. No. 90-41 § 3, 09-20-90)

Sections 14-59—14-100 - Reserved.

ARTICLE III. - ANTI-LITTER

Section 14-101 - Short title.

This article shall be known and may be cited as the "Murfreesboro Anti-Litter Ordinance."

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-102 - Definitions.

For the purposes of this article, the following terms, phrases, words, and their derivations shall have the meaning given herein:

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(A) *"Aircraft."* Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air and shall include helicopters, lighter-than-air dirigibles, drones, and hot air balloons.

(B) *"Authorized private receptacle."* A litter storage and collection receptacle as required and authorized in the Refuse Collection and Service Ordinance (Article I of this chapter).

(C) *"Commercial handbill."* Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature which:

(1) advertises for sale any merchandise, product, commodity, or thing; or,

(2) directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or,

(3) directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit. The terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when any of the same is held, given, or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety, and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving, or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license where such license is or may be required by any law of this state or under any ordinance of this City; or

(4) while containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

(D) *"Handbill."* A commercial or noncommercial handbill.

(E) *"Litter."* "Garbage," "refuse," and "rubbish," as defined in Code § 14-2, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

(F) *"Newspaper."* Any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law. In addition thereto, "newspaper"

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includes any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

(G) *"Noncommercial handbill."* Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

(H) *"Park."* A park, reservation, playground, recreation center, or any other public area in the City owned or used by the City and devoted to active or passive recreation.

(I) *"Private premises."* Any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(J) *"Public place."* Any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

(K) *"Vehicle."* Is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-103 - Litter in public places; helium balloons; tobacco juice.

No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in public receptacles, authorized private receptacles for collection, or official state-approved landfills. No person shall deposit grass or yard clippings in the street or in a public drainage way or drainage easement. No person shall intentionally release helium filled balloons outdoors except for a scientific use, scientific experiment, or classroom project supervised by a teacher. It shall be unlawful for any person to expectorate tobacco juice or any other substance on a public street or sidewalk.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-104 - Litter in public receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or public place or upon private property. No merchant may place business refuse in a public receptacle.

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(Ord. No. 90-41 § 1, 09-20-90)

Section 14-105 - Sweeping litter into gutters.

No person shall sweep into or deposit in any gutter, street, or other public place within the City the accumulation of litter, dirt, or debris from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises, and all premises visible to the public and adjacent property owners, free of litter.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-106 - Litter thrown by persons in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City or upon private property of another.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-107 - Truckloads causing litter; vehicle wheels carrying debris.

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown, leaked, or deposited upon any street, alley, or other public place, nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place mud, dirt, sticky substances, litter, or foreign matter of any kind.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-108 - Construction site litter and erosion.

The owner and contractor shall contain building materials, construction debris, litter, and erosion in such a manner as to prevent it from being blown, washed, carried, or deposited upon any street, sidewalk, storm drainage way, public property or private property of another.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-109 - Litter in lakes and fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream, river, creek, or any other body of water within the City.

(Ord. No. 90-41 § 1, 09-20-90)

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Section 14-110 - Throwing or distributing handbills in public places.

No person shall throw or deposit any handbill in or upon any sidewalk, street, or other public place within the City, nor shall any person hand out or distribute or sell any handbill in any public place. However, it shall not be unlawful, on any sidewalk or other public place within the City, for any person to hand out or distribute, without charge to the receiver thereof, any handbill to any person willing to accept it. In addition, it shall be lawful to securely attach a handbill to a vehicle. Nothing herein authorizes a person to stand in the street to distribute handbills.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-111 - Reserved.

Section 14-112 - Depositing handbills on uninhabited or vacant premises.

No person shall throw, attach to the exterior of the building without owner's permission, or deposit any handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. For the purpose of this article, "temporarily uninhabited" or "temporarily vacant" means absent from the premises for 30 or more consecutive days.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-113 - Prohibiting distribution of handbills where properly posted.

No person shall throw or deposit any handbill upon any private premises if requested by the occupant not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof a sign bearing the words "No Advertisement".

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-114 - Distributing handbills at inhabited private premises; exemption.

(A) *Distributing handbills at inhabited private premises.* No person shall throw, deposit, or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting the handbill directly to the owner, occupant, or other person then present in or upon such private premises. In case of inhabited private premises which are not posted as provided in this article, such person, unless requested by the occupant of such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises if such handbill is so placed or deposited as to be reasonably secure and prevent such handbill from being blown about such premises or sidewalks, streets, or

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other public places under ordinary weather conditions, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations. No person shall place on, deposit, or leave exposed in any private yard or driveway any unsolicited newspaper, handbill, or material after the owner or occupant has made a written request that same be stopped, which request is addressed to the publisher of the unsolicited material and which request identifies the name and address location of the owner or occupant who does not desire the material.

(B) *Exemption for mail or newspaper*. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein), except that newspapers shall be placed on private property in such a manner as to reasonably prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property under ordinary weather conditions.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-115 - Dropping litter from aircraft.

No person in an aircraft shall throw out, drop, or deposit within the City any litter, handbill, or any other object.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-116 - Posting notices prohibited.

No person shall post or affix any notice, poster, or other paper or device calculated to attract the attention of the public to any lamppost, public utility pole, tree, or upon any public structure or building, except as may be authorized or required by law.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-117 - Litter on occupied private property.

No person shall throw, deposit, or maintain litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property. Private receptacles for refuse must be stored so as not to be visible from the street except upon the day of City refuse collection. Notwithstanding the foregoing, a private receptacle behind the home is permissible although visible to a street behind the residence.

(Ord. No. 90-41 § 1, 09-20-90)

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Section 14-118 - Owner to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter. It shall be unlawful to place rubbish including, but not limited to, appliances, air conditioners, and other items listed in Code § 14-14 and Code § 14-15, outside or beside dumpsters and other garbage containers. As provided in Code § 14-14 and Code § 14-15, it shall be unlawful to place the rubbish listed therein in a public receptacle or garbage container served by the Solid Waste Department; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-119 - Litter on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the City whether owned by such person or not.

(Ord. No. 90-41 § 1, 09-20-90)

Section 14-120 - Refuse from dogs, cats, and domestic fowl.

(A) It shall be unlawful for the owners of dogs, cats, domestic fowl, and other domestic animals to fail to dispose of the excrement, waste, or refuse matter, resulting in odor to the occupants of adjacent property or any health hazard to the public or inhabitants of the subject premises. This same requirement applies to persons who maintain or board animals for others.

(B) It shall be unlawful for any person to maintain more than four dogs on a lot of record containing less than two acres unless same is (1) a licensed kennel, (2) veterinary office or (3) granted a special use permit by the Board of Zoning Appeals and the premises pass unannounced inspections by the Building and Codes Department. However, this paragraph shall not apply to puppies under four months of age.

(C) It shall be unlawful for any person to maintain more than six cats outdoors on a lot of record containing less than two acres unless same is a licensed kennel or veterinary office. However, this paragraph shall not apply to kittens under two months of age.

(D) It shall be unlawful for any person to maintain more than eight chickens, ducks, turkeys, geese, or other domestic fowl, rabbits, or any combination thereof on a lot of record containing less than two acres.

(E) It shall be unlawful for any person to permit their dog or cat to defecate on the sidewalk, public street, public property, or the private property of another and fail to promptly remove same.

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(F) The procedure for special permits under Code § 14-120(B)(3) shall be the same as that provided in sections 8 and 9 of the City of Murfreesboro Zoning Ordinance, as amended, which is incorporated herein by reference as if set forth verbatim. The fee shall be the same as that established for variance requests. The Board of Zoning Appeals may grant special permit under Code § 14-120(B)(3) provided the evidence presented at the public hearing establishes the following:

(1) the requested use will not have a substantial or undue adverse effect upon the use and enjoyment of contiguous property and the character of the neighborhood;

(2) the facilities for keeping dogs will be constructed, arranged, and operated so as to be compatible with property in the immediate vicinity and not interfere with the use and enjoyment of adjacent property; and,

(3) the keeping of dogs will not cause offensive odors, dust, flies, insects, excessive noise, or other conditions which are detrimental to the health, safety, welfare, and enjoyment of the owners and occupants of the subject property, contiguous property, or the community as a whole.

(G) The Board of Zoning Appeals may impose such conditions upon the premises granted a special permit as may be necessary to prevent or minimize any adverse effects of such use and to ensure the compatibility of the use with contiguous property and property in the vicinity. Such conditions shall be set forth in the motion authorizing the permit and in the special permit. A violation of such condition shall be a violation of this chapter. The Board of Zoning Appeals is authorized to revoke a permit granted under this section if the conditions imposed upon the premises benefited by such a permit have been violated or have not been met. The holder of a special permit shall be entitled to a due process hearing prior to revocation.

(Ord. No. 90-41 § 1, 09-20-90; Ord. No. 91-1 § 1, 01-17-91)

Cross reference— Ch. 5, animals and fowl.

Section 14-121 - Clearing of litter from open private property of City.

The Codes Enforcement Officer is hereby authorized and empowered to notify the owner of any open or vacant private property within the City or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. The procedure, notice, hearing rights, and corrective steps set forth in Code §§ 14-55—14-57 are incorporated herein by reference.

(Ord. No. 90-41 § 1, 09-20-90)

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Section 14-122 - Penalty.

A violation of any of the provisions in Code §§ 14-101—14-121 shall be punishable as provided in Code § 1-8.

(Ord. No. 90-41 § 1, 09-20-90)

Sections 14-123—14-200 - Reserved.

ARTICLE IV. - RECYCLING

Section 14-201 - Recycle Murfreesboro.

This article shall be known as the "Recycle Murfreesboro Ordinance".

(Ord. No. 90-13 § 1, 03-22-90)

Section 14-202 - Purposes.

The purpose of the Recycle Murfreesboro Ordinance is to provide flexibility in developing and implementing recycling plans in the City, a means to protect our environment, a means to prolong the life of landfills, a means to preserve our natural resources, a means to prevent waste, and an alternative means of disposing of refuse.

(Ord. No. 90-13 § 1, 03-22-90)

Section 14-203 - Recyclables.

The recycling program may include any or all of the following materials: clear, brown, green food glass only and; steel, tin and aluminum; paper plastic bottles; cardboard; newspaper or any other item approved by the Solid Waste Department Director. The term "recyclables," as hereinafter referred to in this chapter, shall include any item approved by the Solid Waste Department Director for collection as a commodity designated for reuse or delivery to an established recycling center, from all residences and establishments, public and private, but shall not include hazardous waste, infectious waste, commercial, industrial or residential solid waste, sewage, body wastes, recognizable industrial or medical by-products.

(Ord. No. 90-13 § 1, 03-22-90)

Section 14-204 - Authority.

The City Manager is authorized and directed to cooperate with public and not-for-profit organizations, corporations (private, for-profit), and individuals in developing recycling plans for the City, subject to the terms and provisions of this article. Any

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plan developed by the City Manager in cooperation with any public or private organization, corporation, or individual shall be subject to the approval of the Council after a public hearing has been advertised a minimum of ten days in a local newspaper. Copies of the plan will be available at City Hall for inspection and review by the public for a minimum of ten days prior to the public hearing. The Council may alter or amend the plan following the public hearing. A plan may be approved by resolution. When applicable, all requirements for the grant of a franchise must be satisfied.

(Ord. No. 90-13 § 1, 03-22-90)

Section 14-205 - Dropoff centers.

(A) The recycling plan may involve dropoff centers. The dropoff centers plan may involve an exclusive franchise for a portion or all of the City. The plan may permit the use of City property (such as City schools or fire halls) for collections points. The plan may involve the City actually providing the collection containers. The plan may provide an exclusive franchise for all existing and new dropoff centers within the designated territory for a designated period of time. Any such plan must address the matter of cleanup, maintenance, publicity, and regular collection of recyclable materials. The plan should address the availability of a market for the recyclable materials collected.

(B) If there is no existing franchise, and there are two or more applicants for the same franchise, a not-for-profit organization will be favored over a for-profit organization or individual, all other things being equal. If a for-profit organization or individual has an existing franchise, then it will have priority over all other applicants for the same franchise, provided all other things are equal.

(Ord. No. 90-13 § 1, 03-22-90)

Section 14-206 - Curbside collection.

The plan may involve curbside collection of recyclable materials. The plan may provide for a central collection point one day a month at one location in each block in the franchise territory. The plan may involve City equipment and employees actually picking up and hauling the recyclable materials to a central dropoff point. The plan may provide the exclusive rights to curbside pickup in the designated area of the City for a definite period of time. Before such a plan is implemented, proof of public acceptance and willingness to voluntarily participate in the plan for curbside pickup of recyclable materials must be demonstrated by the applicant. The factors set forth in Code § 14-205(A) in evaluating and reviewing plans and applicants are incorporated herein by reference. The priorities set forth in Code § 14-205(B) are incorporated by reference.

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(Ord. No. 90-13 § 1, 03-22-90)

Section 14-207 - Buy-back centers.

Nothing in this article shall limit or prevent the establishment of commercial buy-back centers. In other words, an exclusive grant of franchise under this article which involves voluntary recycling will not in any way impair, impede, or limit the ability of free enterprise to establish a buy-back center.

(Ord. No. 90-13 § 1, 03-22-90)

Section 14-208 - Anti theft and anti-scavenger provision.

It shall be unlawful for any person to steal or to rummage through materials involved in a recycling program. It shall be unlawful for any person to steal materials or rummage through refuse, whether involved in a voluntary recycle program or not, when the refuse is placed at the curb for collection.

(Ord. No. 90-13 § 1, 03-22-90)

Section 14-209 - Non-recyclable material.

It shall be unlawful for any person to deposit trash, refuse, garbage, or rubbish at a Recycle Murfreesboro collection point which is not a recyclable material designated for collection at the Recycle Murfreesboro collection point.

(Ord. No. 90-13 § 1, 03-22-90)

Section 14-210 - Penalty.

A violation of any of the provisions in Code § 14-208 or Code § 14-209 shall be punishable as provided in Code § 1-8.

(Ord. No. 90-13 § 1, 03-22-90)

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RESOLUTION 21-R-11 adopting Solid Waste Collection and Disposal Fee Schedule.

WHEREAS, Murfreesboro City Code, Section 14-9, Fees; states that "The City Mayor and Council shall establish by resolution a schedule of fees, rates, and/or credits for the following: (1) The collection and disposal of all solid waste generated within the corporate limits of the City of Murfreesboro; (2) The collection and disposal of all solid waste generated through any solid waste authority, utility district, or other entity controlled by the City; and (3) Disposal of all solid waste in any City owned or controlled, Class 1-class 4 disposal site, transfer station, convenience center and/or recycling station or center."

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. The following Solid Waste Collection and Disposal Fee Schedule are hereby adopted:

(a) Solid Waste Collection

Residential Collection: One time a week service	$7.50 per month per cart
Residential Collection: "Go Back" Service	$25 per occurrence
Residential Drop-Off: City Convenient Center	$0.00
Commercial: Two times a week service	$30.00 per month per cart
Commercial Collection: "Go Back" Service	$50 per occurrence

(b) Brush, Limb and Yard Waste Collection:

Residential Curbside Collection	
6'x6'x6' (8 CY) collection or less	$0.00
12'x6'x6' (16 CY) collection	$25.00 per load
1 full Boom Truck Load 22 yds of service	$50.00 per load
Bagged Grass Clippings	$0.00 per load
Loose Grass Clippings	$5.00 per load
Commercial Curbside Collection	$150.00 per load
Residential Drop-Off at Mulching Facility	
Murfreesboro City Resident	$0.00
Commercial Drop-Off at Mulching Facility	
6'x6'x6' (8 CY) or less	$40.00 per load
12'x6'x6' (16 CY)	$75.00 per load
12x9x6 (24 CY)	$100.00 per load

(c) Bulk Item Collection:

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For pickup of curbside bulky items such as couches, chairs, furnishings, mattresses, and box springs, please call 24 hours in advance of your trash service day. Service charges will apply for bulk item collection at $10 per item for the first 3 items and $30 per item for every item over 3. Applicable charges will be applied to your utility account.

(d) Replacement Solid Waste Carts — Current Market Cost

(e) Special Event or Property Clean-up Solid Waste Services — Determined by Solid Waste Director per event or occurrence

SECTION 2. This Resolution shall be effective on July 1, 2021.

Passed: _____

_____
Shane McFarland, Mayor

ATTEST:

_____
Melissa B. Wright
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
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Adam F. Tucker
City Attorney

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: FY22 Water Rate and Pricing Increases – SECOND READING

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

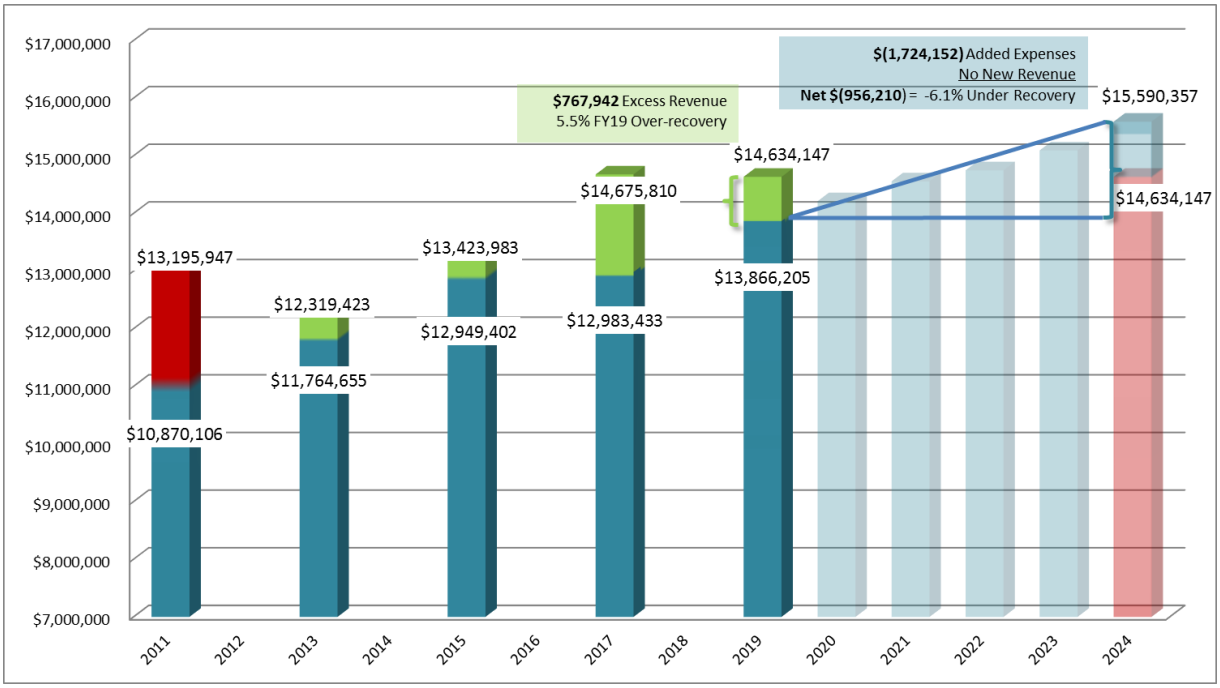
Recommended increase to minimum monthly bills for water only and increases to water meters and taps and sewer cleanout installations.

Staff Recommendation

Adopt ordinance 21-O-12.

Background Information

Water revenues are not expected to cover the cost of service by FY24. Between FY19 and FY24, an increase of $1,724,152 is projected for operations and maintenance only. MWRD's water system is encompassed by Consolidated Utility District of Rutherford County; therefore, no new revenue derived from growth has been integrated into the FY24 pro forma. Using these assumptions, the water revenues are expected to fall short in an amount of $(956,210) as compared to expenses in FY24, under-recovering (6.1)%.



Staff recommends and the attached ordinance supports the proposed rate increase for meter sizes 5/8" to 2" below by adjusting the minimum annually as tabulated below. This rate increase recovers approximately 20% of the under-recovery anticipated for FY24. Making these adjustments over a 3-yr period would make up a majority (approximately 60%) of the "gap" of the anticipated ($956,210) shortfall.

Proposed Minimum Monthly Charge Adjustments

Meter Size (INCH)	FY20 Total minimum	FY21 Proposed minimum	Difference	# of Accounts	Added Revenue
5/8"	$8.22	$8.72	$0.50	24,917	$149,501
1"	$19.18	$20.71	$1.53	688	$12,668
1-1/2"	$41.10	$43.77	$2.67	359	$11,508
2"	$65.76	$69.05	$3.29	464	$18,307
3"	$164.40	$164.40	$0.00	96	$0.00
4"	$328.80	$328.80	$0.00	34	$0.00
6"	$685.00	$685.00	$0.00	17	$0.00
8"	$685.00	$685.00	$0.00	1	$0.00
			Total	**26,576**	**$191,984**

An updated cost of service study will be conducted for FY21 after the Department receives our audit, and the water rate design may be adjusted for FY23 or FY24 based on those findings.

Staff also recommends the following cost increases that have not been updated in the pat 10-yrs. The proposed costs reflect the amounts necessary for the Department to recoup material and labor costs.

Table 1 - Water

Description	Present Cost	Proposed Cost	Ordinance Revision
Meter Connection (Install Meter Only)	$300	$540	Yes
1" Water Stub	$325	$675	Yes
1" Complete Tap & Meter (Out of Road)	$1000	$1215	Yes
1" Complete Tap & Meter (In Road)	$1000	$1915	Yes
2" Complete Tap & Meter (Out of Road)	$3750	$4455	No
2" Complete Tap & Meter (In Road)	$3750	$5120	No

Table 2 - Sewer

Description	Present Cost	Proposed Cost	Ordinance Revision
Sewer Cleanout Installation	$100	$170	Yes

Council Priorities Served

Responsible budgeting

Implementing gradual rate increases to support anticipated expenses over a 5-year time frame (pro forma) is considered a best practice and allows the customers to budget appropriately for their future monthly water and sewer utility bills.

Establishing pricing to recoup material and labor costs is consistent with enterprise fund cost-recovery.

Fiscal Impact

The proposed rate water rate increase is expected to generate an increase of approximately $192,000 revenue annually.

Attachments

Ordinance 21-O-12

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ORDINANCE 21-O-12 amending Chapter 33, Water Resources, Sections 33-1, 33-2, and 33-50 of the Murfreesboro City Code, dealing with water resources rates, charges and fees.

WHEREAS, the City of Murfreesboro should have water and sewer rates, fees and charges which will generate sufficient funds to retire indebtedness for existing and planned capital improvements of the Water Resources Department and to meet its normal operating expenses; and,

WHEREAS, the City of Murfreesboro Cost of Service Study and Pro Forma prepared by Jackson Thornton Utilities determined the water rates were insufficient in meeting the system's future revenue requirements; and,

WHEREAS, significant increases in labor and materials costs have resulted in insufficient charges for water taps and sewer clean outs; and

WHEREAS, the Water and Sewer Board studied and decided to recommend these charges to the City Council at its March 23 and April 27, 2021 meetings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. Section 33-1, Water Resources Rates and Charges, of the Murfreesboro City Code is hereby amended at subsection (B) by substituting into the table, in lieu of the existing table, the following:

MINIMUM MONTHLY WATER CHARGES

Meter Size	Charge*	Allowance, gallons
5/8 inch	$ 8.72	-
1 inch	20.71	-
1 1/2 inch	43.77	-
2 inch	69.05	-
3 inch	164.40	-
4 inch	328.80	-
6 inch	685.00	-

*Tax not included

SECTION 2. Section 33-2 - Charges for taps made by City, of the Murfreesboro City Code is hereby amended at subsection (A) by deleting the first four lines and substituting in lieu thereof the following:

The charges for water taps made by the Water Resources Department shall be as hereinafter set forth:

The charges for a three-fourths or one-inch water service line stub installed for a developer in a street under construction or a water line easement shall be $675.00.

In areas where the service line stub has been installed by a developer, the charge for a three-fourths or one-inch meter connection shall be $540.00.

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In areas where the water service line stub has not been installed, the charge for a three-fourths or one-inch water tap outside of the roadway shall be $1,215.00, and inside the roadway shall be $1,915.

SECTION 3. Section 33-50 – Sanitary sewer connection or tapping fees and house service fees or charges, of the Murfreesboro City Code is hereby amended at subsection (A)(1) by substituting in the last row of the table, in lieu of the existing row, the following:

The sewer connection or tapping fee for each connection, unless specified otherwise in this section 33-50, shall be as follows:

Sewer Clean Out Connection:	$170

SECTION 4. That this Ordinance shall take effect for bills printed on or after July 1, 2021 on its passage upon third and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

_____
Shane McFarland, Mayor

ATTEST:

_____
Melissa B. Wright
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
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Adam Tucker
City Attorney

SEAL

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Amending the One East College PUD zoning along East College St. [Second Reading]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Amend the One East College PUD zoning on approximately 2.42 acres located along East College Street, North Spring Street, East Lytle Street, and North Church Street.

Staff Recommendation

Enact the ordinance amending the zoning, as requested.

The Planning Commission recommended approval of the zoning amendment.

Background Information

705 4th Avenue South Holding Company presented a zoning application [2021-404] to amend the One East College PUD (Planned Unit District) zoning on approximately 2.42 acres located along East College Street, North Spring Street, East Lytle Street, and North Church Street. During its regular meeting on April 7, 2021, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On May 20, 2021 Council held a public hearing and approved this matter on First Reading.

Council Priorities Served

Improve Economic Development

This zoning amendment will enable the One East College development to move forward, spurring reinvestment and redevelopment in the City's downtown, which will contribute to the continued growth of downtown both as a place to live and to do business.

Establish Strong City Brand

The proposed development will continue to strengthen the identity of the City's downtown as a destination for living, working, and playing, consistent with the vision adopted in the North Highland Avenue and Historic Bottoms planning studies.

Expand Infrastructure

The proposed development includes the construction of a parking garage as well as on-

street parking in order to provide the downtown with additional parking infrastructure to continue to accommodate the demand for parking as the downtown grows and develops.

Maintain Public Safety

The proposed development sets aside space inside of the retail/office building for a police precinct, which will continue to enable a police presence in and around the downtown.

Attachments:

Ordinance 21-OZ-09

DocuSign Envelope ID: 59A64AFD-FCAF-4498-A5F8-925D44C9DB4B

ORDINANCE 21-OZ-09 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to amend the conditions applicable to approximately 2.42 acres in the Planned Unit Development (PUD) District (One East College PUD) located along East College Street, North Spring Street, East Lytle Street, and North Church Street as indicated on the attached map, 705 4th Avenue South Holding Company, LLC, applicant [2021-404].

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to modify the conditions of the Planned Unit Development (PUD) District, as indicated on the attached map, for the purpose of modifying the proposed uses, layout, and architecture.

SECTION 2. That, from and after the effective date hereof, the area depicted on the attached map shall be subject to all the terms and provisions of said Ordinance applicable to such districts, the plans and specifications filed by the applicant, and any additional conditions and stipulations set forth in the minutes of the Planning Commission and City Council relating to this zoning request. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

_____
Shane McFarland, Mayor

ATTEST:

_____
Melissa B. Wright
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
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Adam F. Tucker
City Attorney

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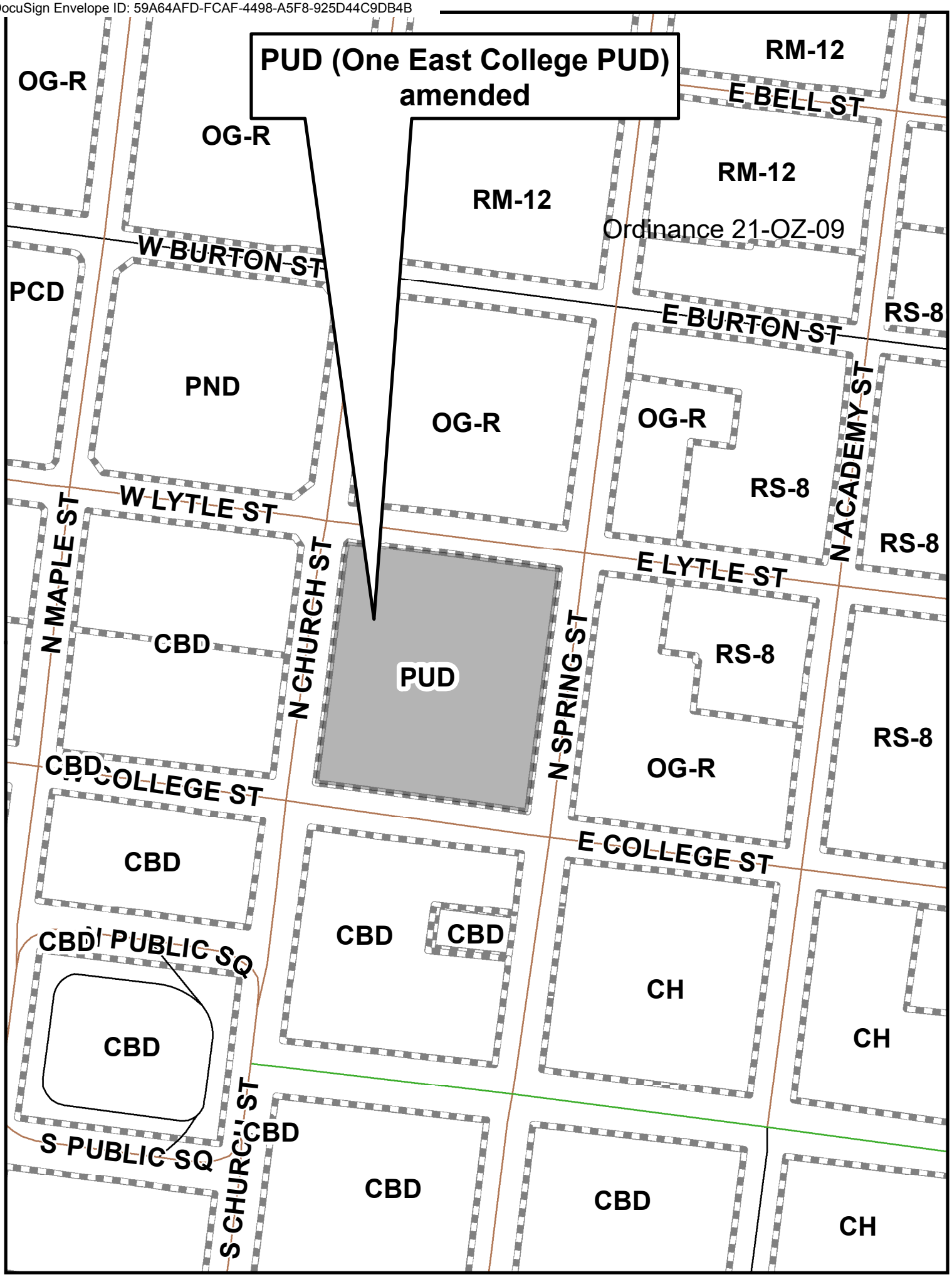

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Zoning property along Veterans Parkway [Second Reading]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Zone approximately 52.9 acres located along Veterans Parkway and Burnt Knob Road.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the rezoning.

Background Information

City Administration presented a zoning application [2021-406] for approximately 52.9 acres located along Veterans Parkway and Burnt Knob Road to be zoned GDO-1 (Gateway Design Overlay District 1). During its regular meeting on April 7, 2021, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On May 20, 2021 Council held a public hearing and approved this matter on First Reading.

Council Priorities Served

Establish Strong City Brand

The GDO-1 overlay will ensure a high quality of development for businesses, residents, and visitors.

Attachments:

Ordinance 21-OZ-11

DocuSign Envelope ID: 59A64AFD-FCAF-4498-A5F8-925D44C9DB4B

ORDINANCE 21-OZ-11 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to zone approximately 52.9 acres located along Veterans Parkway, Brunt Knob Road, and Vaughn Road by adding Gateway Design Overlay One (GDO-1) District to the current zoning; City Administration Department, applicant(s) [2021-406].

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to zone the territory indicated on the attached map.

SECTION 2. That, from and after the effective date hereof, the area depicted on the attached map shall be zoned and approved by adding Gateway Design Overlay One (GDO-1) District to the current zoning, as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

_____
Shane McFarland, Mayor

ATTEST:

_____
Melissa B. Wright
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
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Adam F. Tucker
City Attorney

SEAL

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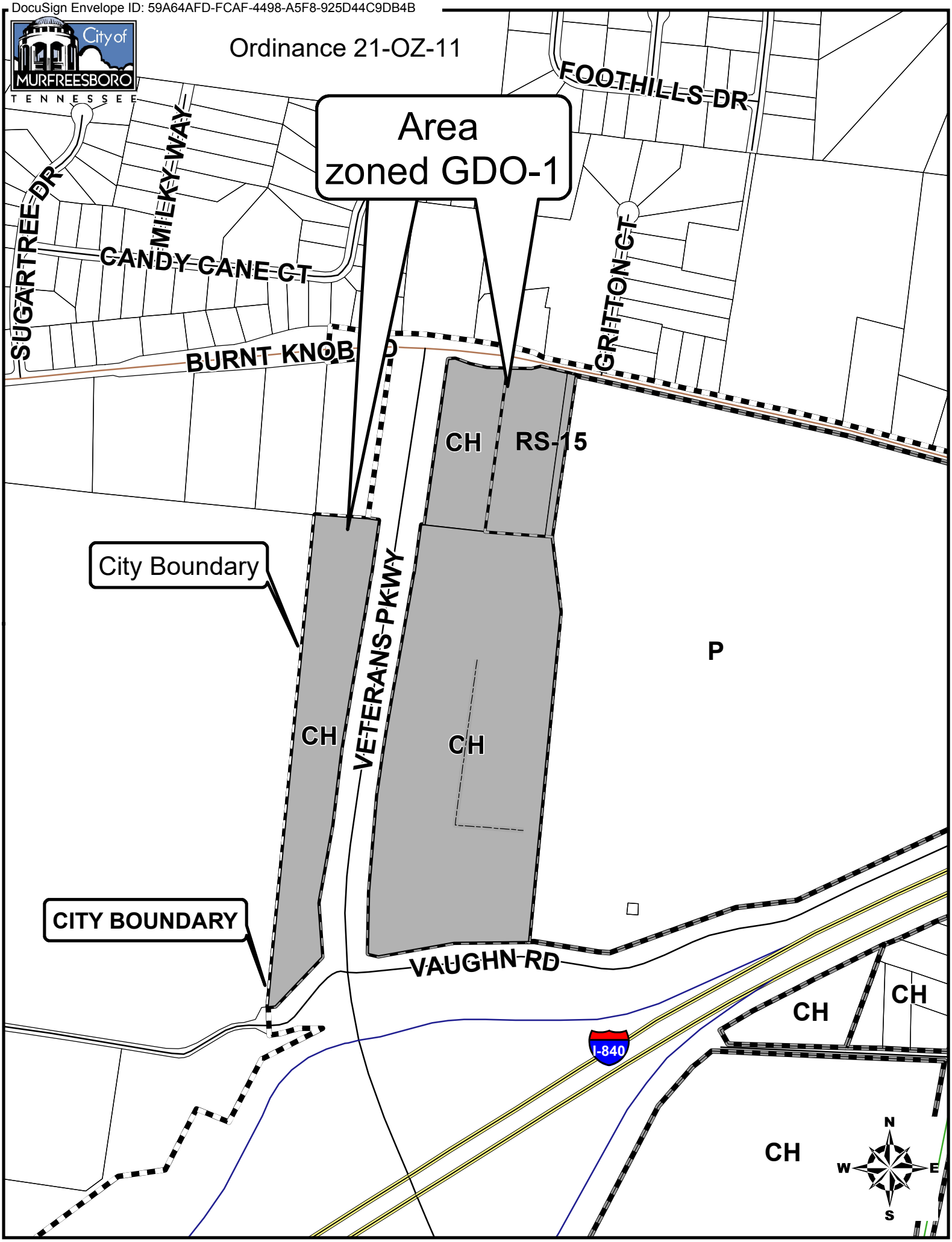
City of MURFREESBORO TENNESSEE

Ordinance 21-OZ-11



COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Rezoning property along Lee Street [Second Reading]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Rezone approximately 0.66 acres located along the west side of Lee Street north of Jackson Street.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the rezoning.

Background Information

Lee Street Partnership presented a zoning application [2021-402] for approximately 0.66 acres located along the west side of Lee Street to be rezoned from CM-R (Medical Office Residential District) and CCO (City Core Overlay District) to PRD (Planned Residential District) and CCO. During its regular meeting on April 7, 2021, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On May 20, 2021 Council held a public hearing and approved this matter on First Reading.

Council Priorities Served

Improve Economic Development

This rezoning will enable reinvestment and redevelopment in the City's downtown, which will contribute to the continued growth of downtown both as a place to live and to do business.

Attachments:

Ordinance 21-OZ-08

DocuSign Envelope ID: 59A64AFD-FCAF-4498-A5F8-925D44C9DB4B

ORDINANCE 21-OZ-08 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 0.66 acres located along Lee Street from Medical District - Residential (CM-R) District and City Core Overlay (CCO) District to Planned Residential Development (PRD) District and City Core Overlay (CCO) District (Lee Street Towns PRD); Lee Street Partnership, applicant [2021-402].

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to rezone the territory indicated on the attached map.

SECTION 2. That, from and after the effective date hereof, the area depicted on the attached map shall be zoned and approved as Planned Residential Development (PRD) District and City Core Overlay (CCO) District, as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

_____
Shane McFarland, Mayor

ATTEST:

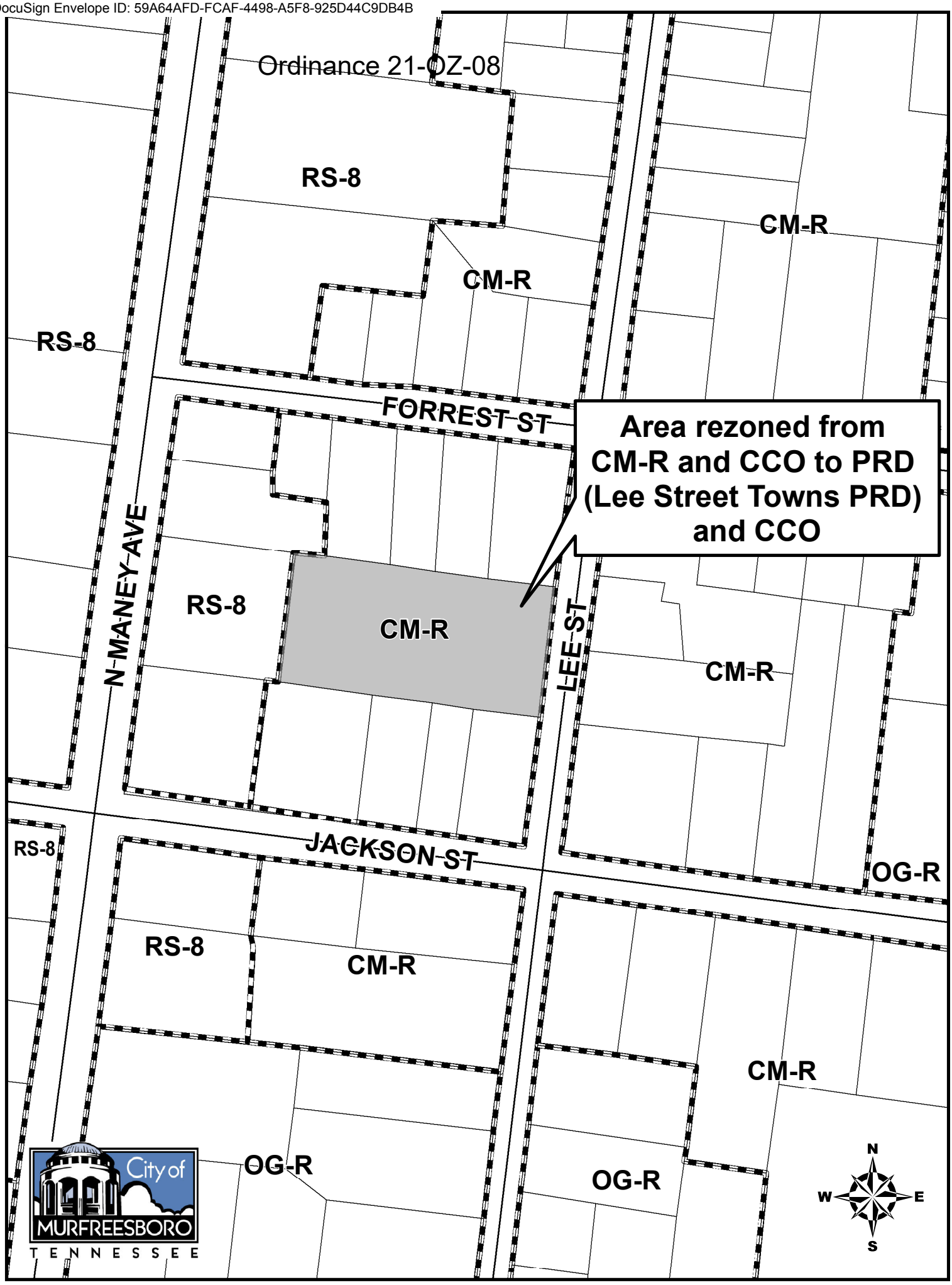
_____
Melissa B. Wright
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
43A2035E51E940...
Adam F. Tucker
City Attorney

SEAL

DocuSign Envelope ID: 59A64AFD-FCAF-4498-A5F8-925D44C9DB4B



COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: FY21 City Schools Budget Amendment #8

Department: City Schools

Presented by: Kim Williams, Finance Director

Requested Council Action:

Ordinance	☐
Resolution	☒
Motion	☐
Direction	☐
Information	☐

Summary

Amendment to the FY21 City School's General Purpose budget.

Staff Recommendation

Approve Resolution 21-R-22 amending the FY21 City Schools Budget (8th Amendment).

Background Information

MCS was awarded an additional $233,652.52 for the Summer Learning Bridge grant to address learning loss for students entering the sixth grade. On May 25, 2021, the MCS Board approved the additional revenue and expenditures to fund school crossing guards at all summer locations, additional teacher salaries and related benefits. The total revised Summer Learning grant award is $1,818,309.82.

In addition, the TN Department of Education Transportation awarded MCS a new Transportation grant for $304,835.68 to provide bus service for students attending summer school. This grant funds salaries and benefits for bus drivers and assistants, and fuel at an estimated $2 per mile.

Council Priorities Served

Responsible budgeting

Presenting budget amendments ensures compliance with state law, School Board policy and City Council policy.

Fiscal Impact

These funds will be budgeted in the City Schools General Purpose fund with no change to fund balance.

Attachments

1. Resolution 21-R-22
2. MCS Budget Amendments

DocuSign Envelope ID: 6D7401CB-90A6-48E2-9EDB-C3D231714C3C

RESOLUTION 21-R-22 amending the 2020-2021 Murfreesboro City Schools Budget (8th Amendment).

WHEREAS, the City Council adopted the 2020-2021 Murfreesboro City Schools Budget by motion; and,

WHEREAS, the City Council adopted Resolution 20-R-15 on June 4, 2020 to implement the 2020-2021 Murfreesboro City Schools Budget; and

WHEREAS, it is now desirable and appropriate to adjust and modify the 2020-2021 Murfreesboro City Schools Budget by this Resolution to incorporate expenditure decisions made by the Murfreesboro City School Board.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. The 2020-2021 Murfreesboro City Schools Budget as adopted by the City Council is hereby revised as shown on Exhibit A.

SECTION 2. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and the welfare of the City requiring it.

Passed: _____

_____
Shane McFarland, Mayor

ATTEST:

_____
Melissa B. Wright
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
42A2035E51F9401...

Adam F. Tucker
City Attorney

Murfreesboro City Schools Budget Amendment

Meeting Date 5/25/2021

Fiscal Year 2020-2021

Department	Account	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
General Purpose School Fund				
Revenues	Revenues			
141 R 47590	Other Federal Through State - State Grants	$ -	$ 233,652.52	233,652.52
	Increase in Revenues			$ 233,652.52
Expenditures	Expenditures			
141 E 71100 116	Regular Instruction Program - Teachers	$ 32,538,850.00	$ 32,716,510.77	177,660.77
141 E 71100 189	Regular Instruction Program - Other Salaries	$ -	$ 22,384.00	22,384.00
141 E 71100 201	Regular Instruction Program - Social Security	$ 2,223,416.00	$ 2,235,822.00	12,406.00
141 E 71100 204	Regular Instruction Program - Retirement	$ 3,498,748.00	$ 3,517,051.00	18,303.00
141 E 71100 212	Regular Instruction Program - Medicare	$ 519,992.00	$ 522,890.75	2,898.75
	Increase in Expenditures	$ 38,781,006.00	$ 39,014,658.52	$ 233,652.52
	CHANGE IN FUND BALANCE (CASH)	$ 4,761,644	$ 4,761,644	-

The TN Department of Education awarded an additional $233,652.52 for the Summer Learning Bridge grant to address learning loss for students entering sixth grade. This new allocation will fund school crossing guards at all locations, salaries for additional teachers, and related matching benefits. The total revised Summer Learning grant award is $1,818,309.82.

Reviewed by Finance Director/Finance Manager — Date 5.20.21

Approved ☑ Bobby S Duckett, Director of Schools — Date 5/20/21

Declined ☐

Murfreesboro City Schools Budget Amendment

Meeting Date 5/25/2021

Fiscal Year 2020-2021

Department	Account	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
General Purpose School Fund				
Revenues	Revenues			
141 R 47590	Other Federal Through State - State Grants	$ -	$ 304,835.68	304,835.68
	Increase in Revenues			$ 304,835.68
Expenditures	Expenditures			
141 E 72710 146	Transportation - Bus Drivers	$ 1,172,450	$ 1,292,450	120,000.00
141 E 72710 189	Transportation - Bus Assistants	$ 581,620	$ 641,620	60,000.00
141 E 72710 201	Transportation - Social Security	$ 123,778	$ 135,778	12,000.00
141 E 72710 204	Transportation - Retirement	$ 242,964	$ 264,964	22,000.00
141 E 72710 212	Transportation - Medicare	$ 28,948	$ 31,948	3,000.00
141 E 72710 425	Transportation - Gasoline	$ 185,000	$ 272,836	87,835.68
	Increase in Expenditures	$ 2,149,760	$ 2,366,760	$ 304,835.68
	CHANGE IN FUND BALANCE (CASH)	$ 4,761,644	$ 4,761,644	-

To budget the TN Department of Education Transportation grant to provide bus service for students to attend summer learning camps. This grant funds salaries and matching benefits for bus drivers and assistants, along with fuel at an estimated $2 per mile.

Kim Williams — 5.21.21

Reviewed by Finance Director/Finance Manager — Date

Approved ☑ Bobby Duke III — 5/21/2021

Director of Schools — Date

Declined ☐

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Sewer Allocation Variance- North Tennessee Blvd. – The Pointe at Raiders Campus Apartments

Department: Planning

Presented by: Greg McKnight, Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

A proposed development request for additional density above the sewer allocation ordinance's zoning allowance.

Staff Recommendation

Approval of variance request allowing higher single-family unit equivalent density (sfu).

Background Information

Capstone Real Estate Investments has submitted a rezoning request to PRD (Planned Residential District) for the existing apartment complex at 2315 North Tennessee Boulevard, which is comprised predominantly of 4-bedroom apartment units. The existing complex contains 218 dwelling units and is currently zoned RM-16 (Multi-Family Residential 16) which per the ordinance only allows 9 sfu's/acre. With the PRD, Capstone proposes to remodel the existing complex by dividing the existing apartment units. The proposed remodel will increase the number of dwelling units to 346 (approximately 20 dwelling units per acre) but will decrease the number of beds by 172. Consequently, Capstone is requesting a variance to allow a total of 346 dwelling units (i.e., 128 additional units). However, MWRD projects that the reduction in the number of beds will actually decrease sewer flows for the project. Staff views the advantages of reduced sanitary sewer usage and the investment into a distressed property of greater benefit than the requested additional number of units above what is allowed by the ordinance.

Staff recommends that any approval of this variance be conditioned upon approval of the requested zoning change to PRD.

Council Priorities Served

Expand Infrastructure

It is MWRD's belief that the proposed remodel will actually reduce this development's sanitary sewer usage.

Concurrence

MWRD concurs with the request based on sewer system capacity.

Fiscal Impact

The development will generate commercial tax rate revenue as well as pay one-time development fees.

Attachments

1. Request Letter and Exhibits
2. Memo from MWRD

HUDDLESTON-STEELE
ENGINEERING, INC.
2115 N.W. Broad Street • Murfreesboro, TN 37129 • Engineering 615-893-4084 • Surveying 615-890-0372 • FAX: 615-893-0080

May 12, 2021

Mr. Greg McKnight
Planning Director
111 West Vine Street
Murfreesboro, TN 37130
gregmcknight@murfreesborotn.com

Re: Sewer Allocation Variance Request
Capstone Real Estate Investments
The Pointe at Raiders Campus
2315 North Tennessee Boulevard
Murfreesboro, TN

Dear Greg:

The property we are requesting a sewer allocation variance on is The Pointe at Raiders Campus at 2315 North Tennessee Boulevard.

This property is an existing multi-family development containing 218 primarily 3-bedroom and 4-bedroom units on 17.26 acres, a 12.6 units per acre density allowed within the existing RM-16 zoning.

We are proposing to rezone this property to P.R.D. so that the 3-bedroom and 4-bedroom units can be split up into 148 1-bedroom units and 154 2-bedroom units. This will result in 172 fewer beds, meaning less people and less sewage flow.

However, splitting the existing 3-bedroom and 4-bedroom units into 1-bedroom units and 2-bedroom units will result in 346 units, so that the density will increase to 20 units per acre (346 units on 17.26 acres). Therefore, we hereby request a sewer allocation variance.

Again, while we are increasing the density to 20 units per acre, we are reducing the number of beds by 172, thereby reducing the number of people and therefore the actual sewage flow.

We appreciate the opportunity to submit this variance request and hope to continue with this development. Please feel free to reach out with any questions.

Sincerely,

HUDDLESTON-STEELE ENGINEERING, INC.

William H. Huddleston IV, P.E., R.L.S.

Cc: Holly Smyth
Matthew Blomeley
Valerie H. Smith

City of MURFREESBORO TENNESSEE

. . . creating a better quality of life

MEMORANDUM

DATE: May 18, 2021

TO: Greg McKnight

FROM: Valerie H. Smith

SUBJECT: The Pointe at Raiders Campus
2315 N Tennessee Blvd
Sewer Allocation Ordinance
Variance Request

Sewer System Capacity

The sanitary sewer collection system can, convey the estimated sewer flows resulting from this development and its request to vary from the density requirements associated with its current land use zoning as defined in City Code Chapter 33 Article V. – Sewer Capacity Allocation.

Effects within Basin by Providing Variance to Sewer Allocation

The above property is within sewer flow basin MF 08. There are no immediate capacity concerns within the basin that have been identified. This project will flow into an 8" sewer main along N. Tennessee Blvd which has adequate capacity.

Per the most recent sewer connection model of the system, Basin 08 currently has capacity for 2543 connections. By committing sewer service to this development, coupled with Capstones theory of reducing flows because of the reduction of 172 beds, staff is determining that basin 08's sewer connection capacity will be reduced by zero connections, resulting in in 2543 available connections for future developments. Please note that while this "remodel" of the apartment complex is projected to reduce sewer flows because of the reduced number of beds, this is not based on actual water usage data after remodel. Per previous correspondence with Capstone, should the actual water usage not show a reduction, Capstone agrees to sub-meter each apartment unit.

The request is for an allowance to increase the number of sfu's by 128 for a total of 346 sfu's at a density of 20 sfu's/acre. Per the current zoning of RM-16 the Ordinance allows 9 sfu's/acre or 155 sfu's. The current development has 218 sfu's which is a density of 12.6 sfu's/acre. Water Resources staff advises variance requests to be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to any proposed development requesting a variance to the sewer allocation ordinance.

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Sewer Allocation Variance- Memorial Blvd. – Brookhaven, Lot 1

Department: Planning

Presented by: Greg McKnight, Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

A proposed development request for additional density above the sewer allocation ordinance's zoning allowance.

Staff Recommendation

Approval of variance request allowing higher single-family unit equivalent density (sfu).

Background Information

A site plan has been submitted to the Planning Department for the development of a multi-tenant commercial building at the southeast corner of Memorial Boulevard and Eleanor Way (Brookhaven Subdivision, Lot 1). The property is currently zoned Commercial Highway (CH), which per the ordinance only allows 2.5 sfu's/acre. The property is 1.12 acres in size and thus is allowed only 2.8 sfu's. The anticipated usage is approximately 5 sfu's; therefore, the development will use more than the ordinance allows by approximately 2.2 sfu's. The sanitary sewer system can handle the increased flows for the proposed development. Staff views the advantages of job creation and sales tax revenue of greater benefit than the requested additional sewer capacity.

Council Priorities Served

Improve economic development

The development will create jobs and provide additional property and sales tax revenue.

Concurrence

MWRD concurs with the request based on sewer system capacity.

Fiscal Impact

The development will generate commercial tax rate revenue as well as pay one-time development fees.

Attachments

1. Request Letter and Exhibits
2. Memo from MWRD

HUDDLESTON-STEELE
ENGINEERING, INC.
2115 N.W. Broad Street • Murfreesboro, TN 37129 • Engineering 615-893-4084 • Surveying 615-890-0372 • FAX: 615-893-0080

May 13, 2021

Mr. Greg McKnight
Planning Director
Murfreesboro Planning Department
111 West Vine Street
Murfreesboro, TN 37130
gregmcknight@murfreesborotn.com

Re: Sewer Allocation Variance Request
Brookhaven Subdivision Lot 1
Memorial Boulevard and Eleanor Way
Tax Map 69D, Group "G", Parcel 1.00
Murfreesboro, TN

Dear Greg:

The property we are requesting a variance on is Brookhaven Subdivision Lot 1 on Memorial Boulevard at Tax Map 69D, Group "G", Parcel 1.00 for a Commercial Center including a 2400 square foot Koji Express restaurant. This property is zoned commercial highway (CH). This zoning allows for 2.5 single family units (s.f.u.) per acre or 728 gpd. It has been estimated that the proposed Commercial Center would use 1274 gpd.

We appreciate the opportunity to submit this variance request and hope to continue with this development. Please feel free to reach out with any questions.

Sincerely,

HUDDLESTON-STEELE ENGINEERING, INC.

William H. Huddleston IV, P.E., R.L.S.

Cc: Holly Smyth
Matthew Blomeley
Valerie H. Smith

HUDDLESTON ENGINEERING

2115 NORTHWEST BROAD STREET • MURFREESBORO, TN 37129 • PHONE 615/893-4084

W. HENRY HUDDLESTON III, P.E.
WILLIAM H. HUDDLESTON IV, P.E., R.L.S.

SUBDIVISION DESIGN
WATER AND SEWERAGE
SITE PLANNING
TRAFFIC ENGINEERING

EXISTING SEWER ALLOCATION

1.12 Ac. × 2.5 s.f.u. per acre = 2.8 s.f.u.
× 260 GPD/s.f.u.
728 GPD

PROPOSED USE

KOFI = 786 GPD

OTHER = 4875 SF × 100 GAL./1000 SF = 488 GPD

1274 GPD

William H. Huddleston IV
5/13/21

HUDDLESTON-STEELE
ENGINEERING, INC.
2115 N.W. Broad Street • Murfreesboro, TN 37129 • Engineering 615-893-4084 • Surveying 615-890-0372 • FAX: 615-893-0080

May 26, 2021

Mr. Greg McKnight
Planning Director
Murfreesboro Planning Department
111 West Vine Street
Murfreesboro, TN 37130
gregmcknight@murfreesborotn.com

Re: Additional Data for the Sewer Allocation Variance Request
Brookhaven Subdivision Lot 1
Memorial Boulevard and Eleanor Way
Tax Map 69D, Group "G", Parcel 1.00
Murfreesboro, TN

Dear Greg:

The property we are requesting a variance on is Brookhaven Subdivision Lot 1 on Memorial Boulevard at Tax Map 69D, Group "G", Parcel 1.00 for a Commercial Center including a 2400 square foot Koji Express restaurant. This property is zoned commercial highway (CH). This zoning allows for 2.5 single family units (s.f.u.) per acre or 728 gpd. It was originally estimated that the proposed Commercial Center would use 1274 gpd.

Our original estimate of sewage flow from the proposed Commercial Center (1274 GPD) assumed the Koji (2400 sf) would use 786 GPD from a couple of months from the S. Church St. Koji (3000 sf) useage. Ms. Valerie Smith from MWRD asked us to look at more year-long numbers from the Franklin Road Koji (2400 sf) as well as the S. Church St. Koji (3000 sf).

The year-long numbers from the Franklin Road Koji (2400 sf) averaged 759 GPD, and the year-long numbers from S. Church St. Koji (3000 sf) averaged 743 GPD. Both of these averages are less than the 786 GPD originally estimated for the proposed Koji (2400 sf), especially considering it is less square footage than the S. Church St. Koji (3000 sf). So our original estimate of sewage flow from the proposed Koji (2400 sf) was a conservative estimate.

We appreciate the opportunity to submit this variance request and hope to continue with this development. Please feel free to reach out with any questions.

Sincerely,

HUDDLESTON-STEELE ENGINEERING, INC.

Bill

William H. Huddleston IV, P.E., R.L.S.

Cc: Holly Smyth
Matthew Blomeley
Valerie H. Smith

HUDDLESTON ENGINEERING

2115 NORTHWEST BROAD STREET • MURFREESBORO, TN 37129 • PHONE 615/893-4084

W. HENRY HUDDLESTON III, P.E.
WILLIAM H. HUDDLESTON IV, P.E., R.L.S.

SUBDIVISION DESIGN
WATER AND SEWERAGE
SITE PLANNING
TRAFFIC ENGINEERING

EXISTING SEWER ALLOCATION

1.12 Ac × 2.5 s.f.u. per acre = 2.8 s.f.u.
× 260 GPD/s.f.u.
728 GPD

PROPOSED USE

KOTI = 786 GPD

OTHER: 4875 SF × 100 GAL./1000 SF = 488 GPD
1274 GPD

William H. Huddleston IV
5/13/21

Denise Sexton

From: Bill Huddleston
Sent: Wednesday, May 19, 2021 10:12 AM
To: Denise Sexton
Subject: FW: KOJI EXPRESS WEST STATMNTS
Attachments: KJW5.pdf; KJW6.pdf; KJW7.pdf; KJW8.pdf; KJW9.pdf; KJW10.pdf; KJW11.pdf; KJW12.pdf; KJW1.pdf; KJW2.pdf; KJW3.pdf; KJW4.pdf

William H. Huddleston IV, P.E., R.L.S
HUDDLESTON-STEELE ENGINEERING, INC.
2115 N.W. BROAD STREET, MURFREESBORO, TN 37129
TELEPHONE : (615)893 – 4084, FAX: (615)893 – 0080

From: BT Investment Group <btinvestmentgroupllc@gmail.com>
Sent: Tuesday, May 18, 2021 4:24 PM
To: Bill Huddleston <bhudd@hsengr.com>
Subject: Fwd: KOJI EXPRESS WEST STATMNTS

Bill, here are the Koji West files

Koji West is 2400 sqft

If you need anything else, please let me know.

Thank you,
Thanh Tran

856.79
905.81
833.87
878.93
802.65
752.50
735.00
487.50
723.55
684.84
776.67
766.06

758.68

+ 147.67
750.68

---------- Forwarded message ---------
From: **Koji South** <kojisouth@gmail.com>
Date: Tue, May 18, 2021 at 4:23 PM
Subject: Fwd: KOJI EXPRESS WEST STATMNTS
To: <btinvestmentgroupllc@gmail.com>

---------- Forwarded message ---------
From: **Michael Head** <mhead@cudrc.com>
Date: Tue, May 18, 2021 at 4:22 PM
Subject: KOJI EXPRESS WEST STATMNTS
To: KOJISOUTH@GMAIL.COM <KOJISOUTH@gmail.com>

Denise Sexton

From: Bill Huddleston
Sent: Wednesday, May 19, 2021 10:12 AM
To: Denise Sexton
Subject: FW: BILL STATMENTS
Attachments: KJS8.pdf; KJS9.pdf; KJS10.pdf; KJS11.pdf; KJS12.pdf; KJS1.pdf; KJS2.pdf; KJS3.pdf; KJS4.pdf

William H. Huddleston IV, P.E., R.L.S
HUDDLESTON-STEELE ENGINEERING, INC.
2115 N.W. BROAD STREET, MURFREESBORO, TN 37129
TELEPHONE : (615)893 – 4084, FAX: (615)893 – 0080

From: BT Investment Group <btinvestmentgroupllc@gmail.com>
Sent: Tuesday, May 18, 2021 4:17 PM
To: Bill Huddleston <bhudd@hsengr.com>
Subject: Fwd: BILL STATMENTS

Bill, here is Koji South as far back as CUD could get for me.

Koji South is 3000 sqft

Koji West files will be forwarded over in a few mins

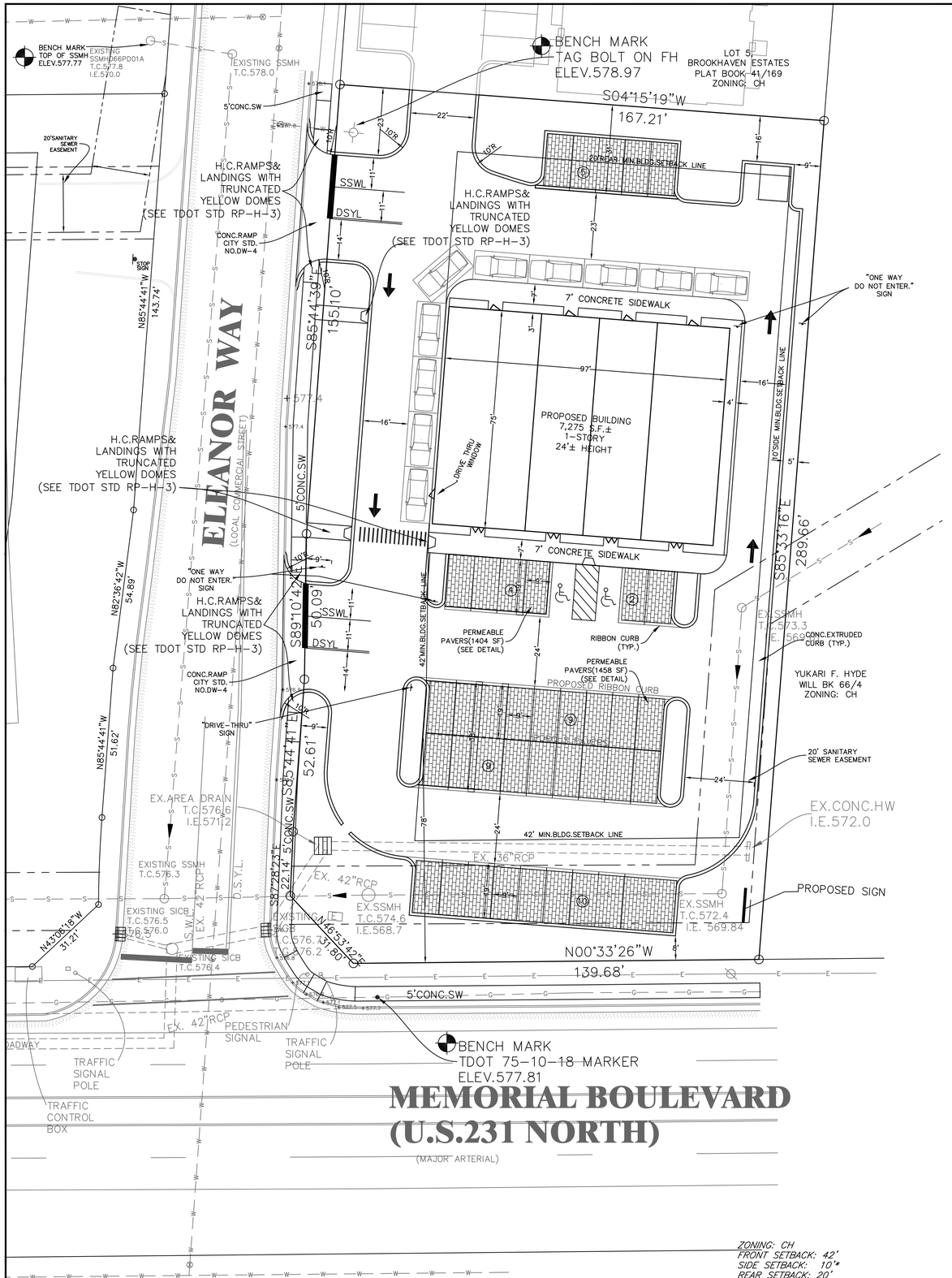
Thank you,
Thanh Tran

757.50
712.33
751.03
786.26
681.43
707.14
716.55
756.67
815.00

742.67

---------- Forwarded message ---------
From: **Koji South** <kojisouth@gmail.com>
Date: Tue, May 18, 2021 at 4:15 PM
Subject: Fwd: BILL STATMENTS
To: <btinvestmentgroupllc@gmail.com>

---------- Forwarded message ---------
From: **Michael Head** <mhead@cudrc.com>
Date: Tue, May 18, 2021 at 4:14 PM
Subject: BILL STATMENTS
To: KOJISOUTH@GMAIL.COM <KOJISOUTH@gmail.com>



LEGEND

- Power Pole
- Proposed Fire Hydrant
- Existing Fire Hydrant
- Reducer
- Gate Valve & Box
- Wall Mounted Light
- Light Pole
- Concrete Thrust Block
- —W— Existing Water Line
- —W— Proposed Water Line
- —S— Existing Sanitary Sewer Line
- —S— Proposed Sanitary Sewer Line
- Existing Manhole
- Proposed Manhole
- CD Sewer Line Check Dam
- —00— Existing Contours
- —00— Proposed Contours
- 00.0 Existing Spot Elevations
- 00.0 Proposed Spot Elevations
- —SF— Siltation Fence (to be installed before grading and left in place until a good stand of grass is established over all disturbed areas.)
- Porous Pavers
- —E—T— Existing Telephone & Electric Line
- —UGE— Existing Underground Electric Line
- —CMP— Corrugated Metal Pipe
- —RCP— Reinforced Concrete Pipe
- —G— GAS LINE
- —ET— OVERHEAD ELECTRIC AND TELEPHONE

LOCATION MAP

N.T.S.

STANDARD NOTES:

1. IN ACCORDANCE WITH TCA SECTION 7-59-310(b)(1), COMPETITIVE CABLE AND VIDEO SERVICES ACT, IN CASES OF NEW CONSTRUCTION OR PROPERTY DEVELOPMENT WHERE UTILITIES ARE TO BE PLACED UNDERGROUND, THE DEVELOPER OR PROPERTY OWNER SHALL GIVE ALL PROVIDERS OF CABLE OR VIDEO SERVING THE CITY OF MURFREESBORO DATES ON WHICH OPEN TRENCHING WILL BE AVAILABLE FOR THE PROVIDERS' INSTALLATION OF CONDUIT, PEDESTALS OR VAULTS, AND LATERALS, REFERRED TO AS "EQUIPMENT," TO BE PROVIDED AT EACH SUCH PROVIDERS' EXPENSE.
2. ALL SIGNAGE, INCLUDING FLAGS AND FLAGPOLES, IS SUBJECT TO INDEPENDENT REVIEW BY THE DEVELOPMENT SERVICES DIVISION. ALL SIGNAGE MUST CONFORM TO THEIR REQUIREMENTS AND REQUIRE SEPARATE SIGN PERMITS.
3. A LAND DISTURBANCE PERMIT MAY BE REQUIRED. DETERMINATION WHETHER A LAND DISTURBANCE PERMIT IS REQUIRED SHALL BE MADE BY THE DEVELOPMENT SERVICES DIVISION. A SEPARATE LAND DISTURBANCE PERMIT SHALL BE MADE WITH THE OFFICE OF THE DEVELOPMENT SERVICES DIVISION FOR REVIEW AND UPON APPROVAL FOR ISSUANCE OF A LAND DISTURBANCE PERMIT.
4. FOR ALL DEVELOPMENTS OF MORE THAN ONE ACRE, A STATE OF TENNESSEE CONSTRUCTION GENERAL PERMIT IS REQUIRED. EVIDENCE OF THIS PERMIT MUST BE PROVIDED TO THE OFFICE OF THE DEVELOPMENT SERVICES DIVISION PRIOR TO CONSTRUCTION COMMENCEMENT.
5. IN TENNESSEE, IT IS A REQUIREMENT PER "THE UNDERGROUND UTILITY DAMAGE PREVENTION ACT" THAT ANYONE WHO ENGAGES IN EXCAVATION MUST NOTIFY ALL KNOWN UNDERGROUND UTILITY OWNERS, NO LESS THAN THREE NOR MORE THAN TEN WORKING DAYS OF THEIR INTENT TO EXCAVATE. A LIST OF THESE UTILITIES MAY BE OBTAINED FROM THE COUNTY REGISTER OF DEEDS. THOSE UTILITIES THAT PARTICIPATE IN THE TENNESSEE ONE CALL SYSTEM CAN BE NOTIFIED BY CALLING TOLL FREE 1-800-351-1111.
6. UNDERGROUND UTILITIES SHOWN WERE LOCATED USING AVAILABLE ABOVE-GROUND EVIDENCE, AND ALSO FROM INFORMATION OBTAINED FROM THE RESPECTIVE UTILITY COMPANIES. THE EXISTENCE OR NON-EXISTENCE OF THE UTILITIES SHOWN AND ANY OTHER UTILITIES WHICH MAY BE PRESENT ON THIS SITE OR ADJACENT SITES SHOULD BE CONFIRMED WITH THE UTILITY OWNER PRIOR TO COMMENCING ANY WORK.
7. PARCELS MAY BE SUBJECT TO ADDITIONAL EASEMENTS, AND/OR RESTRICTIONS, BY RECORD OR PRESCRIPTION, THAT A COMPLETE TITLE SEARCH MAY REVEAL.
8. THE OWNER/DEVELOPER, FOR BUDGET PURPOSES, SHOULD CHECK WITH THE MURFREESBORO WATER AND SEWER DEPARTMENT FOR CONNECTION FEES WHICH MAY BE SUBSTANTIAL.
9. CONTRACTORS FOR SEWER WORK MUST BE APPROVED BY THE MURFREESBORO WATER AND SEWER DEPARTMENT.
10. EVIDENCE OF A LAND DISTURBANCE PERMIT, WHICH INCLUDES AN EROSION PREVENTION & SEDIMENT CONTROL PLAN, AND A STATE OF TENNESSEE CONSTRUCTION GENERAL PERMIT MUST BE PROVIDED TO THE CITY'S ENVIRONMENTAL ENGINEER PRIOR TO CONSTRUCTION COMMENCMENT. AN EROSION PREVENTION SEDIMENT CONTROL (ESPC) PLAN AND STORMWATER POLLUTION PREVENTION PLAN (SWPPP) INCLUDING DRAINAGE CALCULATION AND DRAINAGE AREA MAPS ARE SUBJECT TO REVIEW AND APPROVAL BY THE CITY ENVIRONMENTAL ENGINEER PRIOR TO ANY PERMIT ISSUANCE.
11. UNDER THE CURRENT ADOPTED PLUMBING CODE, THE CITY OF MURFREESBORO REQUIRES THE MINIMUM FLOOR ELEVATION (M.F.E.) TO BE SET AT OR ABOVE THE TOP OF CASTING THE NEAREST MANHOLE THAT IT IS UPSTREAM OF THE SEWER SERVICE CONNECTION. AS AN ALTERNATIVE, THE HOMEOWNER SHALL INSTALL A BACKWATER VALVE PER THE PLUMBING CODE AND EXECUTE AND RECORD A RELEASE OF INDEMNIFICATION AFAINT THE CITY OF MURFREESBORO WITH REGARDS TO THE SANITARY SEWER CONNECTION. THE BUILDER AND/OR HOMEOWNER SHALL BE RESPONSIBLE FOR COMPLIANCE WITH THIS REQUIREMENT.

SITE DATA
PROPOSED USE: COMMERCIAL CENTER (<35% RESTAURANT)

RETAIL: 1 FOR EACH 250 SQUARE FEET OF F.A. OR 5 SPACES, WHICHEVER IS GREATER, PLUS 1 FOR EACH BUSINESS VEHICLE (ADD 10%), PLUS 3 QUEUING SPACES FOR EACH DRIVE-UP WINDOW OR DRIVE-THRU LANE (NO DRIVE-THRU)
= (7253) / 250 = 29 SPACES x 1.1 = 32 SPACES

RESTAURANT 2,400S.F. (33%)

PARKING SPACES REQUIRED:
= 32 SPACES + 2 H.C.

PARKING SPACES PROVIDED:
33 SPACES + 2 H.C.

HVACS TO BE ROOF-MOUNTED.

BLDG. HEIGHT: 24 FEET

EXISTING IMPERVIOUS AREA: VACANT SITE
EXISTING OPEN SPACE: VACANT SITE
PROPOSED IMPERVIOUS AREA: 31,925.7 S.F.
PROPOSED OPEN SPACE: 16,862.2 S.F.
OPEN SPACE: 35%

#	DATE	REVISION DESCRIPTION
1	5/12/21	ORIGINAL ISSUE

THE SURVEY IS A TOPOGRAPHIC SURVEY FOR INFORMATION ONLY AND IS NOT A GENERAL PROPERTY SURVEY AS DEFINED UNDER RULE 0820-3-.07.

ZONING: CH
FRONT SETBACK: 42'
*SIDE SETBACK: 10'**
REAR SETBACK: 20'

* The minimum side yard shall apply only if the property abuts or is adjacent to property zoned or used for residential purposes or the residential portion of an approved planned development. Otherwise, no side yard is required.

N MAGNETIC S W E

20' 0 20'

1.12± ACRES

LEGEND FOR MONUMENTS
IPS ○ IRON PIN SET
IPF ○ IRON PIN FND.
○ RAILROAD SPIKE
FENCE
● SURVEY POINT
△ NAIL
■ CONC. MARKER FND.

THIS PROPERTY IS WITHIN THE OSBORNE LANE ASSESSMENT DISTRICT.

DEVELOPER: THAN TRAN
ADDRESS: 4504 MARYMONT SPRINGS BLVD.
MURFREESBORO, TN 37128

TAX MAP: 69D, "G" PARCEL: 1
FLOOD MAP PANEL: 470168 0145 H ZONE: X
FLOOD MAP DATED: JANUARY 5, 2007

FOR REVIEW ONLY.

NOT FOR CONSTRUCTION.

HUDDLESTON-STEELE ENGINEERING, INC.
2115 N.W. BROAD STREET, MURFREESBORO, TN 37129
TELEPHONE : (615)893 - 4084, FAX: (615)893 - 0080

Site Plan

BROOKHAVEN PLACE-LOT 1

9TH CIVIL DISTRICT - RUTHERFORD COUNTY - TN.

DATE: APRIL, 2021 | *SCALE 1"=20'* | *SH. 2 OF 9*

City of MURFREESBORO TENNESSEE

. . . creating a better quality of life

MEMORANDUM

DATE: May 28, 2021

TO: Greg McKnight

FROM: Valerie H. Smith

SUBJECT: Brookhaven – Lot 1

Map 69D, Group G, Parcels 1.00
Sewer Allocation Ordinance
Variance Request

Sewer System Capacity

The sanitary sewer collection system can convey the estimated sewer flows resulting from this development and its request to vary from the density requirements associated with its current land use zoning as defined in City Code Chapter 33 Article V. – Sewer Capacity Allocation.

Effects within Basin by Providing Variance to Sewer Allocation

The above property is within sewer flow basin MF 08. There are no capacity concerns within the basin that have been identified. This project will flow into an 8" sewer main along the western border of the property which has adequate capacity.

Per the most recent sewer connection model of the system, Basin 08 currently has capacity for 2541 connections. By committing sewer service to this development, staff is determining that basin 08's sewer connection capacity will be reduced by 1 connection, resulting in in 2540 available connections for future developments. The only known tenant is Koji, which is 2400sf out of a 7275sf building so there are possibly 3 other tenants planned. Please note that while this development is counted as one sewer connection, the assumed calculated single-family unit equivalency, per the Engineers letter, is determined to be ~5.0, resulting in a larger sewer discharge than the 500 gallon per day per connection average the model is based upon.

The request is for an allowance of 2.1 single family units (sfu's) above the 2.8 sfu's allowed per the Ordinance. Water Resources staff advises variance requests to be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to any proposed development requesting a variance to the sewer allocation ordinance.

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Option for Right-of-Way along Butler

Department: Development Services

Presented by: Sam A. Huddleston, Executive Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Option Agreement for Future Acquisition of Butler Drive right-of-way from Mahle Filter Systems North America. Inc. (Mahle).

Staff Recommendation

Approve the Option Agreement and Memorandum of Option with Mahle.

Planning Commission approved the reservation of right-of-way as Mandatory Referral at the May 19, 2021 meeting.

Background Information

Mahle recently announced a 160,000 sq ft manufacturing plant expansion and creation of new jobs at its manufacturing facility located on Butler Drive. During staff review of the expansion, staff considered the future realignment of Butler Drive as outlined in the City's 2040 Major Transportation Plan. Staff identified a small parcel of the Mahle property within the proposed realignment.

Mahle and staff propose to reserve the proposed Butler Drive right-of-way through an Option Agreement until the City funds the realignment project. A Memorandum of Option is proposed to be recorded with the Register of Deeds.

Council Priorities Served

Expand infrastructure

Butler Drive realignment will improve traffic conditions at Joe B Jackson Parkway and provide additional traffic capacity in this industrial corridor.

Fiscal Impact

The minor fiscal impact will be for customary recording fees. Future fiscal impact will be associated with right-of-way acquisition and roadway realignment and is anticipated to be funded through the Community Improvement Plan process.

Attachments

1. Option Agreement for Conveyance of Real Estate
2. Memorandum of Option

OPTION AGREEMENT
FOR CONVEYANCE OF REAL ESTATE

dai 05/25/2021

This option agreement ("Option") is entered into, as of the date of the last party to sign (the "Effective Date"), by and between the CITY OF MURFREESBORO, a municipal corporation in Rutherford County in the State of Tennessee, ("City"), and MAHLE Filter Systems North America, Inc. (f/k/a Tennex Industries, Inc.) ("Seller"), to be binding on themselves, their successors and assigns.

Article I. **WHEREAS**, the following facts exist:

A. Seller is the owner of 56.8+/- acres located in Rutherford County, Tennessee, Tax Map 125, parcel 13.02, as shown on **Exhibit A** and more particularly described on **Exhibit B** hereto (the "Property").

B. The City has adopted the 2040 Major Transportation Plan which includes as a committed plan the realignment of Butler Drive and Elam Road to move the intersection with Joe B. Jackson further to the West (the "Road Project").

C. City desires to obtain an Option to acquire fee simple title to a portion of the Property, as shown on **Exhibit C** and more particularly described on **Exhibit D** (the "Option Property") for the purpose of supporting the Road Project, on the terms and conditions contained herein.

D. Seller agrees to grant City an Option to acquire fee simple title to the Option Property on the terms and conditions contained herein.

Article II. **NOW, THEREFORE**, for $10.00 in hand paid, and other good and valuable mutual considerations, including but not limited to the City securing Right of Way for a future realignment and reconstruction of Butler Drive and Seller obtaining public road access to a portion of the Property that currently does not have public road access, the receipt and sufficiency of all of which is hereby irrevocably acknowledged and confirmed, Seller hereby grants to City an Option to purchase the Option Property as follows:

1. This Option shall be effective upon the date of signature of the last party to sign, provided that this Option shall be of no force or effect until approved by the Murfreesboro City Council.

2. Unless sooner exercised by the City, this Option shall remain open for a period of approximately ten (10) calendar years, or until January 31, 2030 (the "Option

Period"); and shall automatically be extended for an additional 10 years until January 31, 2040, unless written Notice of Termination is given by one party to the other no later than June 30, 2030.

3. The City may exercise this Option by giving written notice of exercise to Seller ("Option Notice") not less than six (6) months prior to the proposed closing date as provided is Article III, Sec. 2 ("Closing Date").

4. Promptly after giving such Option Notice, the City will obtain an appraisal of the Option Property from an independent, MAI designated appraiser experienced in appraising commercial / industrial property in Rutherford County, Tennessee. The parties will thereafter in good faith attempt to negotiate a mutually acceptable price for the Option Property and close the sale to the City as provided in the Article III. In the event the parties fail to agree on a purchase price, the City reserves the right to initiate a condemnation of the property pursuant to the Tennessee laws of eminent domain.

5. The City will be solely responsible for obtaining a title report, title binder and title insurance, and any survey that may be necessary to complete acquisition of the Option Property by the City, and may obtain any of such at any time during the Option Period.

6. The City shall have the right to go on the Option Property at reasonable times during normal working hours, either before or after giving the Option Notice, to conduct such due diligence studies as it may deem necessary, including soil borings, to assure that the Option Property is suitable for the City's intended use. The surface of the Option Property will be restored to the extent reasonably practicable after any such studies. Seller will cooperate in providing reasonable access to City employees, agents and contractors for such due diligence purposes. No blasting of any kind will be conducted without the prior consent of Seller.

7. In the event that the survey or other due diligence discloses objectionable circumstances, the City will promptly notify Seller. If the objections cannot be resolved to the City's satisfaction, the City may terminate the Option. If no objectionable circumstances are discovered, the City will so notify Seller and the Parties will set a Closing Date.

8. From the Effective Date hereof to the Closing or the termination of this Option, whichever first occurs, Seller shall not do, suffer or permit, or agree to do any of the following:

(a) install or construct any structures, utilities, fixtures, or improvements of any kind or character on, under, or over the Option Property; or

(b) otherwise perform or permit any act, action, interest or encumbrance of any kind which will diminish or otherwise affect City's interest under this Option or in or to the Option Property or in the suitability of the Option Property for the intended Road Project or which will prevent Seller's or City's full performance of its obligations hereunder.

Article III. TERMS AND CONDITIONS of Contract:

1. The purchase price for the Property shall be determined as described above, and shall be payable in good funds by the City at the Closing.

2. The Closing shall take place at the office of Rick G. Mansfield, Attorney, Murfreesboro, TN, on or before the Closing Date established by the parties (the "Closing"), unless an extension is agreed upon in writing by the parties. At the Closing:

a. Seller shall deliver a General Warranty Deed to the Property in form and substance acceptable to the City along with possession of the Property.

b. Seller shall pay the cost of preparing and obtaining any releases or other such documents necessary for Seller to be able to provide good title to the Property.

c. City may, at its option and at its cost, obtain a policy of Title Insurance from a title company of City's choosing assuring good, sufficient and marketable title to the Property subject only such Exceptions as have been accepted in writing by the City.

d. Taxes for the year of sale shall be prorated to the Closing Date. Seller shall be solely responsible for any "roll back" taxes due with respect to the Property by reason of the sale.

e. The City shall deliver good funds representing the balance of the purchase price as same may be adjusted by any closing items.

f. The City shall pay the cost of preparing and recording the General Warranty Deed, including the cost of any tax stamps and transfer taxes.

g. Each party shall pay its own respective legal fees and closing costs

h. Each party will deliver such other documents or certificates as may be necessary to effectuate the transaction.

i. Incidental Closing fees and charges will be allocated to the Seller and City in accord with the usual commercial real estate closing practices in Rutherford County, Tennessee.

3. The Closing is contingent upon the following:

a. The City in its sole discretion being satisfied that Seller can convey title to the Property at the Closing that is satisfactory to the City;

b. The City, in its sole discretion, being satisfied with the facts reflected by the Title Commitment and the Survey;

c. The City, in its sole discretion, being satisfied that the Property is suitable for its intended use in the Road Project.

d. All representations of Seller being true and accurate at the time of the Closing.

4. The City shall be solely responsible for all surveying, engineering and design work, and all related, platting, zoning or re-zoning necessary or desirable by the City for its purposes.

5. Seller represents that, to the best of its actual knowledge, information, and belief, without any duty of inquiry, there have been no hazardous substances, including without limitation, any solid, liquid, gaseous, or thermal irritant or contaminant, such as smoke, vapor, soot, fumes, alkalis, acids, chemicals or wastes, stored, discharged or leased, generated or allowed to escape from the property; nor are there underground storage tanks located on the property; nor is asbestos or asbestos containing building materials present on the property; nor are polychlorinated biphenyls located on or in the property; and there are no investigations, administrative orders, consent orders and agreements, litigation or settlements with respect to the Property. These representations are independent and shall survive Closing and delivery of the deed.

6. Any notice permitted or required by this Contract shall be in writing and shall be deemed to have been received upon the date of actual delivery if delivered in person or by reputable overnight delivery service; on the date of receipt as shown by a facsimile

confirmation if delivered by facsimile; or upon the date of delivery if delivered by U.S. Certified Mail.

a. Notices to the City shall be delivered to:

Gary Whitaker, Assistant City Manager
111 West Vine Street, Murfreesboro TN 37130
Email: gwhitaker@murfreesborotn.gov

with a copy to:

David A. Ives, Deputy City Attorney
111 West Vine Street, Murfreesboro TN 37130
Email: dives@murfreesborotn.gov

b. Notices to Seller shall be delivered to:

Bethany Toldo
MAHLE Filter Systems North America, Inc.
2700 Daley Drive, Troy MI 48083
Email: Bethany.toldo@mahle.com

with a copy to:

Nicoletta Milanesio, General Counsel
23030 MAHLE Dr., Farmington Hills MI 48335
Email: nicoletta.milanesio@mahle.com

7. The City and Seller each represent and warrant to the other that no real estate agent or broker has been retained in connection with this transaction and that no such agent, broker or other person has or shall have any claim for a commission or other compensation with respect to the closing of this transaction.

8. This Contract shall be governed by the laws of the State of Tennessee. Venue for any dispute shall be in the Circuit or Chancery Courts of Rutherford County, Tennessee.

9. In the event of default by either party, the non-defaulting party shall have all rights and remedies permitted or allowed under the law and in equity. The prevailing party in any action to enforce the terms of this Contract shall be entitled to reasonable attorney fees and court costs.

10. This Contract represents the entire agreement of the parties with respect to the subject matter hereof. There shall be no amendments except in writing signed by both parties.

11. City and Seller agree that a Memorandum of Option, substantially in the form attached hereto, will be executed by the Parties and recorded by the City in the Deed Records of Rutherford County, Tennessee

IN WITNESS WHEREOF, City and Seller have set forth their hands and seals below.

CITY OF MURFREESBORO:

By _____
Shane McFarland, Mayor

Date: _____

SELLER:

_____

Name, Title _____

Date: _____

ATTEST:

BY _____
Melissa Wright, City Recorder

APPROVED AS TO FORM:

BY _____
Adam F. Tucker, City Attorney

RECOMMENDED BY PLANNING COMMISSION: May 19, 2021

APPROVED BY CITY COUNCIL: _____

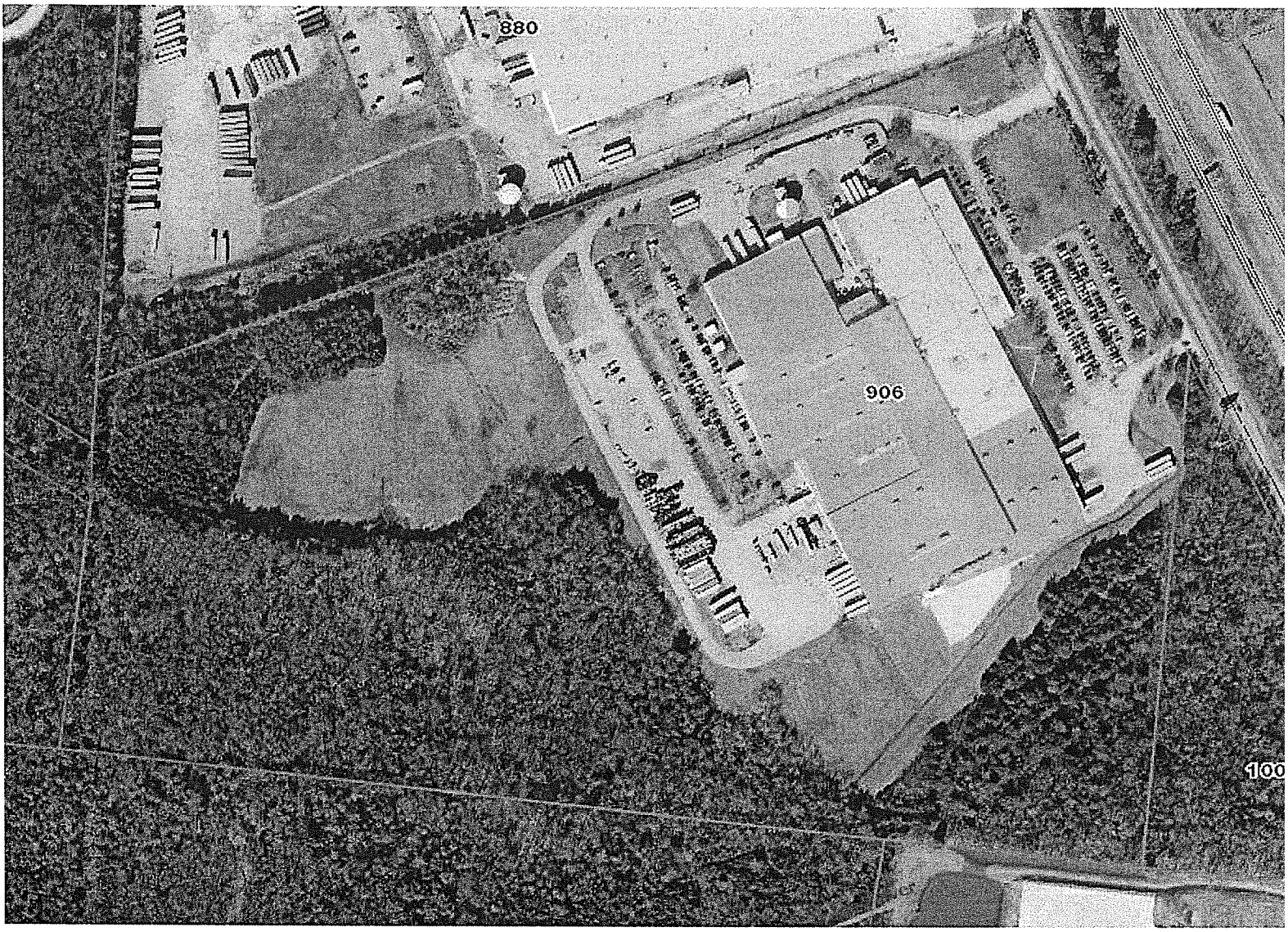


EXHIBIT A

Name and Address of New Owner:
TENNEX INDUSTRIES INC.
c/o Nissan Trading Corp. USA
Suite 2939, 3000 Town Center
Southfield, Michigan 48075

Send Tax Bills To:
SAME

STATE OF TENNESSEE

COUNTY OF RUTHERFORD

011417

THIS INSTRUMENT PREPARED BY MURFREE, COPE & MOORE, ATTORNEYS MURFREESBORO, TENNESSEE FROM INFORMATION FURNISHED BY THE PARTIES.

FOR AND IN THE CONSIDERATION of TEN AND NO/100 ($10.00) DOLLARS, cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned, INGERSOLL-RAND COMPANY, a New Jersey corporation with its principal office at 200 Chestnut Ridge Road, Woodcliff Lake, New Jersey, has this day bargained and sold and does hereby transfer and convey unto TENNEX INDUSTRIES INC., its successors and assigns, forever, the following described real estate situated in the 13th Civil District of Rutherford County, Tennessee, to-wit:

BEING Lot No. 1 of Section 1, AMERICAN DEVELOPMENT CORP. INDUSTRIAL PROPERTY, of record in Plat Book 8, page 46, of the Register's Office of Rutherford County, Tennessee.

BEGINNING at a concrete marker in the west line of Lee Lane at the northwest corner of the Porter Strickland Heirs property and at the northeast corner of the Indevco Limited Partnership property, formerly the John L. Merritt property; thence S 7° 10' W, 943.58 feet along the west line of the Strickland property to a steel pin in the north line of Jobe King Heirs property; thence N 83° 19' W, 511.82 feet along said north line to a steel pin at a fence corner; thence N 83° 47' W, 924.04 feet along the north line of the Bennie Tucker property to a steel pin; thence N 84° 33' W, 652.55 feet along said north line to a steel pin; thence N 80° 36' W, passing a steel pin at 125.00 feet and continuing an additional 75.00 feet to a point in the center line of Stones River; thence N 3° 50' E, 20.00 feet along said center line to a point; thence S 80° 36' E, along Butler Manufacturing Company's south line, passing a steel pin at 75.00 feet, and continuing an additional 125.00 feet to a steel pin at Butler's southeast corner; thence N 3° 50' E, 700.00 feet along Butler's east line to a steel pin; thence N 69° 31' E, 1920.43 feet to a steel pin in the west line of Lee Lane; thence S 27° 11' E, 760.00 feet along said west line to the point of beginning being an area of 56.83 acres.

Being the same property conveyed to Ingersoll-Rand Company, a New Jersey corporation, by deed of record in Deed Book 300, page 618, in the Register's Office of Rutherford County, Tennessee.

This conveyance is subject to a blanket easement in favor of Middle Tennessee Electric Membership Corporation of record in Deed Book 177, page 200, in the Register's Office of Rutherford County, Tennessee; to a 20 foot wide public utility, sanitary sewer and storm drainage easement of record in Deed Book 300, page 618, in said Register's Office; to a 60 foot railroad right-of-way and railroad easement of record in Deed Book 300, page 618, in said Register's Office; and to all restrictions, covenants, easements and setback lines that are applicable to the above-described property, and of record, and to all zoning and subdivision restrictions of the appropriate governmental body.

Grantor further conveys to Grantee any and all rights it has related to the railroad right-of-way and easement as conveyed to Grantor in deed of record in Deed Book 300, page 618, in said Register's Office.

EXHIBIT B

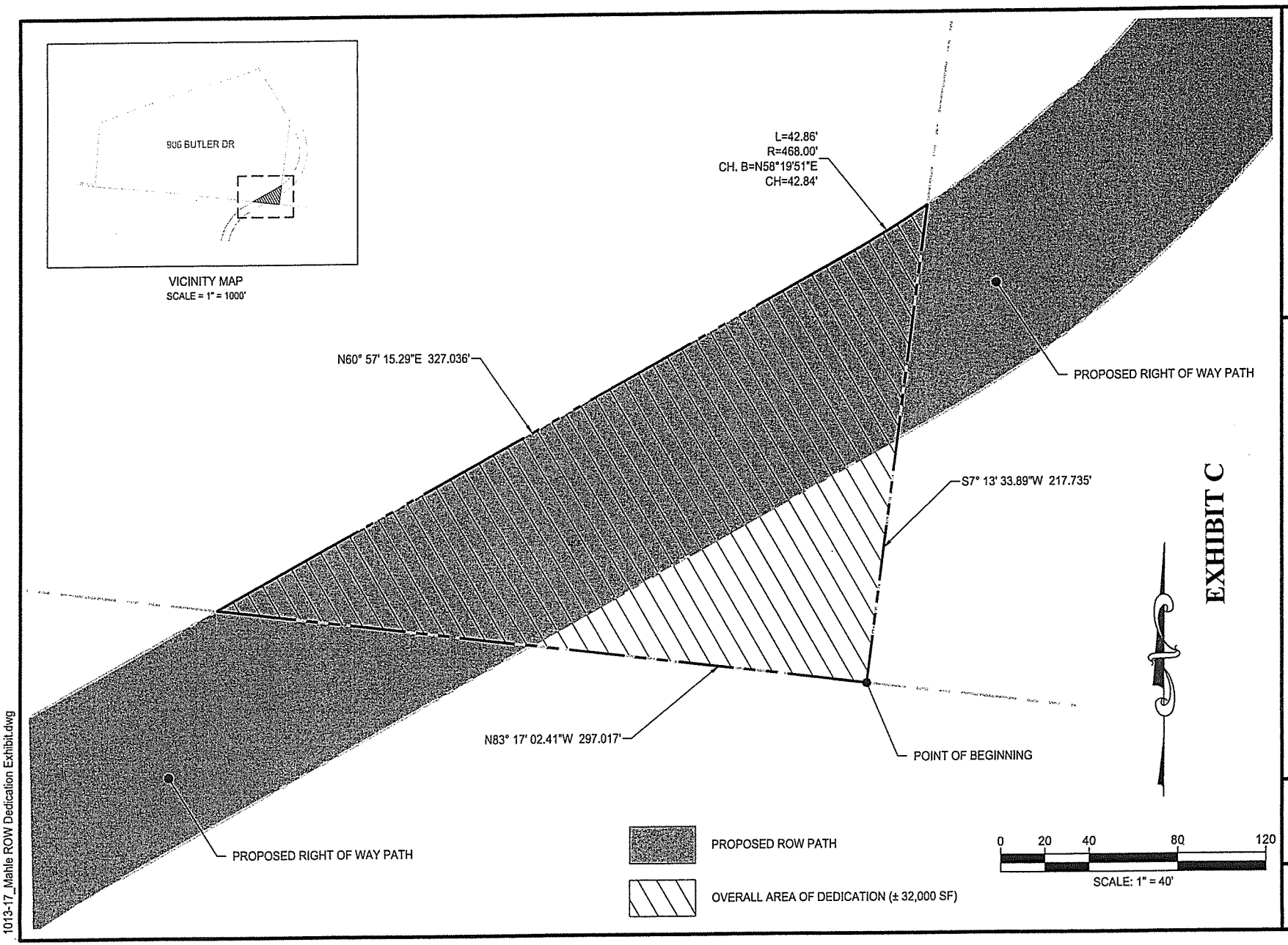


EXHIBIT C

FULMER LUCAS
2002 RICHARD JONES RD - SUITE B200
NASHVILLE, TENNESSEE 37215
INFO@FULMERLUCAS.COM - (615) 345-3770

EXHIBIT FOR:
MAHLE BUILDING EXPANSION
906 BUTLER DRIVE
MURFREESBORO, RUTHERFORD COUNTY
TENNESSEE 37217

RIGHT-OF-WAY
DEDICATION EXHIBIT

EXH

1013-17_Mahle ROW Dedication Exhibit.dwg

A certain strip of land of varying width to be dedicated to the city of Murfreesboro for the realignment of Butler Drive; said strip of land being located over and on a portion of the properties located at 906 Butler Drive, Rutherford County, Murfreesboro, Tennessee and being more particularly described as follows:

BEGINNING at the southeastern corner of the property at 906 Butler Dr. Thence leaving the southeastern corner of the property for the following calls: north 83 deg 17 min 02 sec west, 297.02 feet to a point; thence, north 60 deg 57 min 15 sec east, 327.04 feet to a point; thence, a curve to the left having a radius of 468.00 feet, a curve length of 42.86 feet and a chord bearing and distance of north 58 deg 19 min 51 sec east, 42.84 feet to the a point; thence, south 7 deg 13 min 34 sec west, 217.74 feet to the POINT OF BEGINNING.

Said area for right-of-way dedication described herein contains 32,000 +/- square feet.

EXHIBIT D

Instrument prepared by:
David A. Ives, Deputy City Attorney
City of Murfreesboro
1 W. Vine Street
Murfreesboro TN 37130

Part of Map 125 parcel 13.02

MEMORANDUM OF OPTION

THIS MEMORANDUM OF OPTION dated _____, 2021, is by and between the CITY OF MURFREESBORO, a municipal corporation, with an address of 111 W. Vine Street, Murfreesboro TN 37130, ATTN: City Manager (as "City"), and MAHLE Filter Systems North America, Inc., f/k/a Tennex Industries, Inc.) with an address of 2700 Daley Drive, Troy MI 48083, ATTN: Bethany Toldo (as "Seller").

WHEREAS, City and Seller have entered into an Option Agreement for Conveyance of Real Estate dated _____, 2021, (the "Option") whereby Seller has granted to the City the option to purchase certain property (the "Optioned Property") consisting of the parcel of land shown on **Exhibit A** attached hereto and more particularly described on **Exhibit B** attached hereto; and

WHEREAS, City and Seller desire to enter into this Memorandum of Option, which is to be recorded in order that third parties may have notice of the Optioned Property.

NOW THEREFORE, in consideration of the terms and conditions contained in the Option, City and Seller agree that this Memorandum of Option shall be recorded in the Deed Records of Rutherford County, Tennessee, as legal notice to the world of the existence of the Option.

WITNESS our hands as of the dates indicated below:

signatures on following page

CITY OF MURFREESBORO

_____
Shane McFarland, Mayor
Date: _____

ATTEST:

_____
Melissa Wright, City Recorder

APPROVED AS TO FORM:

_____
Adam Tucker, City Attorney

MAHLE Filter Systems North America, Inc.

By _____
Name _____
Title _____
Date: _____

notary blocks on following page

STATE OF TENNESSEE)

: SS

COUNTY OF RUTHERFORD)

Before me, the undersigned authority, a Notary Public in and for said County and State, personally appeared **Shane McFarland and Melissa Wright**, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence and who, upon their oaths acknowledged themselves to be respectively the Mayor and City Recorder, respectively, of the City of Murfreesboro, a municipal corporation, and that they as such Mayor and City Recorder, being authorized to do so, executed the within instrument for the purposes therein contained, by signing thereto the name of said Corporation, and by attesting said instrument, by themselves as such Mayor and City Recorder, respectively.

WITNESS MY HAND, at office, this ____ day of May, 2021.

_____
NOTARY PUBLIC
My Commission Expires:_____ (seal)

STATE OF TENNESSEE)

: SS

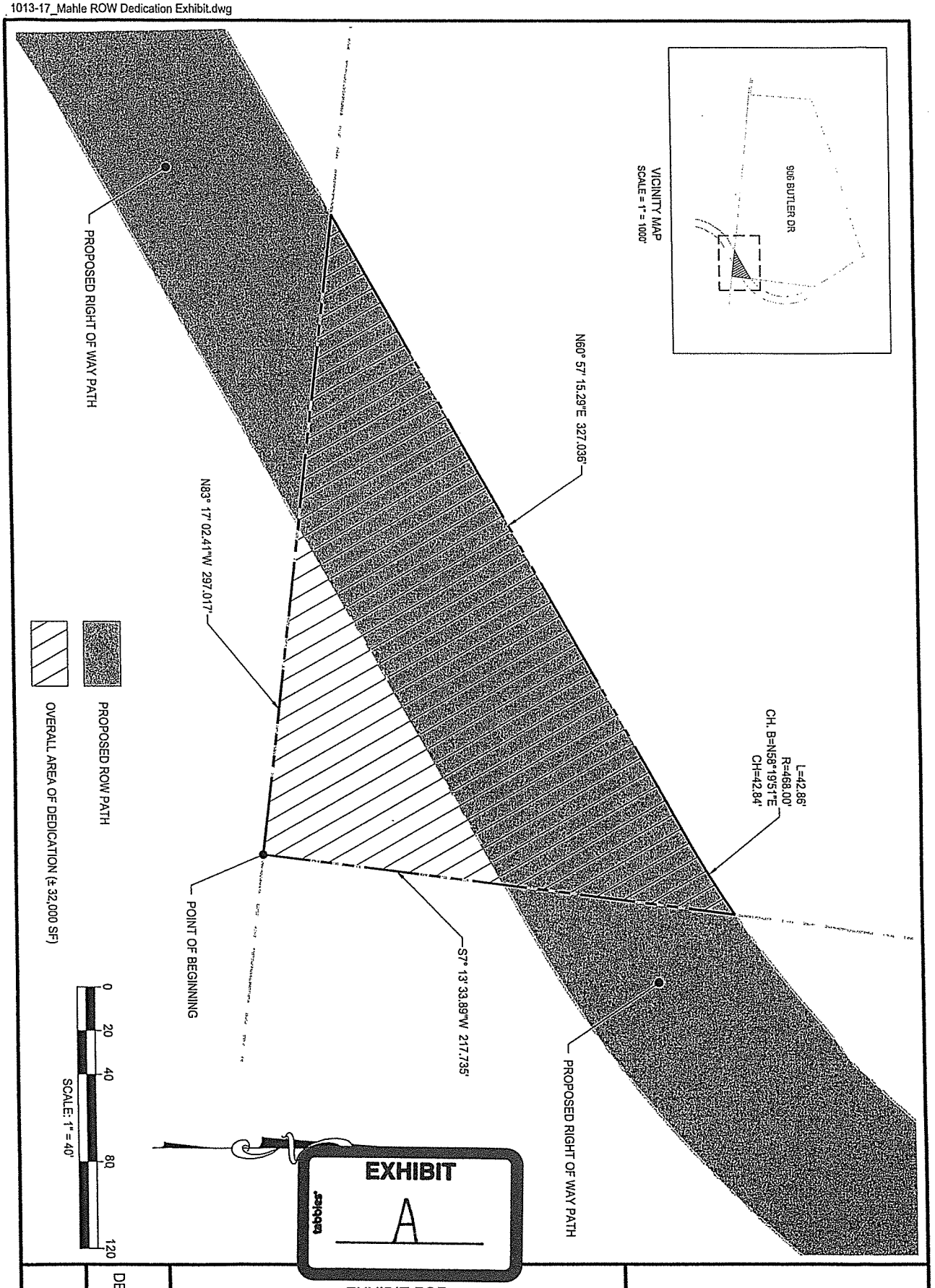
COUNTY OF RUTHERFORD)

Before me, the undersigned authority, a Notary Public in and for said County and State, personally appeared _____, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence and who, upon oath acknowledged ____self to be the _____, of MAHLE Filter Systems North America, Inc., and that as such _____, being authorized to do so, executed the within instrument for the purposes therein contained.

WITNESS MY HAND, at office, this ____ day of _____, 2021.

_____
NOTARY PUBLIC
My Commission Expires:_____ (seal)

1013-17_Mahle ROW Dedication Exhibit.dwg



EXH

RIGHT-OF-WAY
DEDICATION EXHIBIT

EXHIBIT FOR:

MAHLE BUILDING EXPANSION

906 BUTLER DRIVE
MURFREESBORO, RUTHERFORD COUNTY
TENNESSEE 37217

FULMER LUCAS

2002 RICHARD JONES RD - SUITE B200
NASHVILLE, TENNESSEE 37215
INFO@FULMERLUCAS.COM - (615) 345-3770

A certain strip of land of varying width to be dedicated to the city of Murfreesboro for the realignment of Butler Drive; said strip of land being located over and on a portion of the properties located at 906 Butler Drive, Rutherford County, Murfreesboro, Tennessee and being more particularly described as follows:

BEGINNING at the southeastern corner of the property at 906 Butler Dr. Thence leaving the southeastern corner of the property for the following calls: north 83 deg 17 min 02 sec west, 297.02 feet to a point; thence, north 60 deg 57 min 15 sec east, 327.04 feet to a point; thence, a curve to the left having a radius of 468.00 feet, a curve length of 42.86 feet and a chord bearing and distance of north 58 deg 19 min 51 sec east, 42.84 feet to the a point; thence, south 7 deg 13 min 34 sec west, 217.74 feet to the POINT OF BEGINNING.

Said area for right-of-way dedication described herein contains 32,000 +/- square feet.

EXHIBIT

B

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Candidate Review for City Recorder/City Treasurer position

Department: Human Resources

Presented by: Pam Russell, HR Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☐
Direction	☒
Information	☐

Summary

Review of Director of City Recorder/City Treasurer position, also known as Finance Director, candidates for consideration.

Staff Recommendation

Select candidates that will move forward with the interview process.

Background Information

The Director of City Recorder/City Treasurer recently put in a notice to retire. Because this position reports to the Mayor and City Council Members, staff received approval on February 25, 2021 to hire a consultant assist in filling the position. Bakertilly was selected as the Consultant had has worked with the Human Resources Department to provide Council with five candidates for review.

Fiscal Impact

The position has budgeted.

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Contract for Vehicle Purchases

Department: Parks and Recreation

Presented by: Nate Williams, Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Purchase of a ¾ ton crew cab truck and a 15-passenger van from Ford of Murfreesboro through State bid process.

Staff Recommendation

Approve Contract for Purchase of Two Vehicles.

Background Information

The Parks and Recreation Department proposes purchase of an F-250 Crew Cab and a 15-passenger van. The crew cab truck will be utilized by the athletics maintenance division and will replace a 1994 GMC ¾ ton truck with over 200,000 miles. The van will provide transport for the department's participants in the after-school program at McFadden Community Center to various activities and programs.

This purchase will be a state cooperative purchase, which is permitted by the City's Purchasing Code and state law.

Council Priorities Served

Establish strong City brand

The City is well-recognized for its excellent Parks and Recreation Department, and maintaining the Department's equipment promotes strong branding.

Fiscal Impact

Funding for the cost for these vehicles, $61,994, is provided in the FY22 CIP.

Attachments:

1. Contract with Ford of Murfreesboro
2. Quotation for F-250 Crew Cab
3. Quotation for 15-Passenger Van

CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
TT OF F MUFREESBORO INC
FOR VEHICLE PURCHASES

This Contract is entered into and effective as of the _____ day of _____ 2021 (the "Effective Date"), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **TT OF F MURFREESBORO INC (d/b/a Ford of Murfreesboro),** a corporation of the State of Tennessee ("Contractor").

This Contract consists of the following documents:

- ***This Contract***
- ***Contractor's State of Tennessee Contract No. 64470 with TT of F Murfreesboro, Inc.***
- ***Contractor's Price Quote Sheet dated May 14, 2021 for 2021 Ford F-250 Truck 4x2 Crew Cab 6.75' box 160" WB SRW XL (W2A)***
- ***Contractor's Price Quote Sheet No. MUR010 dated May 12, 2021 for 2021 Ford Transit-350 15 Passenger RWD Medium Roof Van 148" WB XL (X2C) with options listed on quote***
- ***Any properly executed amendments to this Agreement***

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- ***First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority)***
- ***Second, this Contract***
- ***Third, Contractor's State of Tennessee Contract No. 64470 with TT of F Murfreesboro, Inc.***
- ***Finally, Contractor's Price Quote Sheet dated May 14, 2021 and Quote Sheet MUR010 dated May 12, 2021 for 2021 Ford F-250 Truck 4x2 Crew Cab 6 .75' box 160" WB SRW XL (W2A) and 2021 Ford Transit-350 15 Passenger RWD Medium Roof Van 148" WB XL (X2C) with options listed on quote***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase: One (1) 2021 Ford F-250 Truck 4x2 Crew Cab 6 .75' box 160" WB SRW XL (W2A) and one (1) 2021 Ford Transit-350 15-Passenger RWD Medium Roof Van 148" WB XL (X2C) with options listed on quote (15 passenger seats, running boards, and 2 extra keys) as set forth in the State of Tennessee Contract No. 64470 with TT of F Murfreesboro Inc., and Contractor's Price Quote Sheets dated May 14, 2021 and No. MUR010 dated May 12, 2021. Furthermore, the City may utilize this Contract to procure additional equipment from Contractor per the State of Tennessee Contract No. 64470 through the term of the contract. Such future procurements shall be executed through a Purchase Order after purchases exceeding $25,000 have been approved by Council.

2. **Term.** The term of this Contract shall be from _____, 2021 (the "Effective Date") to the expiration of the State of Tennessee No. Contract 64470 on September 30, 2021 or as amended by the State of Tennessee. Contractor's performance may be terminated in whole or in part:

    a. Upon 30-day prior notice, for the convenience of the City.

    b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.

c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.

d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.

e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. **Price; Compensation; Method of Payment.**

a. The price for the goods and other items to be provided under this Contract is set forth in the Contractor's Price Quote Sheet dated May 14, 2021 and No. MUR010 dated May 12, 2021, reflecting a price of $26,509.00 for one (1) 2021 Ford F-250 Truck 4x2 Crew Cab 6.75' box 160" WB SRW XL (W2A) and $35,485.00 for one (1) 2021 Ford Transit-350 15-Passenger RWD Medium Roof Van 148" WB XL (X2C) with options listed on quote (15 passenger seats, running boards, and 2 extra keys) for a **Total Purchase Price of sixty-one thousand nine hundred ninety four dollars ($61,994.00)**. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Contract and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.

b. Deliveries of all items for the Parks & Recreation Department shall be made within 90 days of issuance of Purchase Order to Attn: Nate Williams – Parks & Recreation Department – 697 Barfield Crescent Road, Murfreesboro, TN 37129. Contact Person Nate Williams (tel. 615-890-5333; email: nwilliams@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.

c. Deliveries of all items shall be made as stated in the Contract documents. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.

d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor's Quote.

e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

4. **Warranty.** Unless otherwise specified, warranty will be 3 year/36,000 miles bumper-to-bumper, and 5 year/60,000-mile powertrain warranty that covers engine, transmission, and rear differential.

5. **<u>Indemnification</u>.**

a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

c. <u>Copyright, Trademark, Service Mark, or Patent Infringement</u>.

i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (1) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (2) no cost or expense whatsoever accrues to the City at any time; and (3) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

1. Procure for the City the right to continue using the products or services.

2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.

3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.

iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has

any direct or indirect interest by license or otherwise, separate from that granted herein.

6. **Notices.** Notice of assignment of any rights to money due to Contractor under this Contract must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:	If to the Contractor:
City of Murfreesboro Attn: City Manager 111 West Vine Street Murfreesboro, TN 37130	Ford of Murfreesboro Attn: Jason McCullough 1550 NW Broad St. Murfreesboro TN 37130

7. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.

8. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.

9. **Maintenance of Records.** Contractor shall maintain documentation for all charges against City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by City or its duly appointed representatives. The records shall be maintained in accordance with the Generally Accepted Accounting Principles.

10. **Modification.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto.

11. **Relationship of the Parties**. Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.

12. **Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

13. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying-off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.

14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or

statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

15. **Gratuities and Kickbacks**. It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

16. **Assignment**. The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder

17. **Integration**. This Contract and State contract set forth the entire agreement between the parties with respect to the subject matter hereof and govern the respective duties and obligations of the parties.

18. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, epidemic, pandemic or other cause of similar or dissimilar nature beyond its control.

19. **Governing Law and Venue**. The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.

20. **Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.

21. **Attorney Fees**. In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution

22. **Effective Date.** This Contract shall not be binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

[signatures appear on the following page]

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2021 (the "Effective Date").

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

APPROVED AS TO FORM:

_____
Adam F. Tucker, City Attorney

TT of F MURFREESBORO, INC.

By: _____
Jason McCullough, Fleet Manager

Ford of Murfreesboro
1550 NW Broad St. Murfreesboro, TN 37129

SALES QUOTATION

Statewide Contract 209/64470

TO:
City of Murfreesboro

DATE	5/14/2021
F.O.B.	
TERMS	30 Days ARO
DELIVERY	TBD
NUMBER	

We are pleased to quote you the following:

QUANTITY	CODE	DESCRIPTION	UNIT PRICE	TOTAL
1	W2A	F-250 Crew Cab 4x2	$26,509.00	$26,509.00
1	OPT	Additional Options		
		Window Sticker and Build Sheet include detailed optional and upfit equipment information. Any options that are not highlighted are included at no additional cost.		
		Total Price	$26,509.00	$26,509.00

We will be happy to supply any further information you may need and trust that you call on us to fill your order, which will receive our prompt and careful attention.

QUOTE SIGNED

May 14, 2021
DATE

Prepared by: Jason McCullough
05/14/2021

Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2021 F-250 4x2 SD Crew Cab 6.75' box 160" WB SRW XL (W2A)

Price Level: 115

As Configured Vehicle

Code	Description	MSRP
Base Vehicle		
W2A	Base Vehicle Price (W2A)	$37,820.00
Packages		
600A	Order Code 600A *Includes:* *- Engine: 6.2L 2-Valve SOHC EFI NA V8 Flex-Fuel* *- Transmission: TorqShift-G 6-Spd Auto w/SelectShift* *- 3.73 Axle Ratio* *- GVWR: 10,000 lb Payload Package* *- Tires: LT245/75Rx17E BSW A/S (4)* *Spare may not be the same as road tire.* *- Wheels: 17" Argent Painted Steel* *Includes painted hub covers/center ornaments.* *- HD Vinyl 40/20/40 Split Bench Seat* *Includes center armrest, cupholder and driver's side manual lumbar.* *- Radio: AM/FM Stereo w/MP3 Player* *Includes 4 speakers.* *- SYNC Communications & Entertainment System* *Includes enhanced voice recognition with 911 Assist, 4.2" LCD center stack screen, AppLink and 1 smart-charging USB-C port.*	N/C
Powertrain		
996	Engine: 6.2L 2-Valve SOHC EFI NA V8 Flex-Fuel	Included
44S	Transmission: TorqShift-G 6-Spd Auto w/SelectShift	Included
X37	3.73 Axle Ratio	Included
STDGV	GVWR: 10,000 lb Payload Package	Included
Wheels & Tires		
TD8	Tires: LT245/75Rx17E BSW A/S (4) *Spare may not be the same as road tire.*	Included
64A	Wheels: 17" Argent Painted Steel *Includes painted hub covers/center ornaments.*	Included
Seats & Seat Trim		
A	HD Vinyl 40/20/40 Split Bench Seat *Includes center armrest, cupholder and driver's side manual lumbar.*	Included
Other Options		
160WB	160" Wheelbase	STD

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

2021 F-250 4x2 SD Crew Cab 6.75' box 160" WB SRW XL (W2A)

Price Level: 115

As Configured Vehicle (cont'd)

Code	Description	MSRP
90L	Power Equipment Group *Deletes passenger-side lock cylinder. Includes upgraded door trim panel.* *Includes:* *- Accessory Delay* *- Trailer Tow Mirrors w/Power Heated Glass* *Includes manual folding, manually telescoping and heated convex spotter mirror.* *- Advanced Security Pack* *Includes SecuriLock Passive Anti-Theft System (PATS) and inclination/intrusion sensors.* *- Power Locks* *- Power Tailgate Lock* *- Power Front & Rear Seat Windows* *Includes 1-touch up/down driver/passenger window.* *- Remote Keyless Entry*	$1,075.00
PAINT	Monotone Paint Application	STD
587	Radio: AM/FM Stereo w/MP3 Player *Includes 4 speakers.* *Includes:* *- SYNC Communications & Entertainment System* *Includes enhanced voice recognition with 911 Assist, 4.2" LCD center stack screen, AppLink and 1 smart-charging USB-C port.*	Included
Emissions		
425	50-State Emissions System	STD
Interior Color		
AS_01	Medium Earth Gray	N/C
Exterior Color		
Z1_01	Oxford White	N/C
SUBTOTAL		$38,895.00
Destination Charge		$1,695.00
TOTAL		$40,590.00

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared by: Jason McCullough
05/14/2021

Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2021 F-250 4x2 SD Crew Cab 6.75' box 160" WB SRW XL (W2A)

Price Level: 115

Major Equipment

(Based on selected options, shown at right)

6.2L V-8 SOHC w/SMPI 385hp
TorqShift-G 6 speed automatic w/OD

Exterior: Oxford White
Interior: Medium Earth Gray

* 4-wheel ABS
* Traction control
* Battery with run down protection
* Advance Trac w/Roll Stability Control
* Tinted glass
* Streaming audio
* Dual power remote heated mirrors
* 17 x 7.5 steel wheels
* Driver and front passenger seat mounted side airbags
* Tachometer
* Underseat ducts
* 60-40 folding rear split-bench
* Class V hitch
* Rear axle capacity: 6200 lbs.
* Rear spring rating: 6340 lbs.
* Frame Yield Strength 50000 psi
* Brake assistance
* LT 245/75R17 E BSW AS S-rated tires
* Firm suspension
* Air conditioning
* AM/FM stereo with seek-scan, external memory control
* Daytime running
* Variable intermittent wipers
* Dual front airbags
* SecuriLock immobilizer
* Message Center
* Reclining front split-bench seats
* Audio control on steering wheel
* Front axle capacity: 5250 lbs.
* Front spring rating: 4250 lbs.
* Frame section modulus: 10.7 cu.in.
* Cab to axle: 39.9"

Fuel Economy

As Configured Vehicle

	MSRP
STANDARD VEHICLE PRICE	$37,820.00
Order Code 600A	N/C
Engine: 6.2L 2-Valve SOHC EFI NA V8 Flex-Fuel	Included
Transmission: TorqShift-G 6-Spd Auto w/SelectShift	Included
3.73 Axle Ratio	Included
GVWR: 10,000 lb Payload Package	Included
Tires: LT245/75Rx17E BSW A/S (4)	Included
Wheels: 17" Argent Painted Steel	Included
HD Vinyl 40/20/40 Split Bench Seat	Included
160" Wheelbase	STD
Monotone Paint Application	STD
Radio: AM/FM Stereo w/MP3 Player	Included
50-State Emissions System	STD
SYNC Communications & Entertainment System	Included
Power Equipment Group	$1,075.00
Accessory Delay	Included
Trailer Tow Mirrors w/Power Heated Glass	Included
Advanced Security Pack	Included
Power Locks	Included

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared by: Jason McCullough
05/14/2021

Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2021 F-250 4x2 SD Crew Cab 6.75' box 160" WB SRW XL (W2A)

Price Level: 115

Major Equipment

City
N/A

Hwy
N/A

As Configured Vehicle

	MSRP
Power Tailgate Lock	Included
Power Front & Rear Seat Windows	Included
Remote Keyless Entry	Included
Oxford White	N/C
Medium Earth Gray	N/C
SUBTOTAL	$38,895.00
Destination Charge	$1,695.00
TOTAL	**$40,590.00**

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Ford of Murfreesboro
1550 NW Broad St. Murfreesboro, TN 37129

SALES QUOTATION

Statewide Contract 209/64470

TO:
City of Murfreesboro

DATE	5/12/2021
F.O.B.	
TERMS	30 Days ARO
DELIVERY	TBD
NUMBER	MUR010

We are pleased to quote you the following:

QUANTITY	CODE	DESCRIPTION	UNIT PRICE	TOTAL
1	X2C	Transit 350 Mid Roof Passenger Wagon	$33,605.00	$33,605.00
1	OPT	Additional Options	$1,880.00	$1,880.00
		Window Sticker and Build Sheet include detailed optional and upfit equipment information. Any options that are not highlighted are included at no additional cost.		
		Total Price	$35,485.00	$35,485.00

We will be happy to supply any further information you may need and trust that you call on us to fill your order, which will receive our prompt and careful attention.

QUOTE SIGNED

May 12, 2021
DATE

Prepared by: Jason McCullough
05/12/2021

Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2021 Transit-350 Passenger RWD Medium Roof Van 148" WB XL (X2C)

Price Level: 115

As Configured Vehicle

Code	Description	MSRP
Base Vehicle		
X2C	Base Vehicle Price (X2C)	$43,145.00
Packages		
301A	Order Code 301A *Includes:* *- Engine: 3.5L PFDi V6 Flex-Fuel* *Includes port injection.* *- Transmission: 10-Spd Automatic w/OD & SelectShift* *Includes auxiliary transmission oil cooler.* *- 3.73 Axle Ratio* *- Tires: 235/65R16C 121/119 R AS BSW* *- Wheels: 16" Silver Steel w/Black Hubcap* *- Radio: AM/FM Stereo* *Includes 4.0" multi-function display, Bluetooth and dual USB ports.* *- 8 Speakers (4 Front/4 Rear)*	N/C
Powertrain		
998	Engine: 3.5L PFDi V6 Flex-Fuel *Includes port injection.*	Included
44U	Transmission: 10-Spd Automatic w/OD & SelectShift *Includes auxiliary transmission oil cooler.*	Included
X73	3.73 Axle Ratio	Included
NONGV	GVWR: 9,400 lbs	Included
Wheels & Tires		
STDTR	Tires: 235/65R16C 121/119 R AS BSW	Included
STDWL	Wheels: 16" Silver Steel w/Black Hubcap	Included
Seats & Seat Trim		
21G	Dark Palazzo Gray Vinyl Bucket Seats *Deletes driver lumbar support and passenger armrest. Includes 2-way manual driver seat, 2-way manual passenger seat and driver armrest.*	N/C
V	Vinyl Front Bucket Seats	N/C
96P	15-Passenger Seats	$1,495.00

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

2021 Transit-350 Passenger RWD Medium Roof Van 148" WB XL (X2C)

Price Level: 115

As Configured Vehicle (cont'd)

Code	Description	MSRP
	Includes 1st row: 2 seats, 2nd row: 3 seats, 3rd row: 3 seats, 4th row: 3 seats and 5th row: 4 seats. *Includes:* *- GVWR: 9,400 lbs*	
Other Options		
PAINT	Monotone Paint Application	STD
148WB	148" Wheelbase	STD
153	Front License Plate Bracket Standard in states requiring two license plates and optional in all other states.	N/C
68H	Running Boards *Covers the B-C pillar passenger-side.*	$310.00
58U	Radio: AM/FM Stereo *Includes 4.0" multi-function display, Bluetooth and dual USB ports.* *Includes:* *- 8 Speakers (4 Front/4 Rear)*	Included
86F	2 Additional Keys (4 Total) *Includes key fobs.*	$75.00
Emissions		
425	50-State Emissions System	STD
Interior Color		
VK_03	Dark Palazzo Gray	N/C
Exterior Color		
YZ_01	Oxford White	N/C
SUBTOTAL		$45,025.00
Destination Charge		$1,695.00
TOTAL		$46,720.00

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared by: Jason McCullough
05/12/2021

Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2021 Transit-350 Passenger RWD Medium Roof Van 148" WB XL (X2C)

Price Level: 115

Major Equipment

(Based on selected options, shown at right)

3.5L V-6 DOHC w/port/direct injection 275hp
10 speed automatic w/OD

Exterior: Oxford White
Interior: Dark Palazzo Gray

* 4-wheel ABS
* Electric parking brake
* LT 235/65R16 C BSW AS S-rated tires
* Advance Trac w/Roll Stability Control
* Tinted glass
* Bluetooth streaming audio
* Variable intermittent rain detecting wipers wipers
* Dual front airbags
* Airbag occupancy sensor
* Rear window defroster
* Underseat ducts
* 2nd row bench
* Running boards
* Brake assistance
* Traction control
* Battery with run down protection
* Air conditioning
* AM/FM stereo with seek-scan, auxiliary audio input, external memory control
* Dual power remote mirrors
* 16 x 6.5 steel wheels
* Driver and front passenger seat mounted side airbags
* SecuriLock immobilizer
* Tachometer
* Reclining front bucket seats
* Split-bench
* Audio control on steering wheel

Fuel Economy

City
N/A

Hwy
N/A

As Configured Vehicle

	MSRP
STANDARD VEHICLE PRICE	$43,145.00
Order Code 301A	N/C
Engine: 3.5L PFDi V6 Flex-Fuel	Included
Transmission: 10-Spd Automatic w/OD & SelectShift	Included
3.73 Axle Ratio	Included
Tires: 235/65R16C 121/119 R AS BSW	Included
Wheels: 16" Silver Steel w/Black Hubcap	Included
Monotone Paint Application	STD
148" Wheelbase	STD
Radio: AM/FM Stereo	Included
50-State Emissions System	STD
8 Speakers (4 Front/4 Rear)	Included
Dark Palazzo Gray Vinyl Bucket Seats	N/C
Vinyl Front Bucket Seats	N/C
15-Passenger Seats	$1,495.00
GVWR: 9,400 lbs	Included
Front License Plate Bracket	N/C
Running Boards	$310.00
2 Additional Keys (4 Total)	$75.00

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Bernhard MMC, LLC AIA Contract for Patterson Park Cooling Tower and Unit Replacement

Department: Parks and Recreation

Presented by: Nate Williams, Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Contract for Patterson Park Cooling Tower and Unit Replacement.

Staff Recommendation

Approve the construction contract with Bernhard MMC, LLC.

Background Information

Patterson Park's chiller has a main distribution manifold, internal water pump, and baffles for the fill liner that are irreparable, forcing the chiller to operate at only 50-60%. Additionally, only three of the seven roof top compressors are operational, leading to undesirable temperature conditions inside of the facility.

The Department followed the Purchasing Codes, and Bernhard MMC was the only bidder for the work with a proposal totaling $245,128.

Council Priorities Served

Establish strong City brand

Repairs to the chiller and compressor at Patterson Park will allow for the unit to become fully operational, making the temperature inside of the facility acceptable.

Fiscal Impact

Funding for the cost of repairs, $245,128, is allocated in the Department's FY21 Operating Budget.

Attachment

Construction Agreement with Bernhard MMC, LLC

AIA® Document A105™ – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the 14th day of May in the year 2021
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Murfreesboro, Tennessee, a Tennessee municipal corporation
111 West Vine Street
Murfreesboro, TN 37130

and the Contractor:
(Name, legal status, address and other information)

Gregg Wells, Senior Vice President
Bernhard MCC, LLC
800 Airpark Center Drive, Suite 816
Nashville, Tennessee 37217

for the following Project:
(Name, location and detailed description)

(Paragraphs deleted)
Patterson Park Cooling Tower and Unit Replacements

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

.1 this Agreement signed by the Owner and Contractor;

.2

(Paragraphs deleted)

written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

.3 other documents, if any, identified as follows:

1. Exhibit A – Supplemental Conditions
2. Exhibit B – Insurance Requirements
3. Exhibit C – Non-Collusion Affidavit
4. Exhibit D – Drug Free Workplace Affidavit
5. Exhibit E – Iran Divestment Act Affidavit
6. Exhibit F – Performance Bond
7. Exhibit G – Payment Bond
8. Exhibit H – Specifications

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9. Exhibit I – Invitation to Bid (ITB) (issued 4/13/21)
10. Exhibit J – Contractor's Bid Response (dated 5/06/21)

In the event of a conflict between the terms of this Agreement and those of either Exhibit A or Exhibit B, the exhibit's terms shall take precedence.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

The date of commencement shall be the date
(Paragraphs deleted)
on which the Owner issues the Notice to Proceed.

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:
(Check the appropriate box and complete the necessary information.)

[X] Not later than one hundred twenty (120) calendar days from the date of Contractor accepts the pre-engineered building on the Project site..

[ ] By the following date:

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

Two Hundred Forty-Five Thousand One Hundred Twenty-Eight Dollars and No Cents **($245,128.00)**, as reflected in greater detail in Exhibit J.

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:
(Itemize the Contract Sum among the major portions of the Work.)

Portion of the Work	Value
N/A	N/A

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:
(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

N/A

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:
(Identify each allowance.)

Item	Price
N/A	N/A

§ 3.5 Unit prices, if any, are as follows:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

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Item	Units and Limitations	Price per Unit ($0.00)

§3.6 The Contractor shall pay all taxes, levies, duties, and assessments of any nature, that are applicable to any Work under this Contract. The Contract Sum and any agreed variations thereof shall include all taxes imposed by law. The Contractor shall make any and all payroll deductions required by law. The Contractor herein indemnifies and holds the Owner harmless from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor's Applications for Payment certified by the Owner, the Owner shall pay the Contractor, in accordance with Article 12, as follows:
(Insert below timing for payments and provisions for withholding retainage, if any.)

any undisputed amount not later than thirty (30) days after the Owner receives the Contractor's Application, provided, however, the Owner may withhold five percent (5%) of any undisputed amount as retainage

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.
(Insert rate of interest agreed upon, if any.)

3.0 % per annum

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1 and Exhibit B:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than Two Million Dollars ($ $2,000,000.00) each occurrence, Two Million Dollars ($ $2,000,000.00) general aggregate, and Two Million Dollars ($ $2,000,000.00) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than One Million Dollars ($ $1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than One Million Dollars ($ $1,000,000.00) each accident, One Million Dollars ($ 1,000,000) each employee, and One Million Dollars ($ 1,000,000.00) policy limit.

§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

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Coverage	Limits
Umbrella/Excess	Three Million Dollars ($3,000,000.00)
Contractor's Pollution Liability	One Million Dollars ($1,000,000.00)
Equipment Property Insurance	One Million Dollars ($1,000,000.00)

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Engineer, Engineer's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

§ 5.6 Payment and Performance Bonds.

§ 5.6.1 Unless waived by the Owner in the event of a Contract Sum less than $100,000, the Contractor shall secure performance and payment bonds for 100% of the Contract Sum on a form acceptable to the Owner covering the faithful performance and completion of the Agreement and the payment of all obligations arising there under. Bonds shall be issued by a surety licensed in the State of Tennessee and satisfactory to the Owner.

§ 5.6.2 The Contractor must provide evidence of Bonds prior to the beginning of work. If the Performance and Payment Bonds are not furnished within 30 days of Notice of Award, the Contractor Bid Bond may be forfeited, and the Contract may be awarded to an alternate contractor.

§ 5.6.3 The Owner will require the Contractor to increase the Performance and Payment Bonds to accommodate Change Orders that individually or cumulatively exceed 10% of the original Contract Sum. The Contractor shall furnish to the Owner and keep in force during the term of the Contract, performance and labor and material payment bonds guaranteeing that the Contractor will perform its obligations under the Contract and will pay for all labor and materials furnished for the Work.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.2.1 Specifications may describe types and quantities of materials, equipment, and other items of the Work and methods of installation that cannot be easily shown on the Drawings. It is not intended that the Specifications will mention every item of Work that can be adequately shown on the Drawings nor is it intended that the Drawings will show all items of Work adequately described or required by the Specifications, even if it is the case that such Work could have been shown thereon. The Contract Documents are complimentary, and what is required by, or reasonably inferable, by one shall be as binding as if required by all. In the event of conflicts or discrepancies among the Contract Documents, this Agreement will take precedent over the Specifications and Drawings.

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§ 6.2.2 Prior to the inspections for Substantial Completion and Final Completion, as applicable, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site: clean and polish all floors: clean and polish all hardware; and repair all Work damaged during cleaning.

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. In the event there are conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. Amendments or Change Orders, with those of later date having precedence over those of earlier date
2. The Agreement
3. Exhibits and Addenda, with those of later date having precedence over those of earlier date.
4. Drawings and Specifications
5. In the case of any conflicts or discrepancies between Drawings and Specifications or within or among the Contract Documents and not clarified by Addendum, the better quality or greater quantity of Work shall be provided in accordance with the Owner's interpretation.

§ 6.4 Ownership and Use of Engineers' Drawings, Specifications and Other Documents

Documents prepared by the Engineers are instruments of the Engineers' service for use solely with respect to this Project. The Engineers shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Engineers.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.
(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

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To Owner:	To Contractor:
Craig Tindall, City Manager ctindall@murfreesborotn.gov with copies to: • Bo Jones, Owner's Representative jjones@murfreesborotn.gov • Gary Whitaker, Assistant City Manager gwhitaker@murfreesborotn.gov • Kayla Walker, Project Development kwalker@murfreesborotn.gov	Gregg Wells, Senior Vice President gregg@bernhard.com

Any notice sent via email shall be sent requesting a delivery receipt for the message. If the party sending the notice does not receive a delivery receipt within 24 hours, the party shall send notice via Certified U.S. Mail, private courier, or hand delivery to the other party.

§ 6.5 Non-Discrimination. It is the policy of the Owner not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Contract, the Contractor certifies and warrants it will comply with this policy.

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges. If the Contractor's bid includes fees that the Owner has paid, or is required to pay directly, or that the Owner may waive, the Contractor shall, at the Owner's option, either pay these fees as a part of their bid or deduct fees from Contract Sum as a deductive change order.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents or is in default of its material obligations under the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made or default is cured, for which there will be no Change Order extending the Contract Time or the Contract Sum.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Owner may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Owner. In addition, if payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner immediately upon the Owner's written demand.

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§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Owner. Reports of errors, inconsistencies, or omissions must be made in writing and copies provided directly to the Owner.

§ 8.1.3 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

.1 That the Contractor is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

.2 That the Contractor is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

.3 That the Contractor is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental authorities having jurisdiction over it, the Work, or the site of the Project; and

.4 That the execution of the Contract and its performance thereof are within the duly-authorized powers of the Contractor and the signatory on behalf of the Contractor.

§ 8.1.4 Contractor shall be responsible for ascertaining correct dimensions, and Contractor is not to ascertain dimensions simply by scaling drawings unless directed to do so by the Owner or Project Engineer. In case of any discrepancy between Drawings and Specifications, Contractor shall consult the Project Engineer promptly for an interpretation before proceeding with the Work**.**

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's information a Contractor's construction schedule for the Work. Contractor must maintain an updated project schedule and if milestones are negatively impacted, Contractor must, prior to submission of the next application for payment, provide Owner with a specific plan to return the project to the project schedule.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner have made a timely and reasonable objection.

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§ 8.3.3 Layout new construction lines and verify slab slope and conditions. If discrepancies between actual lines and elevations and those indicated on plans exist, notify Project Engineer and Owner and obtain a decision before starting work.

§ 8.3.4 The Contractor shall establish and maintain reference points required for the work. Contractor shall lay out on the rough floor the exact locations of partitions, openings, etc. as a guide to all trades. Contractor shall verify elevations, lines, levels, and dimensions indicated on the drawings before commencing work.

§ 8.3.5 The Contractor shall be responsible to the Owner for the acts and omissions of all his employees and all Subcontractors, their agents and employees, and all other persons performing any of the Work under a contract with the Contractor.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.4.3 Contractor agrees to keep the Project free and clear from all mechanic's liens, materialmen liens, and other liens. The Contractor shall discharge any such lien immediately but in no event more than 30 days after filing of such a lien. In the event such lien is not released or discharged within such 30 days period, the Owner shall have the right to pay all sums necessary to discharge such liens and the Owner shall have the right to deduct such amounts from any amounts due hereunder or demand immediate payment from the Contractor. In the event of any such deduction, the Contract Sum due under the Contract Documents automatically shall be reduced by the amount of such payment without the need for any Change Order. In no instance shall this provision affect any limitation or restriction imposed by law or regulation on the placement or enforcement of liens.

§ 8.4.4 Substitutions:

.1 Where materials, equipment, apparatus, or other products are specified by manufacturer, brand name, type or catalog number, such designation shall establish standards of quality and style desired. Any reasonable request for substitution will be considered, if in the opinion of the Owner such materials are equal to the material specified and entirely satisfactory for use in the project. The Owner shall be the sole judge of acceptability of substitution.

. 2 By making requests for substitutions, the Contractor:

A. Represents that it has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

B. Represents that it will provide the same warranty for the substitution as it would for the product specified;

C. Certifies that the cost data presented is complete and includes all related costs for the substituted product and for Work that must be changed as a result of the substitution, and waives all claims for additional costs related to the substitution that subsequently become apparent; and

D. Shall coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects. .

.3 When a material, equipment or system is specified by the name of one or more manufacturers, such material, equipment, or system shall form the basis of the Contract. If the Contractor desires to make a substitution, Contractor shall comply with Specification Sections 01 25 13 and 00 43 25.

.4 The Owner shall be entitled to reimbursement from the Contractor for amounts the Owner pays to an engineer or consultant for reviewing the Contractor proposed substitutions and making agreed-upon changes in the Drawings and Specifications resulting from such substitutions.

§ 8.4.5 The use of undocumented workers is not permitted.

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§ 8.4.6 The Contractor shall have the Subcontractor who installs them, correct defects in bases, surfaces, or substrates on which finishing materials are to be applied, construction is to be added, or equipment is to be mounted.

§ 8.4.7 The Contractor shall disclose the existence and extent of any financial interest, whether direct or indirect, he has in subcontractors or material suppliers which he may propose for this project.

§ 8.5 Warranty

§ 8.5.1 The Contractor warrants to the Owner that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the contract documents. The warranty provided in this Section shall be in addition to and not in limitation of any other warranty, including, manufacturer or supplier warranties, or remedy required by law or by the Contract Documents, and notwithstanding anything to the contrary contained in the Contract Documents. This warranty commences upon Final Completion. The Contractor shall promptly repair and replace, at the Contractor's sole cost and expense, any materials, equipment, or Work covered by and violating the warranty. All warranty work shall be coordinated with the Owner in order to limit the disruption of operation and completed Project. All such warranty work shall be completed in compliance with the terms and conditions of the Contract Documents.

§ 8.5.2 Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse of Owner or Owner's invitees, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 8.5.3 Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferrable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

§ 8.7 Permits, Fees and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Owner shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

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§ 8.11 Cleaning Up
The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials. If the Contractor fails to clean-up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor and deducted from the remaining. No on-site burning of trash is allowed.

§ 8.12 Indemnification
To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Engineers, Engineers' consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. The provisions of this Section 8.12 shall survive the completion of the Work or termination of the Agreement.

ARTICLE 9 PROJECT MANAGEMENT

§ 9.1 The Owner will provide administration of the Contract as described in the Contract Documents. The Owner will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Owner will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work. Representatives of the Owner and Contractor shall meet periodically at mutually agreed-upon intervals for the purposes of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participation in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationship which may otherwise exist.

§ 9.3 The Owner will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Owner will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Owner's observations and evaluations of the Contractor's Applications for Payment, the Owner will review and certify the amounts due the Contractor.

§ 9.5 The Owner has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Owner will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Owner will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 Interpretations and decisions of the Owner will be consistent with the intent of, and reasonably inferable from the Contract Documents.

(Paragraph deleted)

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing.

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§ 10.1.1 Changes in the Work may be accomplished by Change Order, Change Directive, or Field Order, all of which the Contractor shall diligently effectuate and carry out.

.1 A Change Order is a written instrument prepared by the Owner and signed by the Owner and the Contractor, stating their agreement upon all of the following: (i) the change of the Work: (ii) the amount of the adjustment, if any, in the Contract Sum; and (iii) the extent of the adjustment, if any, in the Contract Time. No change to the Contract Sum or Contract Time is effective without a written, signed Change Order. The Contractor's sole remedy for any changes is to secure a Change Order.

.2 A Change Directive is a change required by the Owner that does not affect the Contract Time or Contract Sum and will be issued by the Owner in writing to the Contractor.

.3 A Field Order is a minor change or deviation in the Specifications or Drawings and not inconsistent with the Contract that do not affect the Contract Time or Contract Sum and can be made verbally by the Owner and summarized within seven days in writing provided to the Contractor. The Contractor may request that the Owner convert a Field Order to a Change Directive.

§ 10.1.2 Should the Contractor believe a Change Directive requires a Change Order, the Contractor must make a Claim in accordance with the Agreement within 15 days of the Change Directive being issued.

§ 10.1.3 The Owner's representative shall have authority to authorize contract modifications less than $10,000.00. Contract modifications of $10,000.00 or greater require approval by Murfreesboro City Council.

§ 10.2 The Owner may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

§ 10.4 The combined overhead and profit included in the total cost to the Owner of a change in the Work shall be based upon the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces at the fee negotiated with the owner of the cost.

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor.

.3 For each Subcontractor or Sub-Subcontractor involved, for Work performed by that Subcontractor's or Sub-Subcontractor's own forces, ten percent (10%) of the cost.

.4 For each Subcontractor, for Work performed by the Subcontractor's Sub- Subcontractors, five percent (5%) of the amount due the Sub-Subcontractor.

.5 Cost to which overhead and profit is to be applied shall be determined in accordance with Section 10.1.1.

.6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials and Subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are Subcontracts, they shall be itemized also. In no case will a change involving over $500.00 be approved without such itemization.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract. Extensions of time will not be granted for delays caused by inadequate construction force, the failure of the Contractor to place orders for equipment or materials sufficiently in advance to ensure delivery when needed, or the failure of Contractor to protect properly the site from inclement weather.

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§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment. If the Contractor is delayed at any time in progress of the work by an act or neglect of the Owner or its employee(s), or of a separate Contractor employed by the Owner, or by changes ordered in the work that affect the "critical path" of the work, or by labor disputes, fire, unavoidable casualties, or other causes beyond the Contractor's control, except as defined in Articles 3 and 15, or by other causes which the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as Owner may determine. Extended overhead, profit, and other indirect costs related to the extension of the contract time will not be allowed.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Owner an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing. The form of Application for Payment duly notarized shall be a current authorized edition of AlA Document G702-1992 Application and Certificate for Payment, supported by a current authorized edition of AlA Document G703-1992, Continuation Sheet.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.2.3 In Applications for Payment, the amount represented as total completed and stored to date shall reflect the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work, and materials and equipment suitably stored in accordance with Subparagraph 4.2 and not exceed the Contract Sum less the value of incomplete work and corrections required. This total completed and stored to date shall not be construed to define completion as determined for Substantial Completion or final completion of the Work according to 12.5 or 12.6.

§ 12.2.4 Applications for Payment shall indicate retainage withheld from the total completed and stored to date as follows: Five percent (5%) until acceptance of a Certificate of Substantial Completion, and thereafter two percent (2%) until final payment. The resulting amount shall be indicated as the total earned less retainage. Applications that reduce retainage shall be accompanied by Consent of Surety.

§ 12.2.5 Applications for Payment shall indicate the total earned less retainage, and the aggregate of previous payments made subtracted therefrom, and an amount requested.

§ 12.3 Certificates for Payment

§ 12.3.1 The Owner will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Owner determines is properly due, and notify the Contractor and Owner in writing of the Owner's reasons for withholding certification in part; or (3)

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withhold certification of the entire Application for Payment, and notify the Contractor of the Owner's reason for withholding certification in whole. If certification or notification is not made within such seven-day period, the Contractor may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.3.2 The Owner may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Contractor. If the Contractor and the Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount for which the Owner is able to make such representations. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions, because of, but not limited to:

.1 defective Work not remedied;

.2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;

.3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;

.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

.5 damage to the Owner or a separate contractor;

.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

.7 persistent failure to carry out the Work in accordance with the Contract Documents or unsatisfactory execution of the Work;

.8 failure of the Contractor to comply with applicable Codes, Laws, or Regulations;

.9 failure to update as-built drawings or provide construction photographs with the Application for Payment as required by the Contract Documents. (If these documents/items are not provided for actual work performed for a period of work covered by an Application for Payment and cannot be accurately provided due to passage of time, the Owner may deduct a reasonable amount from the Agreement sum to reflect work not performed that cannot be recovered due to progress of work.)

.10 failure to update the CPM schedule concurrent with the request for payment; or

.11 Any other reasonable basis to withhold certification.

§ 12.3.4 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld. The Owner shall have no liability whatsoever for
interest or other charges resulting from withholding of payment for any reason stated in this Article.

§ 12.3.5 If any claim or lien is made or filed with or against the Owner, the Project or the Premises by any person claiming that the Contractor or any Subcontractor or other person under it has failed to make payment for any labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, or if at any time there shall be evidence of such nonpayment or of any claim or lien for which, if established, the Owner might become liable and which is chargeable to the Contractor, or if the Contractor or any Subcontractor or other person under it causes damage to the Work or to any other work on the Project, or if the Contractor fails to perform or is otherwise in default under any of the terms or provisions of the Contract Documents, the Owner shall withhold certification, and the Owner shall have the right to retain from any payment then due or thereafter to become due an amount which the Owner shall deem sufficient to:

.1 satisfy, discharge and/or defend against any such claim or lien or any action which may be brought or judgement which may be recovered thereon,

.2 make good any such nonpayment, damage, failure or default, and

.3 compensate the Owner for and indemnify it against any and all losses, liability, damages, costs and expenses, including reasonable attorneys' fees and disbursements, which may be sustained or incurred by the Owner in connection therewith. The Owner shall have the right to apply and charge against the Contractor so much of the amount retained as may be required for the foregoing purposes. If such amount is insufficient therefore, the Contractor shall be liable for the difference and pay the same to the Owner.

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§ 12.4 Progress Payments

§ 12.4.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 The Owner shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.4.5 The Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall reflect such payment on the next Certificate for Payment.

§ 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficient complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when all required occupancy permits have been issued such as, but not limited to, Local Building Occupancy Permits, and copies of same have been delivered to the Owner. In order to occupy or utilize the Work for its intended use, Owner must have received complete Project Data, Operating and Maintenance Data, orientation and training, as may be required by the specifications. The work will not be considered ready for Substantial Completion if any of the following conditions exist:

.1 Excessive punch list work remains to be completed that would prevent or interfere with the occupancy and intended use of the facility in the Owner's reasonable judgment;

.2 Incomplete or defective work remains which would prevent or interfere with the occupancy and intended use of the facility;

.3 The building mechanical systems have not been tested, balanced, and accepted as being fully complete;

.4 The building electrical and life safety systems have not been tested and accepted as being fully complete;

.5 The building commissioning process is not complete;

.6 Final clean-up is not complete to support the occupancy and intended use of the facility other than clean-up associated with punch list items;

.7 Final Inspections, approvals, and temporary or final Certificates of Occupancy by regulatory officials are not received and complete;

.8 Successful compliant testing of all data cabling (copper, fiber or other) and labeling of all data ports is incomplete; or

.9 Any other basis for the Owner's reasonable determination that Substantial Completion has not been achieved.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Owner and the Owner will make an inspection to determine whether the Work is substantially complete. When the Owner determines that the Work is substantially complete, the Owner shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.5.3 Upon receipt of the Certificate of Substantial Completion, Contractor may submit a final Application for Payment that includes the retainage withheld from prior Applications pursuant to Section 4.1.

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§ 12.5.4 Unless the project has phased Substantial Completion dates, the Owner will make only one such inspection to determine Substantial Completion. If this inspection determines that the work is not substantially complete, either because of major items not completed or an excessive number of punch list items, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of $1,000.00 per person per day plus expenses. The costs of these re-inspections shall be added to the contract by change order.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Owner will inspect the Work. When the Owner finds the Work acceptable and the Contract fully performed, the Owner will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Owner releases and waivers of liens, claims, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 12.6.4 Unless the project has phased Final Completion dates, The Owner will make only one such inspection to determine Final Completion. If this inspection determines that the work is not finally complete, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of $1,000.00 per person per day plus expenses. The costs of these re-inspections shall be added to the contract by change order.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

§ 13.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

§ 13.2 The Contractor is responsible for compliance with any requirements included in the Contract Documents and all applicable laws, rules, and regulations regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing. The Contractor shall provide the Owner with notice of all hazardous substances as regulated by the Comprehensive Environmental and Liability Act as amended and/or regulated under any other applicable law which the Contractor brings on to the site.

§ 13.3 When the storage of explosives, or other hazardous materials, substances or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall give the Owner reasonable advance notice.

§ 13.4 Protect owners, persons, building components not to be demolished or modified, and building grounds from damage of any sort. Furnish necessary equipment to provide this protection during the life of the contract. Construct and maintain necessary temporary drainage to keep excavations free of water.

§ 13.5 Provide protection for the stored materials against wind, storms, cold or heat. At the end of each day's work, cover new work or stored items likely to be damaged.

§ 13.6 Provide shoring and bracing required for safety and for the proper execution of the work and have same removed when the work is completed.

§ 13.7 Protect, maintain and restore any bench marks, monuments, etc. affected by this work. If bench marks or monuments are displaced or destroyed, points shall be re-established and markers reset under the supervision of a licensed surveyor, who shall furnish certificates of his work.

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ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Owner as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents. This provision does not relieve the Contractor from conforming to the requirements of the Contract Documents or correcting items not compliant with the Contract Documents per applicable laws, statutes, or any regulations, whether they are observable, concealed, or in any other condition or status, nor does this provision in any way limit any warranties, service contractors, or similar agreements with third party service, equipment, or materials providers.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other. In addition, the Contractor may not assign its responsibilities, duties, obligations, and rights under this Agreement, without the express written consent of the Owner. This does not prevent the Contractor from engaging subcontractors to perform various phases of the Project, but the Contractor shall be fully responsible to the Owner for the work, actions, and omissions of all such subcontractors. No person or entity shall be deemed to be a third-party beneficiary of any provisions of the Contract, nor shall any provisions thereof be interpreted to create a right of action or otherwise permit anyone not a signatory party to the Contract to maintain an action for personal injury or property damage.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Owner shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents, including specifically Section 15.2.4, or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Owner requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.2.4 In addition to any test, inspections, and approvals by applicable law or elsewhere in the Contract Documents, Owner shall arrange and bear the costs for the following tests:

1. Building pad and parking lot subgrade proof-roll test
2. Concrete testing
3. Structural Steel Visual Inspection of Bolts and Connections

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 15.4 Venue

Exclusive venue for any dispute arising from this Agreement or relating to this Project shall be in the Circuit or Chancery Courts of Rutherford County, Tennessee.

§ 15.5 Attorneys' Fees

If either party is required to bring an action to enforce the terms hereof or declare rights hereunder, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees from the non-prevailing party.

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§ 15.6 No Mandatory Arbitration
Notwithstanding anything to the contrary in this Agreement, or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

§ 15.7 Subject to Applicable Law; Severability
This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidity of any portion of this Agreement under the laws of the State of Tennessee or of the United States shall not affect the validity of the remainder of this Agreement.

§ 15.8 No Waiver; Cumulative Duties and Remedies
No action or failure to act by the Owner or the Contractor shall constitute a waiver of any right or duty afforded under the Contract Documents, nor shall any such action or failure to act constitute any approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing. The duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law or equity.

§ 15.9 Theft-Deterrence Program
The Contractor shall institute a theft-deterrence program designed to restrict construction worker access to properties of the Owner that are currently in use, to maintain supervision of the Contractor's and the Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from the Contractor's forces or the Contractor's subcontractor's forces, as charged and determined by the local authorities having jurisdiction.

§ 15.10 No Construction Against Maker of Modifications
As a material consideration of the making of this Agreement, the modifications to this Agreement shall not be construed against the maker of said modifications.

§ 15.11 Independent Contractors
The parties agree that the contractual relationship of the Contractor to the Owner is one solely of an independent contractor in all respects and that the Contract Documents do not in any way create a partnership, joint venture, or any other relationship between the parties other than the contractual relationship as specified in the Contract.

§ 15.12 Binding on Successors and Assigns
This Agreement in its entirety shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators, or assigns.

§ 15.13 Execution
The Contract Documents may be executed in any number of counterparts, all of which taken together shall constitute one and the same Agreement. Any signature of or pursuant to the Contract Documents shall be considered for all purposes an original signature and of the same legal effect as an original, provided that at the request of a party any signature sent by facsimile shall subsequently be confirmed by an original re-execution.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor
If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 Termination by the Owner for Cause
§ 16.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** is otherwise guilty of substantial breach of a provision of the Contract Documents.

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§ 16.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

.1 take possession of the site and of all materials thereon owned by the Contractor, and

.2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 Termination by the Owner for Convenience

§ 16.3.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. In such case, the Owner will provide the Contractor seven days written notice of intent to terminate. Upon receipt of such notice, the Contractor shall take immediate action to mitigate any damage or additional expense. The Contractor shall be entitled to receive payment for Work executed.

§ 16.3.2 The terms of this Contract are contingent upon sufficient appropriations and authorizations being made by the Owner for the performance of this Contract. If sufficient appropriations and authorizations are not made by the Owner, this Contract shall terminate, without penalty or expense to the Owner of any kind whatsoever, upon written notice being given by the Owner to the Contractor. Upon receipt of such notice, the Contractor shall take immediate action to mitigate any damage or additional expense. The Contractor shall be entitled to receive payment for Work executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

§ 17.1 Claims and Disputes

§ 17.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and the Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 17.1.2 Notice of Claims.

.1 Claims by either the Owner or the Contractor must be initiated by written notice to the other party. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

.2 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a contractor default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 17.1.3 Continuing Contract Performance. Pending final resolution of a Claim, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 17.1.4 Claims

.1 **For Additional Cost**. If the Contractor makes a Claim for an increase in the Contract Sum, written notice to the Owner shall be given before proceeding to execute the Work if practical or within 15 days of any Change Directive. Prior notice is not required for Claims relating to an emergency endangering life or property.

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.2 **For Additional Time.** If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice to the Owner shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions that were clearly abnormal for the period of time such that they could not have been reasonably anticipated and clearly had an adverse effect on the scheduled construction.

A. Claims for increase in the Contract Time shall set forth, in detail the circumstances that form the basis for the Claim, the date upon which the cause of the delay began to affect the progress of the Work, the date upon which the cause of delay ceased to affect the progress of the Work, and the number of days increased in the Contract Time claimed as a consequence of each cause of delay.

B. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all of the activities affected by the circumstances forming the basis of the claim. The Contractor shall not be entitled to a separate increase of the Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the work, or for concurrent delays due to the fault of the Contractor.

§ 17.1.5 Initial Decision on Claims Made by Contractor

.1 The Owner will make an initial decision on all claims submitted by the Contractor. An initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Owner with no decision having been rendered.

.2 The Owner will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (i) request additional supporting data from the claimant or a response with supporting data from the other party, (ii) reject the Claim in whole or in part, (iii) approve the Claim, (iv) suggest a compromise, or (v) advise the Contractor that the Owner is unable to resolve the Claim because the Owner lacks sufficient information to evaluate the merits of the Claim.

.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist Owner in rendering a decision.

.4 The Owner will render an initial decision approving or rejecting the Claim or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (i) be in writing: (ii) state the reasons therefor: and (iii) notify the Contractor of any recommended Change Order.

§ 17.1.6 Mediation.

.1 Claims, disputes, or other matters in controversy arising out of or related to the contract not resolved by the Initial Decision-Making process, nor waived under this Contract, shall be subject to mediation as a condition precedent to binding dispute resolution.

.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Contract. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation.

.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

.4 Exceptions:

A. Neither the Owner nor Contractor are not be required to mediate any third-party claim, cross-claim, counter claim, or other claim or defenses in any action that is commenced by a third-party who is not obligated by contract to arbitrate disputes with the Owner and Contractor.

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B. The Owner or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice (but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Tennessee law), without the first requesting mediation.

C. This section 17.1.6 does not apply to, and may not be construed to require mediation of, any claims, actions or other process undertaken, filed, or issued by the City of Murfreesboro Building and Codes Department, Planning Department, Police Department, Fire Department, or any other agency of the Owner (the City) acting in its governmental permitting, for the benefit of public health, safety, and welfare, or other regulatory capacity.

§ 17.1.7 Binding Dispute Resolution. For any Claim subject to, but not resolved by, mediation per this agreement, the method of binding dispute resolution shall be litigated only in a Rutherford County court of competent jurisdiction.

This Agreement entered into as of the day and year first written above.
(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

OWNER *(Signature)*
Shane McFarland, Mayor
(Printed name and title)

CONTRACTOR *(Signature)*
Gregg Wells, Senior Vice President
(Printed name and title)
LICENSE NO.: 69551
JURISDICTION: Tennessee

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney

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Additions and Deletions Report for

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PAGE 1

AGREEMENT made as of the 14th day of May in the year 2021

...

City of Murfreesboro, Tennessee, a Tennessee municipal corporation
111 West Vine Street
Murfreesboro, TN 37130

...

Gregg Wells, Senior Vice President
Bernhard MCC, LLC
800 Airpark Center Drive, Suite 816
Nashville, Tennessee 37217

...

~~The Architect:~~
~~*(Name, legal status, address and other information)*~~

Patterson Park Cooling Tower and Unit Replacements

PAGE 2

9 ~~ARCHITECT~~OWNER

...

.2 ~~the drawings and specifications prepared by the Architect, dated , and enumerated as follows:~~

~~Drawings:~~

~~**Number**~~	~~**Title**~~	~~**Date**~~

~~Specifications:~~

~~**Section**~~	~~**Title**~~	~~**Pages**~~

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~~.3 addenda prepared by the Architect as follows:~~

~~Number~~	~~Date~~	~~Pages~~

~~.4~~ written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

~~.5~~ .3 other documents, if any, identified as follows:

1. Exhibit A – Supplemental Conditions
2. Exhibit B – Insurance Requirements
3. Exhibit C – Non-Collusion Affidavit
4. Exhibit D – Drug Free Workplace Affidavit
5. Exhibit E – Iran Divestment Act Affidavit
6. Exhibit F – Performance Bond
7. Exhibit G – Payment Bond
8. Exhibit H – Specifications
9. Exhibit I – Invitation to Bid (ITB) (issued 4/13/21)
10. Exhibit J – Contractor's Bid Response (dated 5/06/21)

In the event of a conflict between the terms of this Agreement and those of either Exhibit A or Exhibit B, the exhibit's terms shall take precedence.

PAGE 3

~~Unless otherwise set forth below, the~~
The date of commencement shall be the date ~~of this Agreement.~~
~~*(Insert the date of commencement if other than the date of this Agreement.)*~~

on which the Owner issues the Notice to Proceed.

...

[**X**] Not later than one hundred twenty (120) calendar days from the date of ~~commencement.~~Contractor accepts the pre-engineered building on the Project site..

...

~~($)~~Two Hundred Forty-Five Thousand One Hundred Twenty-Eight Dollars and No Cents **($245,128.00)**, as reflected in greater detail in Exhibit J.

...

N/A N/A

...

N/A

...

N/A N/A

PAGE 4

§3.6 The Contractor shall pay all taxes, levies, duties, and assessments of any nature, that are applicable to any Work under this Contract. The Contract Sum and any agreed variations thereof shall include all taxes imposed by law. The

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Contractor shall make any and all payroll deductions required by law. The Contractor herein indemnifies and holds the Owner harmless from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

§ 4.1 Based on Contractor's Applications for Payment certified by the ~~Architect,~~ Owner, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

...

any undisputed amount not later than thirty (30) days after the Owner receives the Contractor's Application, provided, however, the Owner may withhold five percent (5%) of any undisputed amount as retainage

...

3.0 % per annum

...

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this ~~Section 5.1:~~Section 5.1 and Exhibit B:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than Two Million Dollars ($ $2,000,000.00) each occurrence, Two Million Dollars ($ $2,000,000.00) general aggregate, and Two Million Dollars ($ $2,000,000.00) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than One Million Dollars ($ $1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

...

§ 5.1.5 Employers' Liability with policy limits not less than One Million Dollars ($ $1,000,000.00) each accident, One Million Dollars ($ 1,000,000) each employee, and One Million Dollars ($ 1,000,000.00) policy limit.

PAGE 5

Umbrella/Excess	Three Million Dollars ($3,000,000.00)
Contractor's Pollution Liability	One Million Dollars ($1,000,000.00)
Equipment Property Insurance	One Million Dollars ($1,000,000.00)

...

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the ~~Architect, Architect's~~ Engineer, Engineer's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

§ 5.6 Payment and Performance Bonds.

§ 5.6.1 Unless waived by the Owner in the event of a Contract Sum less than $100,000, the Contractor shall secure performance and payment bonds for 100% of the Contract Sum on a form acceptable to the Owner covering the faithful performance and completion of the Agreement and the payment of all obligations arising there under. Bonds shall be issued by a surety licensed in the State of Tennessee and satisfactory to the Owner.

§ 5.6.2 The Contractor must provide evidence of Bonds prior to the beginning of work. If the Performance and Payment Bonds are not furnished within 30 days of Notice of Award, the Contractor Bid Bond may be forfeited, and the Contract may be awarded to an alternate contractor.

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§ 5.6.3 The Owner will require the Contractor to increase the Performance and Payment Bonds to accommodate Change Orders that individually or cumulatively exceed 10% of the original Contract Sum. The Contractor shall furnish to the Owner and keep in force during the term of the Contract, performance and labor and material payment bonds guaranteeing that the Contractor will perform its obligations under the Contract and will pay for all labor and materials furnished for the Work.

...

§ 6.2.1 Specifications may describe types and quantities of materials, equipment, and other items of the Work and methods of installation that cannot be easily shown on the Drawings. It is not intended that the Specifications will mention every item of Work that can be adequately shown on the Drawings nor is it intended that the Drawings will show all items of Work adequately described or required by the Specifications, even if it is the case that such Work could have been shown thereon. The Contract Documents are complimentary, and what is required by, or reasonably inferable, by one shall be as binding as if required by all. In the event of conflicts or discrepancies among the Contract Documents, this Agreement will take precedent over the Specifications and Drawings.

§ 6.2.2 Prior to the inspections for Substantial Completion and Final Completion, as applicable, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site: clean and polish all floors: clean and polish all hardware; and repair all Work damaged during cleaning.

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. In the event there are conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. Amendments or Change Orders, with those of later date having precedence over those of earlier date
2. The Agreement
3. Exhibits and Addenda, with those of later date having precedence over those of earlier date.
4. Drawings and Specifications
5. In the case of any conflicts or discrepancies between Drawings and Specifications or within or among the Contract Documents and not clarified by Addendum, the better quality or greater quantity of Work shall be provided in accordance with the Owner's interpretation.

§ 6.4 ~~Ownership and Use of Architect's Drawings, Specifications and Other Documents~~Ownership and Use of Engineers' Drawings, Specifications and Other Documents

Documents prepared by the ~~Architect~~ Engineers are instruments of the ~~Architect's~~ Engineers' service for use solely with respect to this Project. The ~~Architect~~ Engineers shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the ~~Architect.~~Engineers.

PAGE 6

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To Owner:	To Contractor:
Craig Tindall, City Manager ctindall@murfreesborotn.gov with copies to: • Bo Jones, Owner's Representative jjones@murfreesborotn.gov • Gary Whitaker, Assistant City Manager gwhitaker@murfreesborotn.gov • Kayla Walker, Project Development kwalker@murfreesborotn.gov	Gregg Wells, Senior Vice President gregg@bernhard.com

Any notice sent via email shall be sent requesting a delivery receipt for the message. If the party sending the notice does not receive a delivery receipt within 24 hours, the party shall send notice via Certified U.S. Mail, private courier, or hand delivery to the other party.

§ 6.5 Non-Discrimination. It is the policy of the Owner not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Contract, the Contractor certifies and warrants it will comply with this policy.

PAGE 7

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges. If the Contractor's bid includes fees that the Owner has paid, or is required to pay directly, or that the Owner may waive, the Contractor shall, at the Owner's option, either pay these fees as a part of their bid or deduct fees from Contract Sum as a deductive change order.

...

If the Contractor fails to correct Work which is not in accordance with the Contract Documents or is in default of its material obligations under the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is ~~made.~~made or default is cured, for which there will be no Change Order extending the Contract Time or the Contract Sum.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the ~~Architect~~ Owner may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by ~~the Architect.~~the Owner. In addition, if payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner immediately upon the Owner's written demand.

PAGE 8

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the ~~Architect.~~Owner. Reports of errors, inconsistencies, or omissions must be made in writing and copies provided directly to the Owner.

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§ 8.1.3 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

.1 That the Contractor is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

.2 That the Contractor is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

.3 That the Contractor is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental authorities having jurisdiction over it, the Work, or the site of the Project; and

.4 That the execution of the Contract and its performance thereof are within the duly-authorized powers of the Contractor and the signatory on behalf of the Contractor.

§ 8.1.4 Contractor shall be responsible for ascertaining correct dimensions, and Contractor is not to ascertain dimensions simply by scaling drawings unless directed to do so by the Owner or Project Engineer. In case of any discrepancy between Drawings and Specifications, Contractor shall consult the Project Engineer promptly for an interpretation before proceeding with the Work**.**

...

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's ~~and Architect's~~ information a Contractor's construction schedule for the Work. Contractor must maintain an updated project schedule and if milestones are negatively impacted, Contractor must, prior to submission of the next application for payment, provide Owner with a specific plan to return the project to the project schedule.

...

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the ~~Owner, through the Architect,~~ Owner the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner ~~or Architect~~ have made a timely and reasonable objection.

§ 8.3.3 Layout new construction lines and verify slab slope and conditions. If discrepancies between actual lines and elevations and those indicated on plans exist, notify Project Engineer and Owner and obtain a decision before starting work.

§ 8.3.4 The Contractor shall establish and maintain reference points required for the work. Contractor shall lay out on the rough floor the exact locations of partitions, openings, etc. as a guide to all trades. Contractor shall verify elevations, lines, levels, and dimensions indicated on the drawings before commencing work.

§ 8.3.5 The Contractor shall be responsible to the Owner for the acts and omissions of all his employees and all Subcontractors, their agents and employees, and all other persons performing any of the Work under a contract with the Contractor.

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§ 8.4.3 Contractor agrees to keep the Project free and clear from all mechanic's liens, materialmen liens, and other liens. The Contractor shall discharge any such lien immediately but in no event more than 30 days after filing of such a lien. In the event such lien is not released or discharged within such 30 days period, the Owner shall have the right to pay all sums necessary to discharge such liens and the Owner shall have the right to deduct such amounts from any amounts due hereunder or demand immediate payment from the Contractor. In the event of any such deduction, the Contract Sum due under the Contract Documents automatically shall be reduced by the amount of such payment without the need for any Change Order. In no instance shall this provision affect any limitation or restriction imposed by law or regulation on the placement or enforcement of liens.

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§ 8.4.4 Substitutions:

.1 Where materials, equipment, apparatus, or other products are specified by manufacturer, brand name, type or catalog number, such designation shall establish standards of quality and style desired. Any reasonable request for substitution will be considered, if in the opinion of the Owner such materials are equal to the material specified and entirely satisfactory for use in the project. The Owner shall be the sole judge of acceptability of substitution.

. 2 By making requests for substitutions, the Contractor:

A. Represents that it has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

B. Represents that it will provide the same warranty for the substitution as it would for the product specified;

C. Certifies that the cost data presented is complete and includes all related costs for the substituted product and for Work that must be changed as a result of the substitution, and waives all claims for additional costs related to the substitution that subsequently become apparent; and

D. Shall coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects. .

.3 When a material, equipment or system is specified by the name of one or more manufacturers, such material, equipment, or system shall form the basis of the Contract. If the Contractor desires to make a substitution, Contractor shall comply with Specification Sections 01 25 13 and 00 43 25.

.4 The Owner shall be entitled to reimbursement from the Contractor for amounts the Owner pays to an engineer or consultant for reviewing the Contractor proposed substitutions and making agreed-upon changes in the Drawings and Specifications resulting from such substitutions.

§ 8.4.5 The use of undocumented workers is not permitted.

§ 8.4.6 The Contractor shall have the Subcontractor who installs them, correct defects in bases, surfaces, or substrates on which finishing materials are to be applied, construction is to be added, or equipment is to be mounted.

§ 8.4.7 The Contractor shall disclose the existence and extent of any financial interest, whether direct or indirect, he has in subcontractors or material suppliers which he may propose for this project.

~~The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.~~**§ 8.5.1** The Contractor warrants to the Owner that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the contract documents. The warranty provided in this Section shall be in addition to and not in limitation of any other warranty, including, manufacturer or supplier warranties, or remedy required by law or by the Contract Documents, and notwithstanding anything to the contrary contained in the Contract Documents. This warranty commences upon Final Completion. The Contractor shall promptly repair and replace, at the Contractor's sole cost and expense, any materials, equipment, or Work covered by and violating the warranty. All warranty work shall be coordinated with the Owner in order to limit the disruption of operation and completed Project. All such warranty work shall be completed in compliance with the terms and conditions of the Contract Documents.

§ 8.5.2 Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse of Owner or Owner's invitees, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 8.5.3 Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferrable to the Owner, and shall commence in accordance with Section 12.5.

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§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the ~~Architect~~ Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

...

The Contractor shall promptly review, approve in writing, and submit to the ~~Architect~~ Owner shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

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The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials. If the Contractor fails to clean-up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor and deducted from the remaining. No on-site burning of trash is allowed.

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To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, ~~Architect, Architect's~~ Engineers, Engineers' consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. The provisions of this Section 8.12 shall survive the completion of the Work or termination of the Agreement.

~~ARTICLE 9 ARCHITECT~~
ARTICLE 9 PROJECT MANAGEMENT

§ 9.1 The ~~Architect~~ Owner will provide administration of the Contract as described in the Contract Documents. The ~~Architect~~ Owner will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The ~~Architect~~ Owner will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work. Representatives of the Owner and Contractor shall meet periodically at mutually agreed-upon intervals for the purposes of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participation in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationship which may otherwise exist.

§ 9.3 The ~~Architect~~ Owner will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The ~~Architect~~ Owner will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the ~~Architect's~~ Owner's observations and evaluations of the Contractor's Applications for Payment, the ~~Architect~~ Owner will review and certify the amounts due the Contractor.

§ 9.5 The ~~Architect~~ Owner has authority to reject Work that does not conform to the Contract Documents.

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§ 9.6 The ~~Architect~~ Owner will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the ~~Architect~~ Owner will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 Interpretations and decisions of the ~~Architect~~ Owner will be consistent with the intent of, and reasonably inferable from the Contract ~~Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.~~Documents.

~~**§ 9.9** The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.~~

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. ~~If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.~~

§ 10.1.1 Changes in the Work may be accomplished by Change Order, Change Directive, or Field Order, all of which the Contractor shall diligently effectuate and carry out.

.1 A Change Order is a written instrument prepared by the Owner and signed by the Owner and the Contractor, stating their agreement upon all of the following: (i) the change of the Work: (ii) the amount of the adjustment, if any, in the Contract Sum; and (iii) the extent of the adjustment, if any, in the Contract Time. No change to the Contract Sum or Contract Time is effective without a written, signed Change Order. The Contractor's sole remedy for any changes is to secure a Change Order.

.2 A Change Directive is a change required by the Owner that does not affect the Contract Time or Contract Sum and will be issued by the Owner in writing to the Contractor.

.3 A Field Order is a minor change or deviation in the Specifications or Drawings and not inconsistent with the Contract that do not affect the Contract Time or Contract Sum and can be made verbally by the Owner and summarized within seven days in writing provided to the Contractor. The Contractor may request that the Owner convert a Field Order to a Change Directive.

§ 10.1.2 Should the Contractor believe a Change Directive requires a Change Order, the Contractor must make a Claim in accordance with the Agreement within 15 days of the Change Directive being issued.

§ 10.1.3 The Owner's representative shall have authority to authorize contract modifications less than $10,000.00. Contract modifications of $10,000.00 or greater require approval by Murfreesboro City Council.

§ 10.2 The ~~Architect~~ Owner may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

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§ 10.4 The combined overhead and profit included in the total cost to the Owner of a change in the Work shall be based upon the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces at the fee negotiated with the owner of the cost.

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor.

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.3 For each Subcontractor or Sub-Subcontractor involved, for Work performed by that Subcontractor's or Sub-Subcontractor's own forces, ten percent (10%) of the cost.

.4 For each Subcontractor, for Work performed by the Subcontractor's Sub- Subcontractors, five percent (5%) of the amount due the Sub-Subcontractor.

.5 Cost to which overhead and profit is to be applied shall be determined in accordance with Section 10.1.1.

.6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials and Subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are Subcontracts, they shall be itemized also. In no case will a change involving over $500.00 be approved without such itemization.

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract. Extensions of time will not be granted for delays caused by inadequate construction force, the failure of the Contractor to place orders for equipment or materials sufficiently in advance to ensure delivery when needed, or the failure of Contractor to protect properly the site from inclement weather.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment. If the Contractor is delayed at any time in progress of the work by an act or neglect of the Owner or its employee(s), or of a separate Contractor employed by the Owner, or by changes ordered in the work that affect the "critical path" of the work, or by labor disputes, fire, unavoidable casualties, or other causes beyond the Contractor's control, except as defined in Articles 3 and 15, or by other causes which the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as Owner may determine. Extended overhead, profit, and other indirect costs related to the extension of the contract time will not be allowed.

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§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the ~~Architect~~ Owner an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner ~~or Architect~~ may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing. The form of Application for Payment duly notarized shall be a current authorized edition of AlA Document G702-1992 Application and Certificate for Payment, supported by a current authorized edition of AlA Document G703-1992, Continuation Sheet.

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§ 12.2.3 In Applications for Payment, the amount represented as total completed and stored to date shall reflect the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work, and materials and equipment suitably stored in accordance with Subparagraph 4.2 and not exceed the Contract Sum less the value of incomplete work and corrections required. This total completed and stored to date shall not be construed to define completion as determined for Substantial Completion or final completion of the Work according to 12.5 or 12.6.

§ 12.2.4 Applications for Payment shall indicate retainage withheld from the total completed and stored to date as follows: Five percent (5%) until acceptance of a Certificate of Substantial Completion, and thereafter two percent (2%) until final payment. The resulting amount shall be indicated as the total earned less retainage. Applications that reduce retainage shall be accompanied by Consent of Surety.

§ 12.2.5 Applications for Payment shall indicate the total earned less retainage, and the aggregate of previous payments made subtracted therefrom, and an amount requested.

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~~The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.~~**§ 12.3.1** The Owner will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Owner determines is properly due, and notify the Contractor and Owner in writing of the Owner's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor of the Owner's reason for withholding certification in whole. If certification or notification is not made within such seven-day period, the Contractor may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.3.2 The Owner may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Contractor. If the Contractor and the Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount for which the Owner is able to make such representations. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions, because of, but not limited to:

.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a separate contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
.7 persistent failure to carry out the Work in accordance with the Contract Documents or unsatisfactory execution of the Work;
.8 failure of the Contractor to comply with applicable Codes, Laws, or Regulations;
.9 failure to update as-built drawings or provide construction photographs with the Application for Payment as required by the Contract Documents. (If these documents/items are not provided for actual work performed for a period of work covered by an Application for Payment and cannot be accurately provided due to passage of time, the Owner may deduct a reasonable amount from the Agreement sum to reflect work not performed that cannot be recovered due to progress of work.)
.10 failure to update the CPM schedule concurrent with the request for payment; or
.11 Any other reasonable basis to withhold certification.

§ 12.3.4 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld. The Owner shall have no liability whatsoever for interest or other charges resulting from withholding of payment for any reason stated in this Article.

§ 12.3.5 If any claim or lien is made or filed with or against the Owner, the Project or the Premises by any person claiming that the Contractor or any Subcontractor or other person under it has failed to make payment for any labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, or if at any time there shall be evidence of such nonpayment or of any claim or lien for which, if established, the Owner might become liable and which is chargeable to the Contractor, or if the Contractor or any Subcontractor or other person under it causes damage to the Work or to any other work on the Project, or if the Contractor fails to perform or is otherwise in default under any of the terms or provisions of the Contract Documents, the Owner shall

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withhold certification, and the Owner shall have the right to retain from any payment then due or thereafter to become due an amount which the Owner shall deem sufficient to:

.1 satisfy, discharge and/or defend against any such claim or lien or any action which may be brought or judgement which may be recovered thereon,

.2 make good any such nonpayment, damage, failure or default, and

.3 compensate the Owner for and indemnify it against any and all losses, liability, damages, costs and expenses, including reasonable attorneys' fees and disbursements, which may be sustained or incurred by the Owner in connection therewith. The Owner shall have the right to apply and charge against the Contractor so much of the amount retained as may be required for the foregoing purposes. If such amount is insufficient therefore, the Contractor shall be liable for the difference and pay the same to the Owner.

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§ 12.4.1 After the ~~Architect~~ Owner has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

...

§ 12.4.3 ~~Neither the Owner nor the Architect~~ The Owner shall have responsibility for payments to a subcontractor or supplier.

...

§ 12.4.5 The Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall reflect such payment on the next Certificate for Payment.

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is ~~sufficiently~~ sufficient complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when all required occupancy permits have been issued such as, but not limited to, Local Building Occupancy Permits, and copies of same have been delivered to the Owner. In order to occupy or utilize the Work for its ~~intended use.~~intended use, Owner must have received complete Project Data, Operating and Maintenance Data, orientation and training, as may be required by the specifications. The work will not be considered ready for Substantial Completion if any of the following conditions exist:

.1 Excessive punch list work remains to be completed that would prevent or interfere with the occupancy and intended use of the facility in the Owner's reasonable judgment;

.2 Incomplete or defective work remains which would prevent or interfere with the occupancy and intended use of the facility;

.3 The building mechanical systems have not been tested, balanced, and accepted as being fully complete;

.4 The building electrical and life safety systems have not been tested and accepted as being fully complete;

.5 The building commissioning process is not complete;

.6 Final clean-up is not complete to support the occupancy and intended use of the facility other than clean-up associated with punch list items;

.7 Final Inspections, approvals, and temporary or final Certificates of Occupancy by regulatory officials are not received and complete;

.8 Successful compliant testing of all data cabling (copper, fiber or other) and labeling of all data ports is incomplete; or

.9 Any other basis for the Owner's reasonable determination that Substantial Completion has not been achieved.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the ~~Architect~~ Owner and the ~~Architect~~ Owner will make an inspection to determine whether the Work is substantially complete. When the ~~Architect~~ Owner determines that the Work is substantially complete, the ~~Architect~~ Owner shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion,

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establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.5.3 Upon receipt of the Certificate of Substantial Completion, Contractor may submit a final Application for Payment that includes the retainage withheld from prior Applications pursuant to Section 4.1.

§ 12.5.4 Unless the project has phased Substantial Completion dates, the Owner will make only one such inspection to determine Substantial Completion. If this inspection determines that the work is not substantially complete, either because of major items not completed or an excessive number of punch list items, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of $1,000.00 per person per day plus expenses. The costs of these re-inspections shall be added to the contract by change order.

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§ 12.6.1 Upon receipt of a final Application for Payment, the ~~Architect~~ Owner will inspect the Work. When the ~~Architect~~ Owner finds the Work acceptable and the Contract fully performed, the ~~Architect~~ Owner will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the ~~Architect~~ Owner releases and waivers of liens, claims, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

...

§ 12.6.4 Unless the project has phased Final Completion dates, The Owner will make only one such inspection to determine Final Completion. If this inspection determines that the work is not finally complete, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of $1,000.00 per person per day plus expenses. The costs of these re-inspections shall be added to the contract by change order.

~~The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.~~**§ 13.1** The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

§ 13.2 The Contractor is responsible for compliance with any requirements included in the Contract Documents and all applicable laws, rules, and regulations regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing. The Contractor shall provide the Owner with notice of all hazardous substances as regulated by the Comprehensive Environmental and Liability Act as amended and/or regulated under any other applicable law which the Contractor brings on to the site.

§ 13.3 When the storage of explosives, or other hazardous materials, substances or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall give the Owner reasonable advance notice.

§ 13.4 Protect owners, persons, building components not to be demolished or modified, and building grounds from damage of any sort. Furnish necessary equipment to provide this protection during the life of the contract. Construct

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and maintain necessary temporary drainage to keep excavations free of water.

§ 13.5 Provide protection for the stored materials against wind, storms, cold or heat. At the end of each day's work, cover new work or stored items likely to be damaged.

§ 13.6 Provide shoring and bracing required for safety and for the proper execution of the work and have same removed when the work is completed.

§ 13.7 Protect, maintain and restore any bench marks, monuments, etc. affected by this work. If bench marks or monuments are displaced or destroyed, points shall be re-established and markers reset under the supervision of a licensed surveyor, who shall furnish certificates of his work.

PAGE 17

§ 14.1 The Contractor shall promptly correct Work rejected by the ~~Architect~~ Owner as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents. This provision does not relieve the Contractor from conforming to the requirements of the Contract Documents or correcting items not compliant with the Contract Documents per applicable laws, statutes, or any regulations, whether they are observable, concealed, or in any other condition or status, nor does this provision in any way limit any warranties, service contractors, or similar agreements with third party service, equipment, or materials providers.

...

Neither party to the Contract shall assign the Contract as a whole without written consent of the other. In addition, the Contractor may not assign its responsibilities, duties, obligations, and rights under this Agreement, without the express written consent of the Owner. This does not prevent the Contractor from engaging subcontractors to perform various phases of the Project, but the Contractor shall be fully responsible to the Owner for the work, actions, and omissions of all such subcontractors. No person or entity shall be deemed to be a third-party beneficiary of any provisions of the Contract, nor shall any provisions thereof be interpreted to create a right of action or otherwise permit anyone not a signatory party to the Contract to maintain an action for personal injury or property damage.

...

§ 15.2.1 At the appropriate times, the ~~Contractor~~ Owner shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract ~~Documents~~ Documents, including specifically Section 15.2.4, or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the ~~Architect~~ Owner requires additional testing, the Contractor shall perform those tests.

...

§ 15.2.4 In addition to any test, inspections, and approvals by applicable law or elsewhere in the Contract Documents, Owner shall arrange and bear the costs for the following tests:

1. Building pad and parking lot subgrade proof-roll test
2. Concrete testing
3. Structural Steel Visual Inspection of Bolts and Connections

...

§ 15.4 Venue

Exclusive venue for any dispute arising from this Agreement or relating to this Project shall be in the Circuit or Chancery Courts of Rutherford County, Tennessee.

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§ 15.5 Attorneys' Fees
If either party is required to bring an action to enforce the terms hereof or declare rights hereunder, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees from the non-prevailing party.

§ 15.6 No Mandatory Arbitration
Notwithstanding anything to the contrary in this Agreement, or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

§ 15.7 Subject to Applicable Law; Severability
This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidity of any portion of this Agreement under the laws of the State of Tennessee or of the United States shall not affect the validity of the remainder of this Agreement.

§ 15.8 No Waiver; Cumulative Duties and Remedies
No action or failure to act by the Owner or the Contractor shall constitute a waiver of any right or duty afforded under the Contract Documents, nor shall any such action or failure to act constitute any approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing. The duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law or equity.

§ 15.9 Theft-Deterrence Program
The Contractor shall institute a theft-deterrence program designed to restrict construction worker access to properties of the Owner that are currently in use, to maintain supervision of the Contractor's and the Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from the Contractor's forces or the Contractor's subcontractor's forces, as charged and determined by the local authorities having jurisdiction.

§ 15.10 No Construction Against Maker of Modifications
As a material consideration of the making of this Agreement, the modifications to this Agreement shall not be construed against the maker of said modifications.

§ 15.11 Independent Contractors
The parties agree that the contractual relationship of the Contractor to the Owner is one solely of an independent contractor in all respects and that the Contract Documents do not in any way create a partnership, joint venture, or any other relationship between the parties other than the contractual relationship as specified in the Contract.

§ 15.12 Binding on Successors and Assigns
This Agreement in its entirety shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators, or assigns.

§ 15.13 Execution
The Contract Documents may be executed in any number of counterparts, all of which taken together shall constitute one and the same Agreement. Any signature of or pursuant to the Contract Documents shall be considered for all purposes an original signature and of the same legal effect as an original, provided that at the request of a party any signature sent by facsimile shall subsequently be confirmed by an original re-execution.

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If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the ~~Owner and Architect,~~ Owner, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

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§ 16.2.2 When any of the above reasons exist, the ~~Owner, after consultation with the Architect,~~ Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

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...

~~The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.~~**§ 16.3.1** The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. In such case, the Owner will provide the Contractor seven days written notice of intent to terminate. Upon receipt of such notice, the Contractor shall take immediate action to mitigate any damage or additional expense. The Contractor shall be entitled to receive payment for Work executed.

§ 16.3.2 The terms of this Contract are contingent upon sufficient appropriations and authorizations being made by the Owner for the performance of this Contract. If sufficient appropriations and authorizations are not made by the Owner, this Contract shall terminate, without penalty or expense to the Owner of any kind whatsoever, upon written notice being given by the Owner to the Contractor. Upon receipt of such notice, the Contractor shall take immediate action to mitigate any damage or additional expense. The Contractor shall be entitled to receive payment for Work executed.

...

§ 17.1 Claims and Disputes

§ 17.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and the Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 17.1.2 Notice of Claims.

.1 Claims by either the Owner or the Contractor must be initiated by written notice to the other party. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

.2 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a contractor default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 17.1.3 Continuing Contract Performance. Pending final resolution of a Claim, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 17.1.4 Claims

.1 **For Additional Cost**. If the Contractor makes a Claim for an increase in the Contract Sum, written notice to the Owner shall be given before proceeding to execute the Work if practical or within 15 days of any Change Directive. Prior notice is not required for Claims relating to an emergency endangering life or property.

.2 **For Additional Time.** If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice to the Owner shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions that were clearly abnormal for the period of time such that they could not have been reasonably anticipated and clearly had an adverse effect on the scheduled construction.

A. Claims for increase in the Contract Time shall set forth, in detail the circumstances that form the basis for the Claim, the date upon which the cause of the delay began to affect the progress of the Work, the date upon which the cause of delay ceased to affect the progress of the Work, and the number of days increased in the Contract Time claimed as a consequence of each cause of delay.

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B. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all of the activities affected by the circumstances forming the basis of the claim. The Contractor shall not be entitled to a separate increase of the Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the work, or for concurrent delays due to the fault of the Contractor.

§ 17.1.5 Initial Decision on Claims Made by Contractor

.1 The Owner will make an initial decision on all claims submitted by the Contractor. An initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Owner with no decision having been rendered.

.2 The Owner will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (i) request additional supporting data from the claimant or a response with supporting data from the other party, (ii) reject the Claim in whole or in part, (iii) approve the Claim, (iv) suggest a compromise, or (v) advise the Contractor that the Owner is unable to resolve the Claim because the Owner lacks sufficient information to evaluate the merits of the Claim.

.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist Owner in rendering a decision.

.4 The Owner will render an initial decision approving or rejecting the Claim or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (i) be in writing: (ii) state the reasons therefor: and (iii) notify the Contractor of any recommended Change Order.

§ 17.1.6 Mediation.

.1 Claims, disputes, or other matters in controversy arising out of or related to the contract not resolved by the Initial Decision-Making process, nor waived under this Contract, shall be subject to mediation as a condition precedent to binding dispute resolution.

.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Contract. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation.

.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

.4 Exceptions:

A. Neither the Owner nor Contractor are not be required to mediate any third-party claim, cross-claim, counter claim, or other claim or defenses in any action that is commenced by a third-party who is not obligated by contract to arbitrate disputes with the Owner and Contractor.

B. The Owner or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice (but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Tennessee law), without the first requesting mediation.

C. This section 17.1.6 does not apply to, and may not be construed to require mediation of, any claims, actions or other process undertaken, filed, or issued by the City of Murfreesboro Building and Codes Department, Planning Department, Police Department, Fire Department, or any other agency of the Owner (the City) acting in its governmental permitting, for the benefit of public health, safety, and welfare, or other regulatory capacity.

§ 17.1.7 Binding Dispute Resolution. For any Claim subject to, but not resolved by, mediation per this agreement, the method of binding dispute resolution shall be litigated only in a Rutherford County court of competent jurisdiction.

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Shane McFarland, Mayor

Gregg Wells, Senior Vice President

...

LICENSE NO.: 69551
JURISDICTION: Tennessee

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Craig Tindall, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:27:38 ET on 05/14/2021 under Order No. 2705956690 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A105™ – 2017, Standard Short Form of Agreement Between Owner and Contractor, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Storm Sewer Camera Inspection System Purchase

Department: Street Department

Presented by: Raymond Hillis

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Purchase of a Storm Sewer Camera Inspection System.

Staff Recommendation

Approve the purchase of one Sprinter Camera System from Sansom Equipment Company.

Background Information

The proposed purchase is required for the Street Department's operation. The purchase of the Sprinter Camera Truck was set out for bid on 03/31/2021, the bid was awarded to the lowest responsive bidder, Sansom Equipment Company.

Council Priorities Served

Excellent Services with a Focus on Customer Service

Well-functioning equipment assures the Department is consistently able to respond to the community's needs, provides operational efficiencies, and improves employee safety.

Fiscal Impact

Funding for this purchase totaling $196,436 is included in the Department's Stormwater Fund.

Attachments

Price Quote for Sewer Camera Inspection System

Agreement for Crawler Sewer Camera Inspection System

QUOTE

QUOTE #	*SECQ2008*
DATE	*Apr 20, 2021*
SOURCEWELL CUSTOMER ID #	
SOURCEWELL CONTRACT #	

To: Jeremy Barrett
City of Murfreesboro, TN
620 West Main Street
Murfreesboro, TN 37129
United States

jbarrett@murfreesborotn.net

Sales Contact: Danny Paladino
615-856-0534
danny@secequip.com

QUOTE STATUS	SHIPPING TERMS	DELIVERY IN DAYS	PAYMENT TERMS
Bid	Customer Location		Net Delivery

QTY	DESCRIPTION
1	2021 Sprinter / Warranty 3 years 36,000 miles basic , 5 years 100,000 miles on powertrain .
1	Sprinter MEPS Preferred Build per Specifications - 4000 watt generator in lieu of MEPS, only way in sprinter
1	Rover X Basic Mainline Inspection System / 1 year Warrenty
1	Tyger Tail
1	Flexible Cable Guide Pulley
1	RX Aux Light w/ Rear Camera, QCD
1	RX Camera Elevator Kit, QCD
1	RX Carriage
4	Wheel D175x88 / d12 QCD (XL Rubber)
4	HMS Wheel D120x31 / d12 QCD (Md Aggressive)
1	Freight

This quote does not include any federal, state, or local taxes.
* In stock equipment are subject to prior sale. *

TOTAL $196,435.80

Please contact me if I can be of further assistance.

Agreement for Crawler Sewer Camera Inspection System

This Agreement is entered into and effective as of the ____ day of _____ 2021 ("Effective Date"), by and between the **City of Murfreesboro,** a municipal corporation of the State of Tennessee (the "City"), and **Sansom Equipment Company Inc.,** a Corporation of the State of Alabama ("Contractor").

This Agreement consists of the following documents:

- This document;
- ITB-20-2021 – Crawler Sewer Camera Inspection System issued 03/31/2021 (the "Solicitation");
- Contractor's Proposal, dated 04/20/2021 ("Contractor's Proposal");
- Contractor's Price Proposal, Quote SECQ2008, dated 04/20/2021 (the "Price Proposal"); and,
- Any properly executed amendments to this Agreement.

In the event of conflicting provisions, all documents will be construed according to the following priorities:

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority);
- Second, this Agreement;
- Third, the Solicitation; and
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

Contractor shall provide and City shall purchase the following equipment and warranties based on Contractor's Proposal, Price Proposal and the specifications set forth in "ITB-20-2021 – Crawler Sewer Camera Inspection System" and Exhibit A below.

2. Term.

The term of this Agreement commences on the Effective Date and expires in one year, unless extended by mutual agreement of Contractor and the City or earlier terminated as set forth herein Termination. Contractor's services may be terminated in whole or in part:

a. Upon 30-day prior notice, for the convenience of the City.

b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination

c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.

d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.

e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. **Payment and Delivery.**

a. The price for the goods and other items to be provided under this Agreement is set forth in the Price Proposal (Quote #SECQ2008 dated 4/20/2021) which reflects a total purchase price of **One Hundred Ninety-Six Thousand Four Hundred Fifty-Three Dollars and Eighty Cents ($196,435.80).** Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after goods and/or services are complete.

b. All items must be available for delivery within twelve (12) months from issuance of the Purchase Order. Delivery shall be done Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. Forty-eight (48) hours advance notice should be given prior to delivery. The equipment shall be delivered to the City of Murfreesboro Street Department, 620 W. Main Street, Murfreesboro, TN 37130, attention: Kane Adams.

c. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.

d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any items(s) received which fail to meet the specifications as stated in the ITB and Exhibit A to this contract.

e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

4. **Warranty.** Contractor shall provide all warranties as described in the Solicitation, Contractor's Proposal and Price Proposal.

5. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.

6. **Insurance.** During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than $1,000,000, as well as automotive and workers' compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."

7. **Indemnification.**

a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this

Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

c. Copyright, Trademark, Service Mark, or Patent Infringement.

I. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

II. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

a. Procure for the City the right to continue using the products or services.

b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.

c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.

III. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

8. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:

City Manager
City of Murfreesboro
111 West Vine Street

Murfreesboro, TN 37130

If to Contractor:

Attn: Daniel Paladino
Sansom Equipment Company
3196 HWY 231 North
Shelbyville, TN 37160

8. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.

9. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.

10. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.

11. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

12. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.

13. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

14. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

15. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.

16. **Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.

17. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

18. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.

19. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.

20. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.

21. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2021 (the "Effective Date").

City of Murfreesboro, Tennessee

By: _____
Shane McFarland, Mayor

Approved as to form:

_____
Adam F. Tucker, City Attorney

SANSOM EQUIPIMENT COMPANY INC.

_____

By: Daniel Paladino
Its: Territory Sales Manager

EXHIBIT A

EXHIBIT A: "SPECIFICATIONS"
1. Mainline Pan, Tilt and Zoom Inspection System
A. System Basics
1. Three components:
a. Automatic cable drum with cable
b. Operator pendant with viewing and system controls
c. Crawler with zoom camera for 6" diameter and larger pipe inspection
2. CAN-Bus communications protocol
3. Ability to connect to a network via network cable port for lifetime remote firmware upgrades and/or diagnostic services
4. Camera and crawler operator functions to be able to work simultaneously
5. Electrical requirement not more than 575W, or 5 A at 115 Vac (220 Vac available)
B. Operator Pendant and Wireless Controller
The system control pendant shall have:
1. Power on/off switch
2. Standard ability to connect to a network in order to access remote server download of for lifetime automatic performance and feature upgrades
3. Optional ability to connect to a network in order to work with repair studio software for remote diagnosis
4. Integral error code maintenance and repair protocol which informs the operator of current or pending operating or maintenance tasks that need to be addressed by flashing a code during use. Codes correlate with a specific repair or maintenance activity
5. Pendant shall be capable of being used on the desktop or mounted into the desktop for a more permanent installation
6. Dual software programmed joysticks for camera and crawler functions
7. Video signal output
8. Right 3-axis multifunction joystick to control crawler's forward/reverse, left/right turning and speed
9. Left 3-axis multifunction joystick to control camera's pan/tilt, zoom and home functions. The left-hand joystick shall also have the ability to change into a lateral launch mode in which it shall have the ability to control the positioning and deployment of the lateral launch camera in addition to the functions previously listed
10. Controls for manual and automatic focus of camera
11. Ability to display crawler pressure, temperature, sonde status, pitch (inclination) and roll
12. Pressure to be listed on screen and saved within system history for predictive maintenance
13. Controls for adjusting illumination intensity of camera and auxiliary lighting
14. Ability to control cable reel functions: auto, manual, speed, direction, torque of the cable reel
15. Must have a master single button to regain control from wireless controller
16. Minimum 20' control cable that connects the automatic cable drum with the pendant via an emergency on/off switch box junction
17. Ability to inform operator if one is getting close to flipping the crawler

18. Ability to directly engage or disengage electronic clutch
19. Ability to operate crawler in cruise control mode where an operator does not need to touch the joystick for crawler speed
20. Ability to view system operational history and performance
21. On/off control of digital zoom function
22. On/off control of auto shutter speed
23. Ability to toggle front-view camera, integral rear-view camera, and accessory rear view camera
24. On/off control for camera lasers
25. Ability to control laser intensity of increments of 25%
26. Control for remotely controlled motorized camera lift
27. Button to activate automated software routine (Macro) for viewing laterals on the left
28. Button to activate automated software routine (Macro) for viewing laterals on the right
29. Button to activate automated software routine (Macro) for performing a circumferential scan of a pipe joint
30. The ability to operate larger (10" minimum diameter) and smaller crawlers (minimum 4" diameter) with no need for additional control unit or cable upgrades
31. CAN-bus control architecture allowing for precision control, diagnostic monitoring and future upgradeability
32. Tiltable, touch screen monitor for system operation and monitoring of system status
33. Portable battery powered belt clip wireless controller with crawler, camera and cable reel controls for easy direct single person deployment and retrieval of the crawler at the access point (manhole/basin)
34. Wireless controller to have 8 dual function buttons with clear labels as the function of each
35. Wireless controller to have colored LED indicators to inform operator as to what functions the buttons are activated
36. Wireless controller to be digitally encoded to the system with which it is delivered
37. Digital control to have a range of at least 50' without radio frequency interference being able to compromise the signal. RF systems will not be accepted
38. Wireless encoder must work with a single specific system in order to provide secure control when several systems are being operated in the same area. For operator safety and system protection, there can be no chance for operational interference
C. Steerable Motorized Crawler The system crawler shall have:
1. 6-wheel drive (3 wheels per side) to generate traction necessary to crawl 1000' in wet and slippery pipes
2. In 8" configuration with the middle wheel remaining, the 4 larger wheels will overlap the middle ones to provide continuous traction to go over joints and debris and avoid high centering where 4-wheel crawlers can no longer move forward
3. The tractor shall have proportional left, right, forward and reverse capability via manual and automatic controls via a joystick and direct buttons amongst the operator pendant and wireless controller
4. Proportional steering means that the 3 wheels on the left and the right of the crawler will move proportionally at the same time to move the crawler in the intended left, right, forward, backward or combination direction. Crawlers that can only drive in a single direction to the left, right, forward or backward at a time (bump steering) will be deemed unacceptable
5. Maximum size of 12.2 x 4.3 x 3.5" (lwh), allowing proper clearance in 6" and lined pipes
6. A minimum of two powerful EC drive motors. Motors must maintain full power even at lower speeds without depending on drawing more current to do so
7. An electronic clutch that can be engaged and disengaged without needing to move the crawler. Systems that demand movement of the crawler to engage or disengage a mechanical clutch will be deemed unacceptable

8. System to be isolated in a way where major crawler electronic components will not be destroyed if there is a cut and connection between power and other wires within the cable
9. Can accept an option for a remotely operated lift that can raise the camera a minimum of 7" from its lowest position
10. When in 8" wheel configuration, crawler must ensure that the bottom of the pan and tilt zoom camera is at least 1-3/8" from the bottom of a flat surface to enable crawling over obstacles
11. Full sensor package with inclination, roll, sonde, pressure, heat and motor readings
12. Integral rearview color camera with high-lux tri-LED lighting to be positioned at the top rear of the crawler body and not to have any visible increase in the diameter of the crawler body or be integrated with the rear connector
13. Ability to remotely toggle between rear- and forward-viewing cameras using the operator control pendant
14. Slotted locking mechanism, the simple turn of which drives 3 stainless bearings into the rotate shaft of the camera for secure, easy attachment with 1-bar waterproof rating
15. Keyway on camera rotation shaft to ensure damage-free mating of electrical pins between crawler and camera
16. Rear receptacle that allows cable attachment with 2 turns of the stainless-steel cable connector's outer barrel, no tools required
17. A spring-loaded pin on the rear receptacle to lock the stainless-steel cable connector's outer barrel, ensuring a secure connection and delivering pull strength beyond the 1000-lb-rated break strength of the cable
18. Minimum weight of 18.5 lbs. (with small wheels)
19. Length of no more than 12.2" (18" with camera and optional lift installed) for easy navigation through 90-degree inverts without rolling
20. Crawler body must be machined from a single continuous and complete piece of machined aluminum. Two-piece bodies from top to bottom or front to rear crawlers will be deemed unacceptable.
21. Single piece crawler body to have single top-plate access for control boards, single bottom-plate access for motors, and dual side-plate access for gears, ensuring maximum protection against leaks caused by bending stress. Tractor chassis of bronze, brass or other soft metals shall be deemed unacceptable.
22. Tapered wheels that conform to pipe sidewall
23. Machined keyway on all 6 axles to ensure positive drive and to facilitate quick wheel change-out. Spacers and wheels shall attach with a single screw; plates and spacer-bars shall be deemed unacceptable.
24. Machined tight-fitting axel to wheel keyway to assure wheel stays on the unit without turning if a bolt loosens. Systems that use bolts and washers as the only means to secure a wheel will be deemed unacceptable.
25. CAN-bus control architecture allowing for precision control, diagnostic monitoring and future upgradeability.
26. Three wheel sets (6) and spacers supplied for inspection of pipes 6-36". (See below for standard and optional wheels specified.)
27. Compatibility with the following standard and optional wheel and spacer sets: (Wheels labeled standard must be included in the bid price.)
a. 20mm wide spacers (set of 4 supplied standard)
b. 3.33" (86mm) rubber wheels (set of 6 supplied standard)
c. 4.33" (110mm) grooved rubber wheels (set of 4 supplied standard)
d. 4.33" (110mm) soft composite grease wheels with traction grit impregnation (set of 4 supplied standard)
e. 5.31" (135mm) grooved rubber wheels (set of 4 supplied standard)

f. 4.33" (86mm) pointed carbide wheels (set of 6)
g. 5.31" (110mm) pointed carbide wheels (set of 4)
h. XL rubber wheels (set of 4)
28. Ability to fit in 8" pipe with top mount auxiliary lighting attached.
29. A tilting rear cable connector that points vertically to protect cable during deployment into manhole, but which tilts to horizontal position during operation. Rear connectors that integrate a rear camera will not be accepted.
30. Strong stainless-steel locking mechanism to augment the strain relief internal to the cable.
31. Stainless cable connector shell to carry a lifetime warranty.
32. 512 Hz integral sonde to facilitate locating crawler.
2. Motorized Automatic Cable Drum The system cable reel shall have:
1. Capacity for the systems 1000' cable.
2. A hub equipped with a continuous-contact slip-ring assembly to allow the cable to be dispensed and retrieved while the camera and tractors are operational
3. An environmentally sealed slip ring whose contacts shall be of an alloy of gold
4. A motorized system with sensors that monitor cable tension in order to coordinate cable feed/retrieval with direction and exact speed of the crawler
5. Ability to perform all forward, backward and different speed functions without the operator having to control any cable reel functions directly
6. An emergency stop switch
7. Ability to operate in both automatic and manual modes
8. External cable reel chassis to be made of strong and lightweight aircraft grade aluminum
9. Work with pendant based speed and torque controls to adjust for different conditions and user preferences
10. Weight of no more than 125 lb. (including 1000' of cable)
11. CAN-bus control architecture allowing for precision control, diagnostic monitoring and future upgradeability
12. Work with a remote wireless pendant granting control of crawler and reel while away from the primary control pendant
13. Ability to operate manually, with direct control of speed, direction and torque
14. Large extension pulley arm option for extending the cable drop point 3' from the cable reel
15. (a) Teflon coated integral drip tray at bottom beneath stored cable. (b) Allows for liquids to drain and be collected in a specific area for health and safety reasons. (c) Can be slid out the front without tools for emptying and cleaning.
16. BNC video output for local video connection
17. Size of no larger than 21 x 14.5 x 24.5" (hwd) with standard cable roll bar that extends 15" from the front of the reel
18. Two handles to be at the top left and right of the cable reel for moving and transport.
19. Extended roll bar to be able to be placed back against the reel for storage and shipment without the need for additional fasteners or tools
20. Pendant-based power/torque controls for winching back crawler in optional free-wheel mode
21. Ability to run automated software routines (Macros) in which the reel, crawler and camera function are automatically coordinated to accomplish a specific task without operator intervention

22. All moving hazardous components to be completely covered/enclosed to prevent injury – hand or clothing can't reach dangerous moving parts. Open access design of the front, top and sides where an operator can touch level-wind mechanism, gears, chains and belts will be deemed unacceptable.
23. Supplied cable protection accessories, including: a. Upper cable guide that uses Delrin (or similar) roller mounted to lightweight aluminum frame to protect cable from abrasion during operation, and to limit operator strain during setup. b. Lower roller assembly that uses Delrin (or similar) roller mounted to lightweight aluminum frame to protect cable from abrasion during operation, and to limit operator strain during setup. Designs requiring use of interlocking poles shall be deemed unacceptable.
3. Lightweight Heavy-Duty Transmission Cable The system cable shall have:
1. 1000' of cable with maximum 6 continuous-length multi-conductor wires for lightweight and easy maintenance performance
2. Kevlar reinforcement to provide a minimum break strength of 1000 lbs.
3. Diameter of no more than 0.255" (6.5mm)
4. Weight of no more than 10.8 lb. per 328' (.03 lb. per ft.) to promote portability, long crawler runs and easy handling for multiple sized crawlers
5. Strain relief to be internal to the cable and cable connector. No external wires, pig tails or other visible external strain mechanisms will be accepted.
6. Waterproof rating of at least 1 bar or 1 atmosphere
7. Tough outer jacket to resist tears and scrapes
8. Smooth outer jacket to reduce friction
9. Steel-armored jacket at crawler end to prevent cable damage around pipe bends
10. Solid stainless-steel screw on connector at crawler end that locks with two turns, and which engages a locking spring-loaded pin on the rear of the crawler to secure the cable and provide strain relief. Connections that require ANY tools or screws will be deemed unacceptable.
11. Crawler electrical connection with keyway to prevent damage to electrical pins when mating with camera or crawler
12. Ability to be re-terminated by soldering no more than 6 wires, then sealed and strain-relieved using a quick-dry epoxy. Procedure shall take no more than half an hour to complete. More than 6-wire wire solder repair and Scotch-cast style solutions that require longer cure times will be deemed unacceptable.
13. Compatibility with fully automatic cable reel, manual cable reel
14. Cable to be only single connection regardless of use of optional items such as additional lighting, side scanning camera, rear camera, laser circle, laser dots, remotely operated lift or large pipe carriage.
15. Ability to connect directly to the following without any modification or exterior wires, ability to be operated by system controls in this specification: a. 4" minimum pipe ID crawler b. 6" minimum pipe ID crawler with integral motorized lift c. 10" minimum pipe ID crawler
4.Camera Lift Specifications The system camera lift shall have:

1. The Crawler must allow for an electronically controlled lift to raise and lower the camera automatically once the crawler is deployed in the pipe via the main remote pendant and the wireless auxiliary remote control. Manual or fixed lifts will not be accepted.
2. The camera lift must have a range of 3.1 inches to 10.2 inches.
3. The crawler with the remote lift attached must fit from pipes ranging from 12-inch ID to 48-inch ID.
4. The remote lift must house the rotation unit of the camera to protect it from damage and wear.
5. The remote lift must be operated by a CAN-bus control architecture allowing for precision control, diagnostic monitoring and future upgradeability.
6. The remote lift must be made from solid aluminum and stainless steel.
7. Ability to connect remote lift to crawler body via a 1.5" long, 5/8" diameter stainless-steel keyed connection plug with a simple turn of a slotted locking mechanism atop of the crawler that drives 3 stainless steel bearings into the rotation shaft of the camera, 10-pin internal female connection port and two set screws on either side of the lift that attach to the top plate of the crawler body. Connection must be waterproof.
8. Ability to connect the camera to remote lift via a 1.5" long, 5/8" diameter stainless-steel keyed connection plug with 10-pin internal female connection port. Connection must be waterproof.
9. Solid-state circuitry designed to withstand shock and vibration while being pushed, pulled or propelled through the pipe
10. Housing that is fully sealed and waterproof per IP68 to withstand external pressure up to 1 bar without damage or leaking
11. Must have an auxiliary light port that is protected when auxiliary lights are not connected with a stainless-steel cover that is waterproof and easily removeable with 2 set screw to connect auxiliary lights
12. Auxiliary light port must be able to accept 2 different style auxiliary lights
13. Twin focused super-bright LED lamps (2-watt each) for inspecting large pipes
14. Twin focused super-bright LED lamps (2-watt each) with color rearview camera integrated into the back of the auxiliary light housing
15. Ability to mount to crawler with instant-contact slide-connector on top of the remote camera lift. Any exposed wiring shall be deemed unacceptable.
16. Pressurized struts and motors to ensure reliable of the lift with precise control in a compact form factor
17. Ability to accept pan/tilt color zoom camera without compromising any of the camera's functionality
5. Sprinter Build Out The Sprinter build out shall have:
1. Operator Studio: • Solid bulkhead wall with fixed smoked-glass window • Formica desk with wall outlets above and below • Cork board wall above desk surface • Overhead LED lighting • pass-through door with aluminum kick plate • Two (2) 19" desk-mount monitors • High-back operator chair • Carpeted walls and ceiling • Black treaded rubber floor • Safety light switches in truck cab

• Rack cabinet (for computer/DVD-RW) • Wall file • Video distribution booster, 13,500-BTU roof air conditioner with 5600-BTU heat strip controlled via digital thermostat, 2-drawer file cabinet with full height coat closet above
2. Equipment Bay: • stainless steel work surfaces • Built-in heavy-duty storage/toolbox • Slide-out crawler drawer under cable reel • Wash-down system (on-demand pump, lighted switch, 18-gallon water tank with exterior fill, 25 ft. retractable hose reel) • Ceiling-mounted LED lights and rear facing LED flood lights • Rear-facing 19" monitor • Plywood ceiling/awls covered in gray FRP • Black treaded rubber floor • Aluminum storage shelf and caddy with trash can • Wheel drawer • Rubber glove dispenser, tool package (manhole hook, pick, sledgehammer and shovel, all mounted on brackets against diamond plate backing)
3. Power: • Shore power cord with 120V wall adapter • Breaker box • Auto-transfer switch • 12V fuse block • 4.0 kw inverter power system supported by (4) 200-amp hour deep-cycle batteries; LCD control panel and hour meter
4. Exterior: • Tie-off clamp above rear bumper, front roof-mounted LED Strobe rear LED arrow board.
5. Miscellaneous: • Hand sanitizer • Waterless hand cleaner • Paper towels • Rubber gloves • First-aid kit • Fire extinguisher • Rain-X • Simple Green • Dry-erase board • Traffic cones • Rubber counter mat • Remote mount • Lanyard, back-up alarm
6. Color printer
7. Multi-monitor mount
8. Under-desk keyboard tray

9. 12V handheld spotlight
10. Wall-mounted heater
11. Pass through door between Operator Studio and Equipment Bay
12. 12V receptacles
13. Front bumper cone storage
Required: Service Facility within 150-mile radius of Murfreesboro

2021 Freightliner Sprinter
Paint Arctic White
Fabric Black

The Freightliner Sprinter shall have the following options:

Super-Single Tires
-Steel Wheels: 8.5Jx16 Rear &6.5Jx16 Front
-Tire pressure monitoring lamp
-285/65 R 16 C Super-Single Tires
-OMISSION BULKHEAD
-Parametric Special Module (PSM)
-Aux.Fuel Sending Unit
- Lamps - Cargo Compartment (Standard)
-Cruise Control
-All-season tires
-Standard Accessories
-Axle Ratio 4.18
-Brake Assist Plus
-Hold Function
-Stabilization Level II
-Adjustable Steering Wheel
-Radiator Grille Frame in Vehicle Color
-Multifunction Steering Wheel
-Roof - High
-AGM battery 12 V 95 Ah 850A
-Body Builder Connector
-Battery Positive Contact
-Emergency Call System
-Breakdown Management
-Hill Start Assist
-Standard Radio
-USB-C socket, 5 V
-Pre-Installation for Switch Panel
-Starter Battery Disconnect
-Trailer Hitch - Wire Harness w/7 Pin Connector
-Shelf Above Windshield
-Cupholder Centerstack
-Remote Key Fob - 315 MHZ

-Stowage Compartment Cockpit
-Rear-view Camera (mirror display)
-Exterior mirror heated and electric adjustable
-Automatic transmission 7G-TRONIC
-Heater- Aux. Electric HotAir
-Air Condition, Front
-Windshield with Filter Band
-Head Unit, North America
-Crosswind Assist
-Communication Module (LTE) Digital Services
-Speedometer, miles/km
-Seat belt reminder for co-driver
-Seat belt reminder for driver
- Outside Temperature Gauge
-24.5-gallon fuel tank
-Fuel Filter w/Water Separator
-Generation SCR Emission Control System
-Filler Cap, Diesel, in red
-Exhaust Straight to Rear
- Headlight assistant
- 3rd LED Break Lamp Hi-Mounted
- Engine-3.0 Turbo Diesel BlueTEC
- Engine, Low Emission, ULEV
-Front Mud Flaps
- Rear Mudflaps
- Longitudinal Member Reinforcement
-Spare Tire Carrier below Frame
-Spare Wheel - Steel
- Air Bag, driver
- Airbag, front passenger
-Thorax-pelvis sidebag, driver
-Thorax-pelvis sidebag, co-driver
-Airbag, Driver/Passenger Window
-Seat Occupancy Recognition, Driver's Seat
- Adjustable front passenger seat
- Armrest for Driver Seat
- Armrest for Passenger Seat
-Sliding Door- Right Side (Standard)
- Cable duct on side wall
-Cable duct on rear portal
-GVWR 9,990 lbs (Standard)
-VIN Encoded vehicle data with check digit

FREIGHTLINER BRAND

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Town Creek Daylighting-Griggs & Maloney Proposal

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Engineering proposal from Griggs & Maloney (G&M) to design the water relocation necessary for the daylighting of Town Creek.

Staff Recommendation

Approve the Engineering Proposal from G&M.

Background Information

Staff has requested and received a proposal for Engineering Design Services from Griggs & Maloney, Inc. (G&M) pertaining to the Town Creek Daylighting Project. G&M is the design Engineer for the Daylighting of Town Creek on the southeastern quadrant of the intersection of S. Church and Broad Streets. At the time of this project, the 16" water main will have to be lowered under the creek, so it makes sense for the water main lowering to be under the same construction contract. Also, within this construction contract, we will specify a sewer main repair along the edge of the McDonalds parking lot.

Council Priorities Served

Improve economic development

The daylighting of Town Creek will improve the aesthetics of downtown Murfreesboro and therefore may improve economic development by attracting redevelopment.

Fiscal Impact

Funding for this design was not funded through the Operating Budget so it is requested to come from Stormwater Working Capital Reserves in an amount not to exceed $14,500.

Attachments

1. G&M Proposal
2. Exhibit

GRIGGS & MALONEY
INCORPORATED
Engineering & Environmental Consulting

P.O. Box 2968
Murfreesboro, TN 37133-2968
(615) 895-8221
Fax: (615) 895-0632

May 12, 2021

Ms. Valerie Smith, Assistant Director
Murfreesboro Water Resources Department
220 N.W. Broad Street
Murfreesboro, Tennessee 37130

RE: PROPOSAL FOR ENGINEERING SERVICES
WATER MAIN REALIGNMENT DESIGN, POINT REPAIR OF SANITARY SEWER DESIGN, & UTILITY EASEMENTS
TOWN CREEK, CITY OF MURFREESBORO

Dear Ms. Smith:

Griggs & Maloney, Inc. (G&M) thanks you for the opportunity to provide the following proposal to design a point repair of the sanitary sewer located on McDonald's property and relocate the water main that conflicts with the proposed improvements to Town Creek near the corner of Church Street and Broad Street. A legal description and exhibit will also be prepared for abandonment of an existing easement and establishment (or verification) of a utility easement where existing MWRD utilities are currently present or are to be relocated.

Scope of Work: G&M proposes to provide design phase services for the installation of the relocated 16-inch water line crossing the daylighted town creek channel and gravity sewer line on the western boundary of the McDonald's property. G&M proposes also to provide bidding and construction phase support to the rehabilitation and the point repair of the leaking sanitary sewer as part of the Town Creek Daylighting Bidding and Construction. Legal descriptions and exhibits will be provided to the City of Murfreesboro's Legal Department for the City to coordinate with McDonalds real estate and legal teams.

Cost & Schedule: G&M proposes to perform the scope of work above for a lump sum fee of $14,500 in accordance with the attached Standard Terms and Conditions and Standard Rates. Design will begin upon approval of the proposal. Bidding and Construction of the project will be tied to the schedule of Town Creek.

G&M sincerely appreciates the opportunity to work with the City of Murfreesboro. Please sign where indicated below and return to me to authorize G&M to proceed with the work. Should you have any questions or comments regarding this proposal, please contact me at (615) 895-8221 or rmaloney@griggsandmaloney.com.

Sincerely,
GRIGGS & MALONEY, INC.

Ryan Maloney

Ryan Maloney, P.E.
Vice President

PROPOSAL ACCEPTANCE:

Title *Name (Print)*

Signature *Date*

GRIGGS & MALONEY, INC. STANDARD TERMS AND CONDITIONS

1. ACCESS TO THE SITE/JOB SITE SAFETY

Unless otherwise stated, Griggs & Maloney, Inc., hereinafter referred to as the CONSULTANT, will have access to the site for activities necessary for performance of the services. The CONSULTANT will take precautions to minimize damage resulting from these activities, but has not included in the project fee the cost of restoration of any resulting damage.

The CONSULTANT has not been retained or compensated to provide services relating to the CONTRACTOR's safety precautions or means, methods, techniques, sequences or procedures for the CONTRACTOR to perform his work. The CLIENT understands that the CONSULTANT is not responsible, in any way, for the means, methods, techniques, sequences, procedures, scheduling, or for job site safety, and will not be responsible for any loses or injuries that occur at the Project site.

2. INSURANCE

The CONSULTANT shall secure and endeavor to maintain such insurance including general liability and errors and omissions insurance in the amount of $1,000,000 as will protect the CLIENT from claims of negligence, bodily injury, death, or property damage that may arise out of the performance of the CONSULTANT's services under this agreement.

3. TERMINATION OF SERVICES:

This Agreement may be terminated by the CLIENT or by the CONSULTANT upon not less than seven days written notice should the other party fail to substantially perform in accordance with the terms of this Agreement through no fault of the party initiating termination. If this Agreement is terminated by the CLIENT, the CONSULTANT shall be paid for services performed to the termination notice date, including reimbursable expenses.

4. REIMBURSABLE EXPENSES:

Reimbursable expenses include actual expenditures made by the CONSULTANT, his employees, or his SUB-CONSULTANTS on behalf of the Project. Reimbursable expenses include, but are not necessarily limited to, the following: (a) expenses of transportation and living when traveling in connection with the Project: long distance communications; overnight mail; and fees paid for testing and/or securing approval of authorities having jurisdiction over the Project: (b) expenses of printing, reproduction, postage and handling of drawings and specifications, including duplicate sets at the completion of each phase of the Project for the CLIENT's review and approval; and (c) expenses related to SUB-CONSULTANTS and specialists when authorized by the CLIENT. Reimbursable expenses shall be billed as cost plus 15% incurred by the CONSULTANT.

5. DISPUTES RESOLUTION:

All claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to this Agreement or breach thereof shall be presented to non-binding mediation, subject to the parties agreeing to a mediator.

6. OWNERSHIP OF DOCUMENTS:

It is understood by and between the parties to this agreement that all drawings, specifications, reports and other work products of the CONSULTANT for this Project shall remain the property of the CONSULTANT and are instruments of the service for this Project only and shall apply to this particular Project and any reuse of the instruments of service of the CONSULTANT by the CLIENT for any extensions of the PROJECT or for any other project without the written permission of the CONSULTANT shall be at the CLIENT's sole risk, and the CLIENT agrees to defend, indemnify and hold harmless the CONSULTANT from all claims, damages and expenses, including attorney's fees, arising out of any unauthorized reuse of the CONSULTANT's instruments of service by the CLIENT or by others acting through or on behalf of the CLIENT to the extent permitted by law. Any reuse or adoption of the CONSULTANT's instruments of service on other projects shall entitle the CONSULTANT to additional compensation in an amount to be agreed upon by the CLIENT and the CONSULTANT.

7. GOVERNING LAW:

Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the State of Tennessee. In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be constructed by the other party as a waiver of a subsequent breach of the same by the other party.

8. PAYMENT TO THE CONSULTANT:

If the CLIENT fails to make payment due to the CONSULTANT, the CONSULTANT may, after giving seven days written notice to the CLIENT, suspend services under this Agreement and retain all work products deliverable to the CLIENT until full payment. The project completion date shall be automatically extended by the number of days services are suspended.

No deductions shall be made from the CONSULTANT's compensation on account of penalty, liquidated damages, or other sums withheld from payment(s) to CONTRACTORS.

9. CLIENT RESPONSIBILITIES:

The CLIENT shall designate a person to act with authority on his behalf in respect to all aspects of the Project, shall examine and respond promptly to CONSULTANTS submissions, and shall give prompt written notice to the CONSULTANT whenever he observes or otherwise becomes aware of any defect in or problem with the Project.

The CLIENT shall also provide to the CONSULTANT all criteria and full information as to his requirements for the Project, and shall:

- Provide the CONSULTANT with escorts and means of access to all areas of the Project; this being necessary for the orderly progress of the work, the CONSULTANT shall be entitled to rely upon the efficiency and completeness thereof.
- Compensate the CONSULTANT for services rendered under this Agreement and pay all costs incidental to CLIENT furnished items.
- The CONSULTANT may justifiably rely upon information supplied by the CLIENT without the need for additional verification by the CONSULTANT.
- Provide such legal, accounting, and insurance counseling services as may be required for the Project.
- Guarantee access to and make all independent cost estimating, and insurance counseling services as may be required for the Project.

10. EXTENT OF AGREEMENT:

This Agreement represents the entire and integrated Agreement between the CLIENT and the CONSULTANT and supersedes all prior negotiations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CLIENT and the CONSULTANT.

The CONSULTANT intends to render services under the terms of this Agreement in accordance with generally accepted professional practices consistent with the intended use of the Project and makes no warranty either expressed or implied.

Any *opinion of construction* cost prepared by the CONSULTANT represents his judgment as a design professional and is supplied for the general guidance of the CLIENT. Since the CONSULTANT has no control over the cost of labor and material, or over competitive bidding or market conditions, the CONSULTANT does not guarantee the accuracy of such opinions as compared to CONTRACTOR bids or actual cost to the CLIENT.

11. CHANGES IN THE SCOPE OF SERVICES:

The CLIENT may request changes in the *Scope of Services* of the Agreement to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONSULTANT's compensation, which are mutually agreed upon by and between the CLIENT and the CONSULTANT shall be incorporated into this Agreement by written amendment.

Any changes made to construction documents by the CLIENT, or by the CLIENT's representative's, are strictly prohibited without the knowledge and written consent of the CONSULTANT. The CONSULTANT shall be released from any liability resulting from damages, injuries, and or death from the unauthorized alteration of construction documents.

12. EXISTING AND/OR HIDDEN CONDITIONS:

A condition is hidden if it is concealed by existing finishes or features or if it cannot be investigated by reasonable visual observation. If the CONSULTANT has reason to believe that such a condition may exist, the CONSULTANT will notify the CLIENT who then shall authorize and pay for all costs associated with the investigation of such a condition and, if necessary, all costs necessary to correct said condition. If (1) the CLIENT fails to authorize such investigation or correction after due notification, or (2) the CONSULTANT has no reason to believe that such a condition exists, the CLIENT is responsible for all risks associated with this condition, and the CONSULTANT shall not be responsible for the existing condition nor any resulting damages to persons or property. Further, the CONSULTANT will not be required to execute any document that would result in certifying, guaranteeing or warranting the existence of conditions whose existence the CONSULTANT cannot reasonably

ascertain.

13. STANDARD OF CARE

Services provided by the Design Professional under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any loss, claim or cost, including reasonable attorney's fees and costs of defense, arising or resulting from the performance of the same services set forth herein by third parties and from any and all claims arising from modifications, clarification, interpretations, adjustments or changes not approved by CONSULTANT that are made to the Contract Documents by Client or third party to reflect changed field or other conditions, except for claims arising from the negligence or willful misconduct of the CONSULTANT.

14. DESIGN WITHOUT CONSTRUCTION SERVICES

It is understood and agreed that the CONSULTANT's Basic Services under this Agreement do not include project observation or review of the CONTRACTOR's performance or any other construction phase services, and that such services will be provided by the CLIENT or by another party selected at the sole discretion of the CLIENT. Further, the CLIENT assumes all responsibility for interpretation of the Contract Documents and for construction observation and/or supervision and waives any claims against the CONSULTANT that may be in any way connected thereto.

In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any loss, claim or cost, including reasonable attorney's fees and costs of defense, arising or resulting from the performance of services under this contract by other persons or entities and from any and all claims arising from modifications, clarification, interpretations, adjustments or changes made to the Contract Documents to reflect changes field or other conditions, except for claims arising from the sole negligence or willful misconduct of the CONSULTANT.

If the CLIENT requests in writing that the CONSULTANT provide any specific construction phase service and if the CONSULTANT agrees in writing to provide such services, then the CONSULTANT shall be compensated for ADDITIONAL Services as provided in the Agreement.

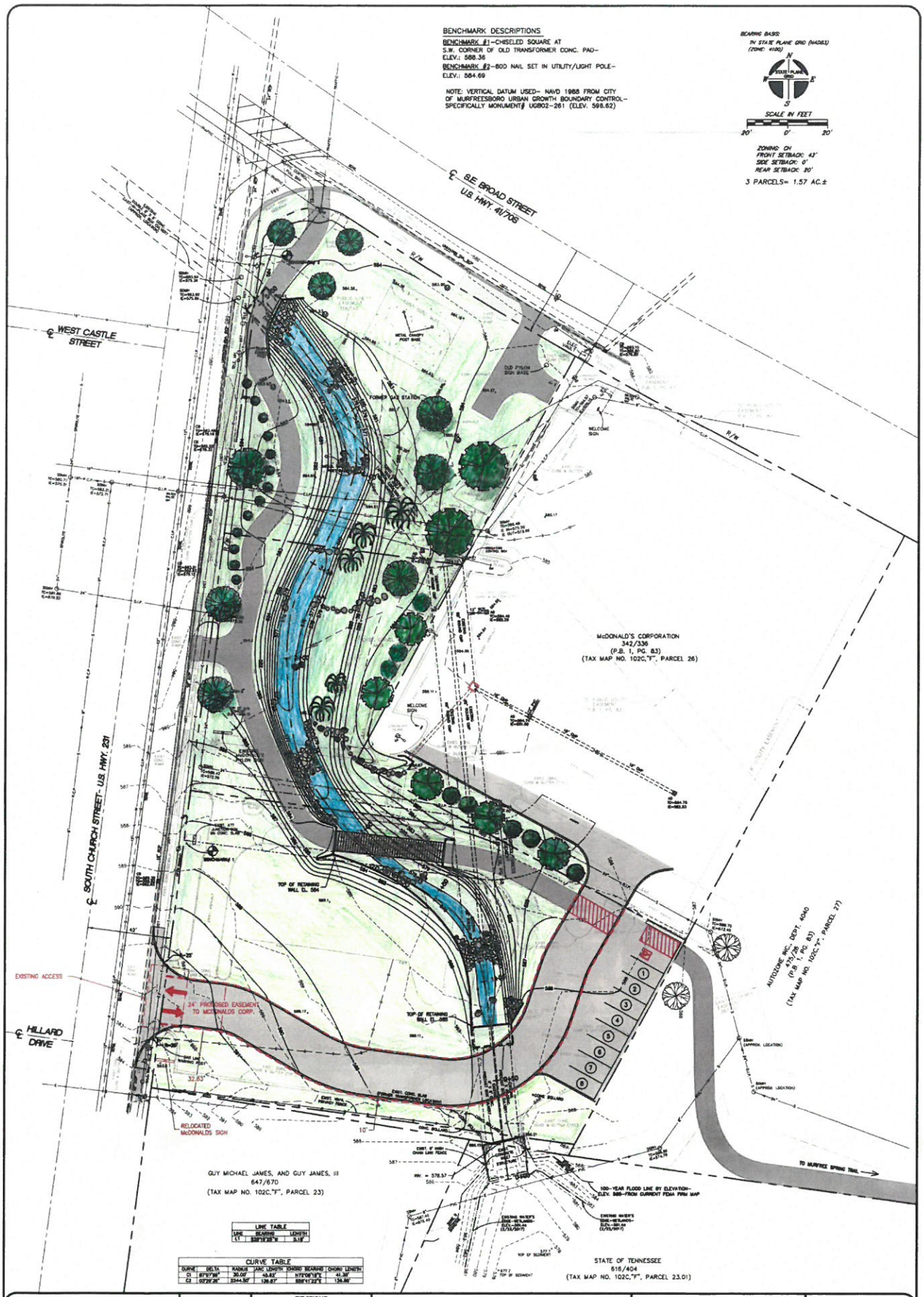
END OF STANDARD TERMS AND CONDITIONS

GRIGGS & MALONEY, INC.
STANDARD RATES: January 2021

	Per Hour Rate
Principal	$190-195.00
Senior Project Manager	$160.00
Project Manager	$135.00
Senior Engineer	$160.00
Project Engineer	$120.00
Engineer II	$115.00
Engineer I	$ 90.00
Sr. Environmental Scientist	$110.00
Environmental Scientist	$ 80.00
Biologist	$ 80.00
Sr. Geologist	$110.00
Archaeologist	$125.00
Environmental Specialist	$50.00 – $80.00
Drafting/CADD Operator	$ 90.00
Technician	$ 76.00
Clerical	$ 55.00
Administrative	$130.00
Resident Representative	$40.00 - $60.00

ADDITIONAL CHARGES

Mileage	$0.68 per mile
Per Diem	
Meal	$41.00 per day
Lodging	$150.00 per day
Direct Costs/Subcontractor	Cost plus 15 %



GRIGGS & MALONEY INCORPORATED
Engineering & Environmental Consulting
P.O. BOX 2968, MURFREESBORO, TN 37133-2968
(615) 895-8221 * FAX (615) 895-0632

REVISIONS

DATE	BY	NO.	DESCRIPTION

TOWN CREEK IMPROVEMENTS
CITY OF MURFREESBORO, TENNESSEE

PRELIMINARY LAYOUT
OPTION 2

PROJECT NO. 226-149
DATE: August 8, 2017
DRAWN BY: DSN
CHECKED BY: RMH
SCALE: AS NOTED
APPROVED BY: WEG
SHEET NO. 11 OF 11

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COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: WRRF Elevators Modernization

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Modernization of the elevators at the Water Resource Recovery Facility's (WRRF) Main Pump Station and Admin./Lab buildings by United Elevator Services, LLC.

Staff Recommendation

Approve the modernizations of the WRRF's elevators by United Elevator Services, LLC.

Background Information

Maintenance Staff determined that the over 30-year-old Admin./Lab buildings elevator and over 20-year-old Main Pump Station elevator needed to be modernized. Advice was sought from several contractors and the work was budgeted in the Department's capital improvement plan.

The City's Purchasing Department issued an Invitation to Bid with a bid opening on May 5, 2021. United Elevator Services, LLC. provided the only bid which is fully qualified.

Council Priorities Served

Maintain public safety

The infrastructure at the Water Resource Recovery Facility enables the production of excellent quality of water that enhances the West Fork Stones River for safe public use, beautiful scenery, and thriving aquatic life.

Fiscal Impact

These $190,000 modernizations were budgeted in the Department's rate funded capital budget in the amount of $210,000.

Attachments

Contract with United Elevator Services, LLC

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Agreement
for
Hydraulic Elevator Modernization

This Agreement is entered into and effective as of the ____ day of _____, 2021 by and between the **City of Murfreesboro,** a municipal corporation of the State of Tennessee (the "City"), and **United Elevator Services LLC**, a Limited-Liability Corporation of the State of Tennessee ("Contractor").

This Agreement consists of the following documents (collectively, the "Contract Documents"):

- This document
- ITB-24-2021 – Hydraulic Elevator Modernization issued 04/13/2021 (the "Solicitation");
- Contractor's Proposal dated 05/04/2021 ("Contractor's Proposal");
- Contractor's Price Proposal dated 05/04/2021 (the "Price Proposal");
- Specifications listed in Exhibit B; and,
- Any properly executed amendments to this Agreement.

In the event of conflicting provisions, all documents will be construed according to the following priorities:

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority);
- Second, Section 2 Specifications of the Solicitation (also attached as Exhibit B);
- Third, this Agreement;
- Fourth, the remainder Solicitation; and
- Lastly, Contractor's Proposal.
- When determining a conflict between the Solicitation and this Agreement, the more specific provision will control over the more general, and a provision that imposes a higher duty shall control over a provision that imposes a lesser duty.

1. Duties and Responsibilities of Contractor.

a. Scope of Work. Contractor shall provide the City with Hydraulic Elevator Modernization in accordance with the Contractor's Proposal dated 05/04/2021, the City ITB dated 04/13/2021 (specifically including, without limitation, the Specifications in Section 2 of said ITB, restated in Exhibit B to this Contract, which is incorporated herein by reference), and the Price Proposal. The City further acknowledges receipt of Contractor's document titled "Jack Hole Clarifications (Hole Clause)," and the same is incorporated herein by reference.

b. Supervision and Superintendence of Work.

i. Contractor will supervise and direct the work efficiently and with Contractor's best skill and attention. Contractor will be solely responsible for the means, methods, techniques, sequences and procedures of construction. Contractor will be responsible to see that the finished work complies accurately with the Contract documents.

ii. Contractor will keep on the work site at all times during work progress a competent resident superintendent. The superintendent will be Contractor's representative at the site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor.

c. Labor, Materials, and Equipment.

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i. Contractor will provide competent, suitably qualified personnel to perform the work as set forth in Contractor's Proposal dated 05/04/2021. The Contractor will at all times maintain good discipline and order at the site.
ii. Contractor will furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, and all other incidentals necessary for the execution, testing, initial operation and completion of the work.
iii. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise provided in the Contract documents.

d. Permits. Contractor will secure and pay for all construction permits and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of Contractor's bid. Contractor will also pay all public utility charges.

e. Use of Premises.
i. Contractor will confine Contractor's equipment, the storage of materials and equipment and the operations of Contractor's workers to areas permitted by law, ordinances, permits, or the requirements of the Contract documents, and shall not unreasonably encumber the premises with materials or equipment.
ii. Contractor will not load nor permit any part of the structure to be loaded with weights that will endanger the structure, nor will Contractor subject any part of the work to stresses or pressures that will endanger it.
iii. Notwithstanding the foregoing, the City will make available to Contractor dock access, overhead cranes, and removable flooring at the Pump State for Contractor's use during the project. Contractor will make reasonable efforts to coordinate use of these specific items with City personnel at the facility and will further make reasonable efforts not to disrupt operations at the facility by use of the same.

f. Safety and Protection.
i. Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:

1. All employees on the work and other persons who may be affected thereby,
2. All the work and all materials or equipment to be incorporated there, whether in storage on or off the site, and
3. Other property at the site or adjacent property, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

Contractor will comply with all applicable laws, ordinances, rules, regulations and order of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. Contractor will notify the City of adjacent utilities when prosecution of the work may affect them. All damage, injury, or loss to any property referred to in subparagraph (2) or (3) of this section caused directly or indirectly, in whole or in part, by Contractor, any subcontractor or anyone directly or indirectly

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employed by any of them or anyone for whose acts any of them may be liable, will be remedied by Contractor; except damage or loss attributable to the fault of drawings or specifications or to the acts or omissions of the City or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor.

ii. Contractor will designate a responsible member of Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by Contractor to the City.

g. Emergencies. In emergencies affecting the safety of persons or the work or property at the site or adjacent property, Contractor, without special instruction or authorization from the City, is obligated to act, at Contractor's discretion, to prevent threatened damage, injury or loss.

h. Cleaning Up. Contractor will keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the work, and at the completion of the work Contractor will remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the City. Contractor will restore to their original condition those portions of the site not designated for alteration by the Contract Documents.

i. Access to the Work. Representatives of the City will at all times have access to the work. Contractor will provide proper facilities for such access and observation of the work and also for any inspection or testing by others.

j. Contractor's Continuing Obligation. Contractor's obligation to perform the work and complete the Project in accordance with the Contract Documents shall be absolute. Neither any payment by the City to Contractor under the Contract documents, nor any use or occupancy of the Project or any part by the City, nor any act of acceptance by the City nor any failure to do so, nor any correction of defective work by the City shall constitute acceptance of work not in accordance with the Contract Documents.

k. Warranties. Provide warranty and repair in accordance with the Contract Documents for a period of twelve months upon completion of the work. Any required repairs during this warranty period shall be further warrantied for a period of twelve months with the exception of warranties provided by the manufacturer(s) of equipment, all of which shall be transferred to the City upon completion of the work. Contractor shall do any and all things necessary to ensure that said manufacturers' warranties are valid and effectively transferred to the City and shall provide proof thereof upon completion of the work.

2. Completion Date; Damages. The services as provided in the Contract Documents shall be completed by the close of business on January 14, 2022 (the "Completion Date"). No adjustment to the Completion Date will be made except by a written Change Order signed by a person duly authorized by the City and no course of conduct, verbal agreement, singularly or cumulatively, is a valid means of modifying the Contract price nor Completion Date, and no person may waive this provision.

a. The parties each represent and acknowledge that the ongoing coronavirus pandemic has created certain challenges in supply chains and logistics, which may have an impact on receiving supplies and equipment to be used in the work. These challenges have been considered in calculating the Completion Date. Therefore, the City shall have no obligation to make an adjustment to the Completion Date for supply chain/logistics delays totaling less than twenty percent (20%) of the contract time. Contractor shall

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promptly notify the City of all delays in the work (including, without limitation, supply chain/logistics delays and force majeure claims). At or prior to the Completion Date, the City may make an adjustment based on the totality of the work and the effect of any/all delays, which adjustment shall be in the City's sole discretion and shall not be unreasonably withheld or denied.

b. The City represents, and Contractor acknowledges, that (i) the work involves equipment that is essential and/or beneficial to the City's operations and (ii) subject to subsection 2.a., time is of the essence in this Agreement. The City further represents, and Contractor further acknowledges, that delays beyond those contemplated in this Agreement shall damage aspects of the City's operations, that these damages are not speculative, and that these damages may be difficult to quantify. Therefore, the parties agree that, should the work extend beyond the Completion Date (as may be adjusted pursuant to this Agreement), Contractor shall be liable for liquidated damages in the amount of Three Hundred Dollars ($300) per day until completion of the work.

3. Termination. Contractor's performance may be terminated in whole or in part:

a. Upon 30-day prior notice, for the convenience of the City.

b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.

c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.

d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.

e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

4. Price; Compensation; Method of Payment. The price for the goods and other services to be provided under this Agreement is set forth in the Proposal dated 05/04/2021 which reflects a **total price of $190,000**. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.

5. Work Product. Except as otherwise provided herein, all data, documents and materials produced by Contractor under this Agreement are the property of the City, which retains the

exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Any of the City's property, including but not limited to books, records and equipment, that is in Contractor's possession must be maintained in good condition and repair and returned to the City by Contractor at the end of this Agreement

6. Insurance and Bonds. Contractor must maintain commercial general liability insurance for bodily injury and property damage, automobile liability insurance, and workers' compensation insurance as required by the State of Tennessee. Contractor must name the City and the City of Murfreesboro as an additional insured on all liability insurance policies and provide the City a copy of the endorsement. Contractor must notify the City within five days if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.

a. Insurance requirements are specified in Exhibit A, attached hereto.

b. Contractor must furnish a Performance Bond and a Payment Bond, each in the amount of 100% of Contractor's entire obligation under this Agreement, as security for faithful performance and payment.

7. Indemnification.

a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

c. <u>Copyright, Trademark, Service Mark, or Patent Infringement</u>.

I. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

II. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
   a. Procure for the City the right to continue using the products or services.
   b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
   c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.

III. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

8. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

If to Contractor:

United Elevator Services LLC
Attn: Jeff Cruze
4835 Airport Highway
Knoxville, TN 37920

9. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.

10. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.

11. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and

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agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.

12. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

13. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.

14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

15. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

16. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to

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Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.

17. **Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.

18. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

19. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.

20. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.

21. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.

22. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2021 (the "Effective Date").

CITY OF MURFREESBORO

By:_____
Shane McFarland, Mayor

UNITED ELEVATOR SERVICE LLC

By:_____
Jeff Cruze, Account Manager

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
_____
43A3035E51F9401
Adam F. Tucker, City Attorney

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Exhibit A

Insurance Requirements

Contractor must, as a material obligation to the City and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Exhibit.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Contract requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers' compensation and employer's liability insurance, providing the following coverages, limits and endorsements:

1. **Commercial General Liability Insurance ("CGL").**

   1.1 The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU, and products and completed operations, with a combined single limit of liability of not less than $1,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than $1,000,000 applicable solely to the Work, and meeting all other requirements of this Exhibit.

   1.2 The CGL insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.

   1.3 Each CGL policy must be endorsed or written to:

      a. Include the per project aggregate endorsement;

      b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");

      c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;

      d. Includes a severability of interest clause; and

      e. Waive all rights of recovery against the Additional Insureds.

2. **Workers' Compensation Insurance.** Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance with limits of at least $ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

3. **Auto Liability Insurance.**

3.1 Commercial auto liability must be carried with minimum combined single limit of $1,000,000 per occurrence.

3.2 This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.

3.3 This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

4. **Term of Coverage.**

4.1 The products and completed operations liability coverage required by this Contract must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Contract (the "Completed Operations Term").

4.2 If at any time during the Completed Operations Term, Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.

4.3 Contractor will furnish certificates of insurance and other evidence that the City may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.

4.4 All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

5. **Subcontractor and Lower-Tier Entities Insurance Requirements.**

5.1 Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:

a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be $1,000,000 per occurrence, and $1,000,000 as the annual aggregate limit; and

b. Timely furnish to the City proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.

c. The Lower Tier Entities' general liability policy must also be endorsed to provide primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the

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Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.

d. The City has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

6. **Other Policy Provisions.** Each policy to be furnished by Contractor and each Subcontractor must:

6.1 Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;

6.2 Provide that attorney's fees are outside of the policy's limits and be unlimited;

6.3 Include the Project per aggregate endorsement;

6.4 Waive all rights of subrogation against the City;

6.5 Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the City; and

6.6 Be otherwise satisfactory to the City. The City agrees to consider alternatives to the requirements imposed by this Exhibit but only to the extent that the City is satisfied the insurance is not commercially available to the insured. In such event, the City has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the City be a loss-payee under the policy.

7. **Certificates and Endorsements**

7.1 Within 10 days after the execution of this Contract, Contractor must provide the City with certificates and endorsements;

7.2 Upon City request, Contractor must provide the City with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Exhibit together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of coverage potentially available to the City under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the City.

7.3 If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

8. **Reduction in Coverage.** Contractor must promptly inform the City of any reduction of coverage resulting from revised limits, claims paid, or both and must require its Subcontractors and Lower Tier Entities to promptly inform Contractor of same. The City has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

9. Suppliers and Materialmen Coverages

9.1 Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.

9.2 With respect to any equipment, machinery or other goods for which the City or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the City and Contractor as loss payee as their interests appear.

10. Condition Precedent to Starting Work

10.1 Prior to, and as a condition of its right to begin performing any Work on the site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the City certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the City that the required insurance is in place; together with the original of each bond required under this Contract. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the City to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

10.2 The City is under no obligation or duty to make any such inquiry and the City is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The City's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.

11. Additional Proofs of Insurance. Contractor must, within 10 days after request, provide the City with certified copies of all policies and endorsements obtained in compliance with this Contract.

12. Indemnity. The fact that Contractor and its Subcontractors are required by this Contract to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the City and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.

13. Interpretation. In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Contract, the terms of this Exhibit will govern.

IN WITNESS WHEREOF, Contractor acknowledges and agrees to these requirements as of _____, 2021.

UNITED ELEVATOR SERVICE LLC

By:_____
Jeff Cruze, Account Manager

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Exhibit B: "Specifications"

The specifications included in this Section are intended to cover the modernization of one (1) hydraulic elevator as follows:

A. This elevator is to be modernized using all new non-proprietary microprocessor-based control equipment, with solid state operation.

B. All work and material necessary to accomplish this installation and the specifications herein shall be provided. This work shall be done in accordance with the requirements of local codes, which may govern the requirements of the installation. All terms in these specifications have the definition given in the latest edition of the Safety Code for Elevators and Escalators (referred to as the ASME A17.1 "Code"), including revisions and authorized changes in effect on the date of these specifications. In all cases where a device or part of the equipment is referred to in the singular number, it is intended that such reference should apply to as many devices as are required to complete the installation.

1.1 Related Work Specified Elsewhere.

Enumeration of Related Work Specified Elsewhere, referred to as "Work by Others" in this following section is intended to indicate work not normally performed by elevator companies. It is the responsibility of the City to make (or cause to be made) these corrections, if required by the State, prior to the final inspection. Contractor will assist with coordinating access within the hoistway and mechanical areas for other trades as required to pass the final State inspection.

A. Hoistway and Pit (Compliant with State codes):

1. Verify sump pump is operational and covered with subway grating, level with the pit floor.
2. Provide or verify non-GFCI single receptacle for sump pump is installed above the bottom floor threshold.
3. Provide additional pit lighting as required to meet code.
4. Provide or verify duplex GFCI receptacle is installed in pit for service personnel.

B. Machine Rooms (Compliant with State Codes):

1. Verify existing or provide new machine room ventilation and heating. Maintain minimum temperature of 65 degrees, maximum 90 degrees. Maintain maximum 85% relative humidity, non-condensing. HVAC unit may be located within the bounds of the machine room if solely for the heating or cooling of that machine room.
2. Complete the machine room enclosure as required per building code for fire rated enclosure.
3. 120VAC cab lighting shall be provided with a lockable, fused disconnect single dedicated circuit.
4. Emergency lighting shall be provided.
5. Provide or verify dedicated phone line to the top of the controller. This shall be in conduit and must be operational to pass inspection. Line must have 24-hour capable communications.

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6. Machine room door shall have signage stating “Authorized Personnel Only”.
7. A fire alarm horn or bell shall be installed in or near the machine room.
8. A data plate shall be provided that indicates A17.1 code to be used for inspections and tests. It shall be in plain view securely attached to main line disconnect.
9. A sign is to be located on the main line disconnect that reads “keep switch closed except during maintenance, repairs, or inspections.”

C. Electrical (Services, Conductors and Devices).

1. Provide single-phase power feeders to the car controller for lighting and exhaust blower, including individual 120V, lockable "OFF", fused disconnects or circuit breakers. Verify controller location on Elevator shop drawings. Also include power feeds from mains individual 3phase, lockable "OFF", fused disconnects to drives and/or controllers as required by Elevator Contractor.
2. Provide new, or verify existing smoke detectors (NFPA No. 72E, Chapter 4) in each elevator lobby, top of hoistway, and machine room to initiate firefighter's return feature. Main lobby floor detector to be individually zoned.
3. Provide new, or verify adequacy of existing, machine room lighting to (including secondary lighting) provide 10-foot candles minimum illumination. Recommend a fluorescent light fixture over each hoist machine and over the front and back of each control cabinet. Verify controller cabinet locations on Elevator shop drawings.
4. Provide emergency lighting in center of elevator machine room as well as at the access door.
5. Provide or verify at least one (1) GFCI outlet in machine room and pit if required.

1.2 REQUIREMENTS OF REGULATORY AGENCIES. Comply with the most stringent requirements of the following, including all supplements thereto issued and effective at date of bid:

A. Building Laws:

1. Applicable Building Laws, including Standard Building Code.
2. State and Local Codes, Ordinances and Laws.
3. ASME A17.1-1996 Safety Code for Elevators and Escalators.
4. National Electrical Code No. NFPA/ANSI 70.
5. NFPA 101 Life Safety Code.
6. Americans with Disabilities Act - 1990 and State of Tennessee handicapped requirements.

B. Permits: Obtain and pay for all state and local permits.

1.3 QUALITY ASSURANCE.

A. Approved Installers:

1. Elevator supplier shall be capable of providing maintenance service, including adequate local parts inventory.
2. Supplier shall be capable of providing 24-hour-a-day emergency service and respond to trouble calls during regular hours.
3. Supplier shall employ competent personnel, experienced in elevator maintenance.
4. Supplier shall perform all maintenance during specified maintenance period. Maintenance shall not be assigned or transferred.
5. All elevator equipment shall be non-proprietary. Any special diagnostic tools

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necessary for the maintenance of these units shall be turned over to the owner at no additional cost. If tools require periodic adjusting or upgrading the cost of this upkeep will be included under this contract for 20 years at no additional cost to the owner.

B. Guarantee:

1. The materials and workmanship of the elevator apparatus installed shall comply in every respect with these specifications and any defects not due to ordinary wear and tear, or improper use or care which may develop within one year from date of final acceptance of the elevator equipment shall be corrected to the satisfaction of the Owner at no additional cost.

1.4 SUBMITTALS. Submit product data for review:

A. Descriptive brochures of signal fixtures and controls

B. Certificates: Submit certificate of elevator performance with contract closeout documents. After adjustments, test, and inspections are performed, forward certificate signed by Elevator Manufacturer stating that the equipment and controls provide the level of elevator service specified. Include certification that elevator hoistway doors, hardware and accessories comply with specified fire rating requirements.

1.5 PERMITS, TESTS, AND INSPECTIONS.

A. Elevator Contractor Shall Obtain and Pay for:

1. All necessary legal requirements, permits, licenses and inspection fees necessary to complete the elevator installation.
2. Perform tests as required by governing enforcing authorities and/or ASME A17.1 Safety Code for Elevators and Escalators, in accordance with procedures specified in ANSI/ASME A17.2 Inspector's Manual.

B. Perform such tests in the presence of authorized representatives of such authorities.

C. Provide manpower and equipment to perform tests and final reviews indicated in Specification Part 3 of these specifications.

1.6 MAINTENANCE.

A. Modernization:

1. Initial Maintenance Service: Beginning at Substantial Completion, provide 12 months' full maintenance service by skilled employees of the elevator Installer. Include periodic preventive maintenance, repair or replacement of worn or defective components, lubrication, cleaning, and adjusting as required for proper elevator operation at rated speed and capacity. Provide parts and supplies as used in the manufacture and installation of original equipment.
2. Perform maintenance, including emergency callback service, during normal working hours.
3. If this elevator requires special diagnostic or programming tools to perform maintenance and troubleshooting, these tools must be furnished to the owner at no additional cost. If the tools must be maintained and/or upgraded on a periodic basis to keep them operational, then an extended warranty/service agreement shall be executed by both parties in order to provide maintenance and upgrades.

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1.7 MATERIALS. As applicable:

A. Steel: Low carbon, cold rolled to stretcher leveled standard flatness per ASTM A366 for sheet, ASTM A36 for structural.

B. Stainless Steel: Type 302 or 304 complying with ASTM A167, with standard tempers and hardness required for fabrication, strength and durability. Apply mechanical finish on fabricated work in the locations shown or specified. (Federal Standard and NAAMM nomenclature), with texture and reflectivity required to match Architect's sample. Protect with adhesive-paper covering. No. 4: Bright directional polish (satin finish). Graining directions as shown or, if not shown, in longest dimension.

C. Aluminum: Extrusions per ASTM B221; sheet and plate per ASTM B209.

D. Paint: All exposed metal work furnished under this section, except as otherwise noted, shall be cleaned of oil, grease, scale and other foreign matter and factor painted one shop coat of Manufacturer's standard rust-resistant primer. After erection, provide one finish coat of industrial enamel paint. Galvanized metal exposed inside of the hoistway or in the machine room need not be painted.

E. Prime Finish: Clean all surfaces receiving a baked enamel finish of oil, grease, scale, etc. Apply one coat of rust-resistant mineral paint followed by a filler coat over uneven surfaces. Sand smooth and apply final coat of mineral paint.

1.8 KEYS: Provide 3 sets of all keys to operate elevator.

1.9 HOISTING. All required hoisting and movement of elevator equipment shall be the responsibility of the Elevator contractor.

1.10 PROTECTION.

1. Provide a code approved barricade in front of each entrance of the unit being modernized. These barricades are to be designed per OSHA requirements.
2. Removal and disposal of any and all hazardous waste or materials is to be per government regulations.

1.11 PRODUCTS

1.12 SUMMARY

HYDRAULIC PASSENGER ELEVATOR: RETAIN EXISTING OR PROVIDE NEW EQUIPMENT AS FOLLOWS:

GENERAL
NUMBER: ONE (1)
CAPACITY: RETAIN EXISTING (3000# CAPACITY)
SPEED: RETAIN EXISTING (125 FPM)
POWER CHARACTERISTICS: RETAIN EXISTING (208V, 3PH, 60HZ)
STOPS /OPENINGS: RETAIN EXISTING (4, FRONT)
TRAVEL: RETAIN EXISTING
FLOORS SERVED: RETAIN EXISTING (1, 2, 3, 4)

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ELEVATOR CODE REQUIREMENTS: ALL MATERIAL AND INSTALLATION PROVIDED AS INDICATED IN THIS SCOPE OF WORK WILL COMPLY WITH ASME A17.3-2000
ELEVATOR PERMITS: PROVIDE FOR ONLY ELEVATOR PORTION OF THE PROJECT
ELEVATOR TESTS / INSPECTIONS: INCLUDED

MACHINE ROOM

SEISMIC REQUIREMENTS: RETAIN EXISTING
POWER UNIT: PROVIDE NEW
HYDRAULIC OIL: PROVIDE NEW
MOTOR STARTER: PROVIDE NEW -- SOLID STATE TYPE
OIL LINE SHUT-OFF VALVE: PROVIDE NEW
ELEVATOR CONTROL PROVIDE NEW -- NON-PROPRIETARY MICROPROCESSOR BASED SYSTEM, SELECTIVE COLLECTIVE OPERATION

HOISTWAY AND PIT

GUIDE RAILS / BRACKETS / SUPPORTS: RETAIN EXISTING
SEISMIC REQUIREMENTS: RETAIN EXISTING
TRAVELING CABLE: PROVIDE NEW
SELECTOR SYSTEM: PROVIDE NEW
HOISTWAY WIRING: PROVIDE NEW
HOISTWAY SWITCHES: PROVIDE NEW
HYDRAULIC JACK: PROVIDE NEW JACK ASSEMBLY INCLUDING CYLINDER, CYLINDER HEAD, PISTON, AND PVC CASING **CRITICAL – PLEASE CAREFULLY REVIEW ATTACHED JACK HOLE CLARIFICATIONS ON PGS 19-20.
PIT CHANNELS: RETAIN EXISTING
SPRING BUFFERS: RETAIN EXISTING
PIT STOP SWITCHES: PROVIDE NEW LANDINGS
ENTRANCE SIZE / TYPE: RETAIN EXISTING
HOISTWAY DOORS: RETAIN EXISITING
HALL SIGNAL FIXTURES: PROVIDE NEW – SURFACE MOUNT, VANDAL RESISTANT
HOISTWAY ACCESS (TOP & BOTTOM): PROVIDE NEW (PER CODE)
HALL FIRE SERVICE OPERATION: PROVIDE NEW (PER CODE)

CAR

CAR PLATFORM / INSIDE SIZE: RETAIN EXISTING
CAR SLING & PLATFORM: RETAIN EXISTING
CAR SLIDE GUIDES: RETAIN EXISTING, CLEAN AND REFURBISH
CAR TOP INSPECTION STATION: PROVIDE NEW TOP OF CAR LIGHT / DUPLEX OUTLET: PROVIDE NEW
DOOR OPERATOR: RETAIN EXISTING – DOOR OPERATOR WAS RECENTLY REPLACED
CAR DOOR SAFETY: PROVIDE NEW
CAR DOOR REVERSING EDGE: PROVIDE NEW
CAR ENCLOSURES: RETAIN EXISTING
CAR SILLS: RETAIN EXISTING
CAR FINISHES: RETAIN EXISTING
CAR FRONTS AND TRANSOMS: RETAIN EXISTING
CAR DOOR: RETAIN EXISTING
CAR FAN: PROVIDE NEW
CAR SIGNAL FIXTURES: PROVIDE NEW – VANDAL RESISTANT WITH LED INDICATOR
HANDS FREE ADA PHONE: PROVIDE NEW – INTEGRATED WITH NEW CAR STATION
CAR BRAILLE DESIGNATIONS: PROVIDE NEW

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CAR FIRE SERVICE OPERATION: PROVIDE NEW -- INCORPORATE INTO THE NEW CAR OPERATING PANEL

1.13 PERFORMANCE. Adjust equipment as follows:

A. Speed: +/- 3% under any loading condition or travel direction.

B. Capacity: Safely lower, stop and hold up to 125% of the rated load.

C. Stopping Accuracy: +/- 1/4" under any car loading condition.

D. Door Times: The door opening time shall be measured from the instant the doors start to open until they are fully open: The door closing times shall not be less than those permitted by the ASME A17.1 Code, Rule 112.4 and the kinetic energy of the hoistway door and all parts rigidly connected thereto (includes the sum of the weights of the hoistway and car doors and related parts) computed for the average closing speed shall not exceed 7 ft. lbs. The force necessary to prevent closing of the hoistway door or car door from rest shall not exceed 30 pounds: 4.2 seconds

1.14 OPERATION. Provide new operation as follows:

A. Operational Control: The following control equipment or approved equal shall be acceptable:

1. Non-proprietary controller installed

2. Control System:

a. Provide the passenger elevator with a new microprocessor-based dispatch, car control and motor control system per the equipment summaries with the minimum features hereafter described.

b. Provide a full selective collective operation.

3. Stopping Accuracy: New automatic 2-way stopping and leveling device shall be provided, designed to govern the stopping accuracy of the car to within +/- 1/4" above or below the landing sill. This operation shall be effective to avoid over travel, as well as under travel, of the car and maintain the stopping accuracy regardless of the load in the car, direction of travel, rope slippage or stretch.

B. Independent Service. Provide new controls for operation of elevator from car buttons only. Under this operation door closing shall be initiated by activating the desired designation floor button or the door close button.

C. Door Operation. Doors shall open automatically when the car arrives at a floor to permit the transfer of passengers. When another car is at the lobby floor terminal and is loading for departure or upon expiration of a timed interval, the doors shall close until the arriving car is designated for loading. In the event a passenger has entered the elevator, before it is assigned for dispatching, the doors shall reopen upon registration of a call on the car button or by pressing the door open button.

D. Emergency Features.

1. Firefighter's Service: Equip the elevators with new control system to operate and recall the cars during a fire or other emergency condition. Provide terminals on the

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controller for connection of signal from sensors provided. Operation shall be similar on all elevators and visual/audible signal shall operate until return is complete or automatic operation restored. Provide the designated level and alternate return level sequencing as designated by the Architect.

2. Emergency Cab Lighting and Emergency Alarm Unit: New car-mounted battery unit including solid-state charger and testing means enclosed in common metal container. Battery to be rechargeable nickel cadmium or gel cell type with a 5-year minimum life expectancy and be capable of providing 4 hours of emergency illumination and one hour of alarm-bell activation. Mount the emergency call bell on the car top. Locate two emergency bulbs so that the unit will provide sufficient intensity and illumination of at least 0.2 foot-candles measured at a height of 4 feet above the cab floor. Locate an emergency lighting test button in the car service panel.

1.15 MACHINE ROOM EQUIPMENT. Provide new equipment as follows:

A. Controller: Provide new cabinet type, with removable doors and adequate ventilation to dissipate heat complying with NEC Code. Adequate working clearances shall be provided. Wire to identified terminal block studs. Identifying symbols or letters identical to those on wiring diagrams permanently marked adjacent to each component on the controller. Provide the proper ampere rating marked adjacent to all fuse holders.

B. Power Unit: Submersible hydraulic reservoir including motor, pump, and control valve to allow for smooth and quiet operation while also distributing heat evenly.

1.16 HOISTWAY EQUIPMENT. Retain existing or provide new equipment as follows:

A. Guide Rails: Reuse existing guide rails and brackets. Thoroughly clean all rails of grease, rust, oil, and other foreign substances. Tighten bracket bolts and guide clips for smooth and quiet operation.

B. Buffers: Retain existing buffers, clean thoroughly, test and retag.

C. Normal and Final Terminal Stopping Devices: Provide new per A17.1 Code.

D. Electrical Wiring. Provide new as follows:

1. Conductors: Solid copper throughout with individual wires coded with all connections on identified studs or terminal blocks. Use no splices or similar connections in wiring except at terminal blocks, control cabinets and junction boxes. Provide 10% spare conductors throughout and two additional sets of shielded communication wires. Flexible conduit shall not be used on flat portions of the car top.

2. Conduit, etc.: Existing conduit and duct may be reused, or provide new painted or galvanized steel conduit and duct. Flexible conduit exceeding 18" in length shall not be used. Flexible heavy-duty service cord, Type SO, may be used between fixed car wiring and car door switches for door protection devices.

3. Traveling Cables: Flame and moisture-resistant outer cover. Include necessary shielded communication wires and car lighting circuits from machine room to car connection points. Prevent traveling cables from rubbing or chafing against hoistway or car items. Provide 10% spare conductors throughout.

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4. Auxiliary Wiring: Connect smoke sensors, two-way communication systems, fire department communication systems, and any other devices and systems as may be required.

1.17 HOISTWAY ENTRANCES. Retain existing

1.18 CAR EQUIPMENT. Retain existing or provide new equipment as follows:

A. Car Frame. Retain existing and secure all fastenings.

B. Platform. Retain existing.

C. Guides. Retain Existing. Refurbish guides

D. Car Sill. Retain existing.

E. Car Door Panels. Retain Existing

F. Header, Hangers, Tracks and Rollers. Retain Existing, replace rollers

G. Car Door Electrical Contact. Retain and adjust electrical contact to operate in conjunction with the car doors so that elevator cannot operate unless doors are closed or within tolerance allowed by A17.1 code.

H. Door Operator. Retain existing. Door operator was replaced in 2020

I. Door Reversal and Control Device. Provide New

J. Car Operating Panel. General: Provide signal equipment for elevator with hall-call and car-call buttons that light when activated and remain lit until call has been fulfilled.

1. Car Control Stations: Provide manufacturer's vandal resistant brushed stainless-steel car control station. Mount in return panel adjacent to car door.

a. Include call buttons for each landing served and other buttons, switches, and controls required for specified car operation.

b. Mark buttons and switches with manufacturer's standard identification for required use or function that complies with ASME A17.1. Mount controls at heights complying with the U.S. Architectural & Transportation Barriers Compliance Board's "Americans with Disabilities Act (ADA), Accessibility Guidelines (ADAAG)."] [ICC A117.1.]

2. Emergency Communication System.
Provide system that complies with ASME A17.1 and the U.S. Architectural & Transportation Barriers Compliance Board's "Americans with Disabilities Act (ADA), Accessibility Guidelines (ADAAG)." On activation, system dials preprogrammed number of monitoring station and identifies elevator location to monitoring station. System provides two-way voice communication without using a handset and provides visible signals that indicate when system has been activated and when monitoring station has responded. System is contained in telephone cabinet, with identification, instructions for use, and battery backup power supply.

3. Car Position Indicator. Provide illuminated-signal type, digital-display type, or

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segmented type, located above car door or above car control station. Also provide audible signal to indicate to passengers that car is either stopping at or passing each of the floors served. Include travel direction arrows if not provided in car control station.

4. In-Car-Lanterns. Provide New direction lanterns and audible signal indicating car arrival and directions of travel located in the car doorjamb.

L. Car Top Control Station. Provide New

M. Car Top Railings. NOT APPLICABLE

N. Emergency Exits. RETAIN EXISTING

O. Emergency Alarm Bell. PROVIDE NEW

1.19 HALL FIXTURES

1. Hall Push-Button Stations: Provide vandal resistant surface mount hall push-button stations at each landing. Buttons to be LED.

2. Provide fire fighters service switch at main egress landing with jewel.

3. Corridor Call Station Pictograph Signs: Provide signs matching hall push-button stations with text and graphics according to ASME A17.1, Appendix H.

4. Provide hoistway access switches at top and bottom landings.

1.20 CAR ENCLOSURES. RETAIN EXISTING

1.21 EXECUTION

1.22 SITE CONDITION INSPECTION.

A. Prior to beginning the installation of equipment, examine the hoistway and machine room areas and verify that no irregularities exist that would affect quality of execution of work as specified.

B. Do not proceed with installation until previous work conforms to project requirements.

1.23 PRODUCT DELIVERY, STORAGE AND HANDLING.

A. Deliver materials in Manufacturer's original, unopened protective packaging.

B. Store materials in original protective packaging. Prevent soiling, physical damage or wetting.

C. Protect equipment and exposed finishes during transportation, erection and construction period against damage and stains.

1.24 INSTALLATION.

A. Install each equipment item in accordance with accepted Manufacturer’s direction, referenced codes and specifications.

B. Install machine room equipment with clearances complying with referenced codes and specifications.

C. Install items so that they may be removed by portable hoists or other means for maintenance and/or repair.

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D. Install items so that access for maintenance is safe and readily available.

E. Install equipment to afford maximum safety and continuity of operation.

1.25 FIELD QUALITY CONTROL.

A. Work at the job site will be checked during the course of installation. Any corrective required shall be accomplished prior to performing further installation dependent upon or related to the required correction.

B. Have Code Enforcing Authority acceptance inspection performed. Verification that such tests have been completed, all corrective work accomplished, and installation approved for issuance of a permit to operate shall be required before acceptance of any unit.

1.26 CLEANUP.

A. Keep work areas orderly and free from debris during progress of project.

B. Remove all loose materials and filings resulting from this work from hoistway surfaces.

C. Clean machine room and pit equipment and floor of dirt, oil, and grease.

D. Clean hoistway, car, car enclosures, entrances, operating and signal fixtures, and trim of dirt, oil, grease, and finger marks.

1.27 ACCEPTANCE INSPECTION AND TESTS.

A. General: Final acceptance of the installation shall be made only after all field quality control reviews and tests are complete, all submittals and certificates have been received and the Owner's representative is satisfied that the following have been satisfactorily completed. Furnish labor, materials, and equipment necessary for tests. Notify Owner's representative five days in advance of each elevator unit or group when ready for final inspection and tests:

1. Workmanship and equipment comply with specification.

2. Contract speed, capacity and floor-to-floor performance comply with specification.

B. Performance Guarantee: Should these tests develop any defects or poor workmanship, any variance or noncompliance with the requirements of the specified codes and/or ordinances or any variance or noncompliance with the requirements of these specifications, the following work and/or repairs shall be completed at no expense to the Owner.

1. Replace all equipment that does not meet Code or specification requirements.

2. Perform all work and furnish all materials and equipment necessary to complete the specified operation and/or performance.

3. Perform all testing required by the Governing Code Authority and the Owner to verify the specified operation and/or performance.

1.28 OWNER'S INFORMATION.

A. Submittals: Provide 3 copies each of written information necessary for proper maintenance and adjustment of the equipment prior to final acceptance. Final retention will be held until data is received by Owner.

1. Wiring diagram of as-indicated elevator circuits with index of location and function of

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all components. Provide on one "C" size set, within 90 days after job acceptance for the Owner's file.

2. Lubricating instructions, including recommended grade of lubricants. Provide three neatly bound copies.

3. Parts catalogs for all replaceable parts including exploded diagrams ordering forms and instructions. Provide three neatly bound copies.

4. Description of operation manual

5. Diagnostic Test Equipment and Instructions: Provide all diagnostic test devices together with one set of all supporting information necessary for interpretation of test data and troubleshooting of system.

a. The elevator installation shall be a design that can be maintainable by any licensed elevator maintenance company employing journeymen mechanics, without the need to purchase or lease additional diagnostic devices, special tools, or instructions from the original equipment manufacturer.

(1) Provide on-site capability to diagnose faults to the level of individual circuit boards and individual discreet components for the solid-state elevator controller.

(2) If the equipment for fault diagnosis is not completely self-contained within the controllers but requires a separate, detachable device, that device shall be furnished to the Purchaser as part of this installation. Such device shall be in possession of and become property of the Purchaser.

(3) Installed equipment not meeting this requirement shall be removed and replaced with conforming equipment at no cost to the Purchaser.

1.29 WARRANTY INSPECTION.

A. At least 30 days prior to warranty expiration, if requested by Owner, schedule final inspection and retest with Consultant. Requirement shall include close examination of all equipment.

B. Replace, repair, or adjust any equipment found defective and covered by warranty prior to expiration of warranty period.

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: WRRF HACH Equipment and Software – Sole Source Purchase

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Sole Source purchase of HACH equipment and control software.

Staff Recommendation

Approve the sole source purchase of equipment and control software from HACH Inc.

Background Information

TDEC and the EPA require proper disposal of solids removed from the treatment process. In 2000, the WRRF began dewatering sludge. From the beginning, Fournier dewatering presses using Polymer have been effectively used to accomplish this task. The estimated annual cost for polymer is $190,000.

The system is currently optimized by an operator. However, the HACH system will utilize probes and electronic data acquisition to optimize the system with continuous Real Time Control (RTC). BY monitoring the system and making precise adjustments thousands of times per day, polymer usage will be significantly more efficient.

New Original Equipment Manufacturer (OEM) parts are only available from HACH Inc.

Council Priorities Served

Maintain public safety

The infrastructure at the Water Resource Recovery Facility enables the production of excellent quality of water that enhances the West Fork Stones River for safe public use, beautiful scenery, and thriving aquatic life.

Fiscal Impact

The purchase was budgeted in the Department's rate funded capital account in the total amount of $90,000: $45,000 for budget item "Solitax with Mounts and Hardware (4)" and $45,000 for "Polymer Reduction Hach Real Time Control Module."

Attachments

1. Contract with HACH Inc. - Probes Software etc.
2. Contract with HACH Inc. - RTC etc.

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HACH
Be Right™

Quote Number: 100651414v9
Use quote number at time of order to ensure that you receive prices quoted

Hach
PO Box 608
Loveland, CO 80539-0608
Phone: (800) 227-4224
Email: quotes@hach.com
Website: www.hach.com

Quote Date: 11-May-2021

Quote Expiration: 31-Jul-2021

MURFREESBORO WTR & SEWER DEPT
PO BOX 1477
MURFREESBORO, TN 37133-1477

Name: Josh Lemay
Phone: 615-848-3227
Email: jlemay@murfreesborotn.gov

Customer Account Number : 042825
Customer Quote Reference: HARDWARE

Sales Contact: Jeannie Radke Email: jeannie.radke@hach.com Phone: 615-521-9605

PRICING QUOTATION

Line	Part Number	Description	Qty	Net Unit Price	Extended Price
1	LXV400.99.1G092	SC1000 Probe Module, 8 sensors, Prognosys Module, 100-240V AC, no power cord. Standard lead time 15 days.	1	2,363.00	2,363.00
2	YAB018	4-20 mA Input Board for SC1000/SC1500 Controller and 5500 sc Analyzers. Standard lead time 10 days.	1	1,056.00	1,056.00
3	LXV424.99.00200	Solitax highline sc Turbidity and Suspended Solids Insertion Probe with Wiper, Stainless Steel. Standard lead time 15 days.	2	5,206.40	10,412.80
4	LZX337	Stainless steel safety armature for Solitax inline sc and Solitax highline sc. Standard lead time 10 days.	2	2,636.00	5,272.00
5	LZX660	Stainless steel welding flange for inline armatures for Solitax sc sensors. Standard lead time 10 days.	2	156.80	313.60
6	LXZ516.53.A0111	Software-RTC SD-RTC 2 channel. Standard lead time 40 days.	1	9,314.64	9,314.64
7	97	YYL113 - SC1000 POWER CORD	1	0.00	0.00
8	LXZ515.99.B0000	SOFTWARE- New: Opc Server. Standard lead time 40 days.	1	3,812.00	3,812.00
9	5796200	Digital Extension Cable, 30 m (100 ft). Standard lead time 3 days.	2	419.00	838.00
				Grand Total	$ 33,382.04

TERMS OF SALE

Freight: Ground Prepay and Add

FCA: Hach's facility

All purchases of Hach Company products and/or services are expressly and without limitation subject to Hach Company's Terms & Conditions of Sale ("Hach TCS"), incorporated herein by reference and published on Hach Company's website at www.hach.com/terms. Hach TCS are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale "Contract" in accordance with the Hach TCS: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgement of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of the Hach TCS are not part of the Contract.

Due to International regulations, a U.S. Department of Commerce Export License may be required. Hach reserves the right to approve specific shipping agents. Wooden boxes suitable for ocean shipment are extra. Specify final destination to ensure proper documentation and packing suitable for International transport. In addition, Hach may require : 1). A statement of intended end-use; 2).Certification that the intended end-use does not relate to proliferation of weapons of mass destruction (prohibited nuclear end use, chemical / biological weapons, missile technology); and 3). Certification that the goods will not be diverted contrary to U.S. and/or applicable laws in force in Buyer's jurisdiction.

ORDER TERMS:
Terms are Subject to Credit Review
In order for Hach to process the order as quickly as possible, please provide the following information.
- Complete Billing address.
- Complete Shipping address.
- Part numbers and quantities of items being ordered.
- Please reference the quotation number on your purchase order

If the order is over $25,000 Hach will also require the following additional information.
- Pricing
- Purchase Order Number
- Freight terms and INCO term FOB Origin or FCA Shipping Point
- Required delivery date
- Vendor name should specify "Hach Company" with the Loveland address:
  - o Hach, PO Box 389, Loveland, CO 80539
- Credit terms of payment. Default payment terms are Net 30.
- Indicate if order needs to ship complete or if it can ship partial.
- Tax status
- Special invoicing instructions

Sales tax is not included on quote. Applicable sales tax will be added to the invoice based on the U.S. destination, if applicable provide a resale/exemption certificate.
Shipments will be prepaid and added to invoices unless otherwise specified.
Equipment quoted operates with standard U.S. supply voltage.
Hach standard terms and conditions apply to all sales.
Additional terms and conditions apply to orders for service partnerships.
Prices do not include delivery of product. Reference attached Freight Charge Schedule and Collect Handling Fees.
Standard lead time is 30 days.
This Quote is good for a one time purchase

Sales Contact:

Name:	Jeannie Radke
Title:	Regional Sales Manager
Phone:	615-521-9605
Email:	jeannie.radke@hach.com

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Be Right™

Quotation Addendum

HACH COMPANY

Headquarters
P.O. Box 389
5600 Lindbergh Drive
Loveland, CO 80539-0389

Purchase Orders
PO Box 608
Loveland, CO 80539-0608

WebSite: www.hach.com

U.S.A.
Phone: 800-227-4224
Fax: 970-669-2932
E-Mail: orders@hach.com
quotes@hach.com
techhelp@hach.com

Export
Phone: 970-669-3050
Fax: 970-461-3939
Email: intl@hach.com

Remittance
2207 Collections Center Drive
Chicago, IL 60693

Wire Transfers
Bank of America
231 S. LaSalle St.
Chicago, IL 60604
Account: 8765602385
Routing (ABA): 071000039

ADVANTAGES OF WORKING WITH HACH

Hach Service

Protect your investment & peace of mind

- ✓ A global partner who understands your needs
- ✓ Delivers timely, high-quality service you can trust
- ✓ Provides team of unique experts to help you maximize instrument uptime
- ✓ Ensure data integrity
- ✓ Maintain operational stability
- ✓ Reduce compliance risk

www.hach.com/service-contracts

Pick&Ship™

Pick&Ship™ Program offers a better way to keep your supplies in stock

- ✓ **Convenience** of one purchase order for the entire year
- ✓ **Flexibility** to change, cancel or create new orders
- ✓ **Savings** from locking in prices & thus avoiding price surges and rush charges
- ✓ **Peace of mind** with automatic, reliable shipments just as you need them

www.Hach.com/pickandship

Technical Support

Provides post-sale instrumentation and application support

- ✓ Hach's highly skilled Technical Support staff is dedicated to helping you resolve technical issues before, during and after the sale.
- ✓ Available via phone, e-mail, or live online chat at Hach.com!
- ✓ Fast access to answers at https://support.hach.com
- ✓ Toll-free phone: 800-227-4224
- ✓ E-mail: techhelp@hach.com

www.Hach.com

ADVANTAGES OF SIMPLIFIED SHIPPING AND HANDLING

Safe & Fast Delivery

- ✓ Receive tracking numbers on your order acknowledgement
- ✓ Hach will assist with claims if an order is lost or damaged in shipment

Save Time – Less Hassle

- ✓ No need to set up deliveries for orders or to schedule pickup
- ✓ Hach ships order as product is available, at no additional charge, when simplified shipping and handling is used.

Save Money

- ✓ No additional invoice to process – save on time and administrative costs
- ✓ Only pay shipping once, even if multiple shipments are required

STANDARD SIMPLIFIED SHIPPING AND HANDLING CHARGES [1, 2, 3, 4] *Pricing Effective 4/11/2020*

Total Price of Merchandise Ordered	Standard Surface (Mainland USA)	Second Day Delivery (Mainland USA)	Next Day Delivery (Mainland USA)	Second Day Delivery (Alaska & Hawaii)	Next Day Delivery (Alaska & Hawaii)	**Collect** [4] Handling Fee *Effective 4/11/2020*
$0.00 - $49.99	$17.99	$44.99	$83.90	$72.21	$137.27	$13.47
$50.00 - $149.99	$28.59	$84.27	$159.00	$120.84	$229.73	$13.85
$150.00 - $349.99	$50.22	$133.98	$272.91	$169.07	$329.04	$14.72
$350.00 - $649.99	$69.95	$182.91	$363.75	$228.65	$442.76	$15.48
$650.00 - $949.99	$88.16	$191.13	$399.98	$236.66	$446.10	$16.04
$950.00 - $1,999.99	$110.91	$235.85	$498.69	$280.67	$543.06	$17.52
$2,000.00 - $3,999.99	$128.04	$250.64	$513.44	$291.54	$554.54	$20.22
$4,000.00 - $5,999.99	$148.44	$260.33	$538.23	$292.89	$570.53	$24.90
$6,000.00 - $7,999.99	$175.40	$296.40	$612.84	$323.07	$622.86	$29.04
$8,000.00 - $9,999.99	$200.15	$336.83	$658.19	$360.41	$683.52	$33.51
Over $10,000	2.5% of Net Order Value	4.5% of Net Order Value	7% of Net Order Value	4.5% of Net Order Value	7% of Net Order Value	$51.84

1 Shipping & Handling charges shown are only applicable to orders billing and shipping to U.S. destinations. Shipping & Handling charges will be prepaid and added to invoice. Shipping & Handling for the Pick&Ship Program is charged on each shipment release and is based on the total price of each shipment release. Shipping & Handling charges are subject to change without notice.

2 Additional Shipping & Handling charges will be applied to orders containing bulky and/or especially heavy orders. Refrigerated and all weather Samplers do not qualify for simplified Shipping & Handling charges, and are considered heavy products. Dissolved Oxygen Sensors can be damaged if exposed to temps below freezing, causing sensor failure. Must be shipped over night or 2nd day air during the cold weather months.

3 Orders shipping to Alaska or Hawaii: Additional Shipping & Handling charges may be applied at time of order processing. Second Day and Next Day delivery is not available to all destinations.

4 Hach Company will assess a collect handling fee on orders with collect shipping terms. This handling fee covers the additional costs that Hach Company incurs from processing and managing collect shipments.

Due to variations in component characteristics, regulatory transportation requirements and/or associated shipping and handling costs, individual kit components may or may not be packaged together in a single carton at time of final packaging and shipping.

SALES TAX

Sales Tax is not included in the attached quotation. Applicable sales and usage taxes will be added to your invoice, at the time of order, based on U.S. destination of goods, unless a valid resale/exemption certificate for destination state is provided to the above address or fax number, attention of the Tax Dept.

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TERMS & CONDITIONS OF SALE FOR HACH COMPANY PRODUCTS AND SERVICES

This document sets forth the Terms & Conditions of Sale for goods manufactured and/or supplied, and services provided, by Hach Company of Loveland, Colorado ("Hach") and sold to the original purchaser thereof ("Buyer"). Unless otherwise specifically stated herein, the term "Hach" includes only Hach Company and none of its affiliates. Unless otherwise specifically stated in a previously-executed written purchase agreement signed by authorized representatives of Hach and Buyer, these Terms & Conditions of Sale establish the rights, obligations and remedies of Hach and Buyer which apply to this offer and any resulting order or contract for the sale of Hach's goods and/or services ("Products").

1. APPLICABLE TERMS & CONDITIONS: These Terms & Conditions of Sale are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale ("Contract") in accordance with these Terms & Conditions: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgement of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of these Terms & Conditions of Sale are not a part of the Contract.

2. CANCELLATION: Buyer may cancel goods orders subject to fair charges for Hach's expenses including handling, inspection, restocking, freight and invoicing charges as applicable, provided that Buyer returns such goods to Hach at Buyer's expense within 30 days of delivery and in the same condition as received. Buyer may cancel service orders on ninety (90) day's prior written notice and refunds will be prorated based on the duration of the service plan. Inspections and re-instatement fees may apply upon cancellation or expiration of service programs. Seller may cancel all or part of any order prior to delivery without liability if the order includes any Products that Seller determines may not comply with export, safety, local certification, or other applicable compliance requirements.

3. DELIVERY: Legal title and risk of loss or damage shall remain with Hach until the Products are delivered to and accepted by Buyer pursuant to Paragraph 4, below. Hach will use commercially reasonable efforts to deliver the Products ordered herein within the time specified on the face of this Contract or, if no time is specified, within Hach's normal lead-time necessary for Hach to deliver the Products sold hereunder. Upon prior agreement with Buyer and for an additional charge, Hach will deliver the Products on an expedited basis. Standard service delivery hours are 8 am – 5 pm Monday through Friday, excluding holidays.

4. INSPECTION: Buyer will promptly inspect and accept any Products delivered pursuant to this Contract after receipt of such Products. In the event the Products do not conform to any applicable specifications, Buyer will promptly notify Hach of such nonconformance in writing. Hach will have a reasonable opportunity to repair or replace the nonconforming product at its option. Buyer will be deemed to have accepted any Products delivered hereunder and to have waived any such nonconformance in the event such a written notification is not received by Hach within thirty (30) days of delivery.

5. PRICES & ORDER SIZES: All prices are in U.S. dollars and are based on delivery as stated above. Prices do not include any charges for services such as insurance; brokerage fees; sales, use, inventory or excise taxes; import or export duties; special financing fees; VAT, income or royalty taxes imposed outside the U.S.; consular fees; special permits or licenses; or other charges imposed upon the production, sale, distribution, or delivery of Products. Buyer will either pay any and all such charges or provide Hach with acceptable exemption certificates, which obligation survives performance under this Contract. Hach reserves the right to establish minimum order sizes and will advise Buyer accordingly.

6. PAYMENTS: All payments must be made in U.S. dollars. For Internet orders, the purchase price is due at the time and manner set forth at www.hach.com. Invoices for all other orders are due and payable NET 30 DAYS from date of the invoice without regard to delays for inspection or transportation, with payments to be made by check to Hach at the above address or by wire transfer to the account stated on the front of Hach's invoice, or for customers with no established credit, Hach may require cash or credit card payment in advance of delivery. In the event payments are not made or not made in a timely manner, Hach may, in addition to all other remedies provided at law, either: (a) declare Buyer's performance in breach and terminate this Contract for default; (b) withhold future shipments until delinquent payments are made; (c) deliver future shipments on a cash-with-order or cash-in-advance basis even after the delinquency is cured; (d) charge interest on the delinquency at a rate of 1-1/2% per month or the maximum rate permitted by law, if lower, for each month or part thereof of delinquency in payment plus applicable storage charges and/or inventory carrying charges; (e) repossess the Products for which payment has not been made; (f) recover all costs of collection including reasonable attorney's fees; or (g) combine any of the above rights and remedies as is practicable and permitted by law. Buyer is prohibited from setting off any and all monies owed under this from any other sums, whether liquidated or not, that are or may be due Buyer, which arise out of a different transaction with Hach or any of its affiliates. Should Buyer's financial responsibility become unsatisfactory to Hach in its reasonable discretion, Hach may require cash payment or other security. If Buyer fails to meet these requirements, Hach may treat such failure as reasonable grounds for repudiation of this Contract, in which case reasonable cancellation charges shall be due Hach. Buyer's insolvency, bankruptcy, assignment for the benefit of creditors, or dissolution or termination of the existence of Buyer, constitutes a default under this Contract and affords Hach all the remedies of a secured party under the U.C.C., as well as the remedies stated above for late payment or non-payment. See ¶20 for further wire transfer requirements.

7. LIMITED WARRANTY: Hach warrants that Products sold hereunder will be free from defects in material and workmanship and will, when used in accordance with the manufacturer's operating and maintenance instructions, conform to any express written warranty pertaining to the specific goods purchased, which for most Hach instruments is for a period of twelve (12) months from delivery. Hach warrants that services furnished hereunder will be free from defects in workmanship for a period of ninety (90) days from the completion of the services. Parts provided by Hach in the performance of services may be new or refurbished parts functioning equivalent to new parts. Any non-functioning parts that are repaired by Hach shall become the property of Hach. No warranties are extended to consumable items such as, without limitation, reagents, batteries, mercury cells, and light bulbs. **All other guarantees, warranties, conditions and representations, either express or implied, whether arising under any statute, law, commercial usage or otherwise, including implied warranties of merchantability and fitness for a particular purpose, are hereby excluded.** The sole remedy for Products not meeting this Limited Warranty is replacement, credit or refund of the purchase price. This remedy will not be deemed to have failed of its essential purpose so long as Hach is willing to provide such replacement, credit or refund.

8. INDEMNIFICATION: Indemnification applies to a party and to such party's successors-in-interest, assignees, affiliates, directors, officers, and employees ("Indemnified Parties"). Hach is responsible for and will defend, indemnify and hold harmless the Buyer Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to Hach's breach of the Limited Warranty. To the extent allowable under Tennessee law, Buyer is responsible for and will defend, indemnify and hold harmless the Hach Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to negligence, misuse or misapplication of any goods or services, violations of law, or the breach of any provision of this Contract by the Buyer, its affiliates, or those employed by, controlled by or in privity with them. Buyer's workers' compensation immunity, if any, does not preclude or limit its indemnification obligations.

9. PATENT PROTECTION: Hach will, with respect to any Products of Hach's design or manufacture, indemnify Buyer from any and all damages and costs as finally determined by a court of competent jurisdiction in any suit for infringement of any U.S. patent (or European patent for Products that Hach sells to Buyer for end use in a member state of the E.U.) that has issued as of the delivery date, solely by reason of the sale or normal use of any Products sold to Buyer hereunder and from reasonable expenses incurred by Buyer in defense of such suit if Hach does not undertake the defense thereof, provided that Buyer promptly notifies

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Hach of such suit and offers Hach either (i) full and exclusive control of the defense of such suit when Products of Hach only are involved, or (ii) the right to participate in the defense of such suit when products other than those of Hach are also involved. Hach's warranty as to use patents only applies to infringement arising solely out of the inherent operation of the Products according to their applications as envisioned by Hach's specifications. In case the Products are in such suit held to constitute infringement and the use of the Products is enjoined, Hach will, at its own expense and at its option, either procure for Buyer the right to continue using such Products or replace them with non-infringing products, or modify them so they become non-infringing, or remove the Products and refund the purchase price (prorated for depreciation) and the transportation costs thereof. The foregoing states the entire liability of Hach for patent infringement by the Products.

10. TRADEMARKS AND OTHER LABELS: Buyer agrees not to remove or alter any indicia of manufacturing origin or patent numbers contained on or within the Products, including without limitation the serial numbers or trademarks on nameplates or cast, molded or machined components.

11. SOFTWARE AND DATA. All licenses to Hach's separately-provided software products are subject to the separate software license agreement(s) accompanying the software media and/or included as an Appendix to these Terms & Conditions of Sale. Except to the extent such express licenses conflict with the remainder of this paragraph, the following also applies relative to Hach's software: Hach grants Buyer only a personal, non-exclusive license to access and use the software provided by Hach with Products purchased hereunder solely as necessary for Buyer to enjoy the benefit of the Products. A portion of the software may contain or consist of open source software, which Buyer may use under the terms and conditions of the specific license under which the open source software is distributed. Buyer agrees that it will be bound by all such license agreements. Title to software remains with the applicable licensor(s).

12. PROPRIETARY INFORMATION; PRIVACY: "Proprietary Information" means any information, technical data or know-how in whatever form, whether documented, contained in machine readable or physical components, mask works or artwork, or otherwise, which Hach considers proprietary, including but not limited to service and maintenance manuals. To the extent allowed under Tennessee Law, Buyer and its customers, employees and agents will keep confidential all such Proprietary Information obtained directly or indirectly from Hach and will not transfer or disclose it without Hach's prior written consent, or use it for the manufacture, procurement, servicing or calibration of Products or any similar products, or cause such products to be manufactured, serviced or calibrated by or procured from any other source, or reproduce or otherwise appropriate it. All such Proprietary Information remains Hach's property. No right or license is granted to Buyer or its customers, employees or agents, expressly or by implication, with respect to the Proprietary Information or any patent right or other proprietary right of Hach, except for the limited use licenses implied by law. Hach will manage Customer's information and personal data in accordance with its Privacy Policy, located at http://www.hach.com/privacypolicy.

13. CHANGES AND ADDITIONAL CHARGES: Hach reserves the right to make design changes or improvements to any products of the same general class as Products being delivered hereunder without liability or obligation to incorporate such changes or improvements to Products ordered by Buyer unless agreed upon in writing before the Products' delivery date. Services which must be performed as a result of any of the following conditions are subject to additional charges for labor, travel and parts: (a) equipment alterations not authorized in writing by Hach; (b) damage resulting from improper use or handling, accident, neglect, power surge, or operation in an environment or manner in which the instrument is not designed to operate or is not in accordance with Hach's operating manuals; (c) the use of parts or accessories not provided by Hach; (d) damage resulting from acts of war, terrorism or nature; (e) services outside standard business hours; (f) site prework not complete per proposal; or (g) any repairs required to ensure equipment meets manufacturer's specifications upon activation of a service agreement.

14. SITE ACCESS / PREPARATION / WORKER SAFETY / ENVIRONMENTAL COMPLIANCE: In connection with services provided by Hach, Buyer agrees to permit prompt access to equipment. Buyer assumes full responsibility to back-up or otherwise protect its data against loss, damage or destruction before services are performed. Buyer is the operator and in full control of its premises, including those areas where Hach employees or contractors are performing service, repair and maintenance activities. Buyer will ensure that all necessary measures are taken for safety and security of working conditions, sites and installations during the performance of services. Buyer is the generator of any resulting wastes, including without limitation hazardous wastes. Buyer is solely responsible to arrange for the disposal of any wastes at its own expense. Buyer will, at its own expense, provide Hach employees and contractors working on Buyer's premises with all information and training required under applicable safety compliance regulations and Buyer's policies. If the instrument to be serviced is in a Confined Space, as that term is defined under OSHA regulations, Buyer is solely responsible to make it available to be serviced in an unconfined space. Hach service technicians will not work in Confined Spaces. In the event that a Buyer requires Hach employees or contractors to attend safety or compliance training programs provided by Buyer, Buyer will pay Hach the standard hourly rate and expense reimbursement for such training attended. The attendance at or completion of such training does not create or expand any warranty or obligation of Hach and does not serve to alter, amend, limit or supersede any part of this Contract.

15. LIMITATIONS ON USE: Buyer will not use any Products for any purpose other than those identified in Hach's catalogs and literature as intended uses. Unless Hach has advised the Buyer in writing, in no event will Buyer use any Products in drugs, food additives, food or cosmetics, or medical applications for humans or animals. In no event will Buyer use in any application any Product that requires FDA 510(k) clearance unless and only to the extent the Product has such clearance. Buyer will not sell, transfer, export or re-export any Hach Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Hach Products or technology in any facility which engages in activities relating to such weapons. Unless the "ship-to" address is in California, U.S.A., the Products are not intended for sale in California and may lack markings required by California Proposition 65; accordingly, unless Buyer has ordered Products specifying a California ship-to address, Buyer will not sell or deliver any Hach Products for use in California. Any warranty granted by Hach is void if any goods covered by such warranty are used for any purpose not permitted hereunder.

16. EXPORT AND IMPORT LICENSES AND COMPLIANCE WITH LAWS: Unless otherwise specified in this Contract, Buyer is responsible for obtaining any required export or import licenses. Buyer will comply with all laws and regulations applicable to the installation or use of all Products, including applicable import and export control laws and regulations of the U.S., E.U. and any other country having proper jurisdiction, and will obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all Products and technology delivered hereunder. Buyer will comply with all local, national, and other laws of all jurisdictions globally relating to anti-corruption, bribery, extortion, kickbacks, or similar matters which are applicable to Buyer's business activities in connection with this Contract, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"). Buyer agrees that no payment of money or provision of anything of value will be offered, promised, paid or transferred, directly or indirectly, by any person or entity, to any government official, government employee, or employee of any company owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Buyer or for Hach, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Buyer's activities related to this Contract. Hach asks Buyer to "*Speak Up*!" if aware of any violation of law, regulation or our Standards of Conduct ("SOC") in relation to this Contract. See http://danaher.com/integrity-and-compliance and www.danaherintegrity.com for a copy of the SOC and for access to our Helpline portal.

17. RELATIONSHIP OF PARTIES: Buyer is not an agent or representative of Hach and will not present itself as such under any circumstances unless and to

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the extent it has been formally screened by Hach's compliance department and received a separate duly-authorized letter from Hach setting forth the scope and limitations of such authorization.

18. FORCE MAJEURE: Hach is excused from performance of its obligations under this Contract to the extent caused by acts or omissions that are beyond its control of, including but not limited to Government embargoes, blockages, seizures or freeze of assets, delays or refusals to grant an export or import license or the suspension or revocation thereof, or any other acts of any Government; fires, floods, severe weather conditions, or any other acts of God; quarantines; labor strikes or lockouts; riots; strife; insurrections; civil disobedience or acts of criminals or terrorists; war; material shortages or delays in deliveries to Hach by third parties. In the event of the existence of any force majeure circumstances, the period of time for delivery, payment terms and payments under any letters of credit will be extended for a period of time equal to the period of delay. If the force majeure circumstances extend for six months, Hach and Buyer may each, at its option, terminate this Contract without penalty and without being deemed in default or in breach thereof.

19. NON ASSIGNMENT AND WAIVER: Buyer will not transfer or assign this Contract or any rights or interests hereunder without Hach's prior written consent. Failure of either party to insist upon strict performance of any provision of this Contract, or to exercise any right or privilege contained herein, or the waiver of any breach of the terms or conditions of this Contract will not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same will continue and remain in force and effect as if no waiver had occurred.

20. FUNDS TRANSFERS (PAYMENTS): Buyer and Hach both recognize that there is a risk of banking fraud when individuals impersonating a business demand payment under new banking or mailing instructions. To avoid this risk, Buyer must verbally confirm any new or changed bank transfer or mailing instructions by calling Hach at +1-970-663-1377 and speaking with Hach's Credit Manager before mailing or transferring any monies using the new instructions. Both parties agree that they will not institute mailing or bank transfer instruction changes and require immediate payment under the new instructions but will instead provide a ten (10) day grace period to verify any payment instruction changes before any new or outstanding payments are due using the new instructions.

21. **LIMITATION OF LIABILITY: Hach will not be liable to Buyer under any circumstances for any special, treble, incidental or consequential damages, including without limitation, damage to or loss of property other than for the Products purchased hereunder; lost profits, revenue or opportunity; loss of use; losses resulting from or related to downtime of the products or inaccurate measurements or reporting; the cost of substitute products; or claims of Buyer's customers for such damages, howsoever caused, and whether based on warranty, contract, and/or tort (including negligence, strict liability or otherwise). Except with regard to the indemnity and patent protection provisions contained herein, the total liability of Hach arising out of the performance or nonperformance hereunder or Hach's obligations in connection with the design, manufacture, sale, delivery, and/or use of Products will in no circumstance exceed in the aggregate the greater of One Hudred Thousand and 00/100 Dollars ($100,000.00) or a sum equal to twice the amount actually paid to Hach for Products delivered hereunder.**

22. APPLICABLE LAW AND DISPUTE RESOLUTION: The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Tennessee, without regard to its principles or laws regarding conflicts of laws. If any provision of this Contract violates any Federal, State or local statutes or regulations of any countries having jurisdiction of this transaction, or is illegal for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions. Unless otherwise specifically agreed upon in writing between Hach and Buyer, any dispute relating to this Contract which is not resolved by the parties shall be adjudicated in a court of competent jurisdiction and venue located closest to Murfreesboro, Rutherford County, Tennessee.

23. ENTIRE AGREEMENT & MODIFICATION: These Terms & Conditions of Sale constitute the entire agreement between the parties and supersede any prior agreements or representations, whether oral or written. No change to or modification of these Terms & Conditions shall be binding upon Hach unless in a written instrument specifically referencing that it is amending these Terms & Conditions of Sale and signed by an authorized representative of Hach.

24. APPENDICES: If checked, the following Appendices are attached hereto and incorporated by reference into these Terms & Conditions of Sale:

☐ CLAROS SOFTWARE AS A SERVICE SUBSCRIPTION AGREEMENT

* * *

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Contractor:	City:
HACH Company	City of Murfreesboro
By: DocuSigned by: Alyssa Prill 21EC9CB6F027441...	By:
Name: Alyssa Prill	Name: Shane McFarland
Title: Bid Specialist	Title: Mayor
Date: 5/21/2021	Date:

Approved as to Form DocuSigned by: Adam F. Tucker 43A2035E51F9401... Adam Tucker, City Attorney

CONTRACTOR NOTICE CONTACT INFORMATION	**CITY NOTICE CONTACT INFORMATION**
HACH Company	Murfreesboro Water and Sewer Dept.
Mailing address:	Mailing address 300 NW Broad St. Murfreesboro, TN 37130
Phone number: 615-521-9605	Phone number 615-890-0862
Fax number:	Fax number 615-896-4259
Company Contact Jeannie Radke	Company Contact Darren Gore
E-mail jeannie.radke@hach.com	E-mail dgore@murfreesborotn.gov

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HACH
Be Right™

Quote Number: 100663756v3
Use quote number at time of order to ensure that you receive prices quoted

Hach
PO Box 608
Loveland, CO 80539-0608
Phone: (800) 227-4224
Email: quotes@hach.com
Website: www.hach.com

Quote Date: 11-May-2021

Quote Expiration: 10-Jul-2021

MURFREESBORO WTR & SEWER DEPT
PO BOX 1477
MURFREESBORO, TN 37133-1477

Name: Josh Lemay
Phone: 615-848-3227
Email: jlemay@murfreesborotn.gov

Customer Account Number : 042825
Customer Quote Reference: RTC SOFTWARE AND SERVICES

Sales Contact: Jeannie Radke Email: jeannie.radke@hach.com Phone: 615-521-9605

PRICING QUOTATION

Line	Part Number	Description	Qty	Net Unit Price	Extended Price
1	LXZ516.53.A0111	Software-RTC SD-RTC 2 channel. Standard lead time 40 days.	3	9,314.64	27,943.92
2	FSPRTC	Coverage and support of first RTC channel. Includes ongoing priority tech support, remote monitoring, system alerts, and monthly reports. Covers all parts, labor, and travel for onsite repairs of the RTC computer.	1	2,851.00	2,851.00
3	RTCMISC	FSPRTC-ADDON - FIELD SERVICE ON RTC ADDITIONAL CHANNELS	1	2,529.00	2,529.00
4	RTCCOMSTD	Commissioning and optimization of first standard RTC channel. Includes project management, configuration, priority tech support calls, RTC training, and 12 weeks of remote monitoring, optimization, and weekly reports.	1	5,886.00	5,886.00
5	RTCMISC	RTCCOMSTD-ADDON - COMISSIONING AND START UP ADDITIONAL CH	1	1,843.00	1,843.00
6	LXV515.99.0003B	15,6" touch wide screen (Beckhoff). Standard lead time 40 days.	1	0.00	0.00
		Use Dave's Demo unit for LXV515.99.0003B			
				Grand Total	$ 41,052.92

TERMS OF SALE

TERMS OF SALE

Freight: Ground Prepay and Add

FCA: Hach's facility

All purchases of Hach Company products and/or services are expressly and without limitation subject to Hach Company's Terms & Conditions of Sale ("Hach TCS"), incorporated herein by reference and published on Hach Company's website at www.hach.com/terms. Hach TCS are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale "Contract" in accordance with the Hach TCS: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgement of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of the Hach TCS are not part of the Contract.

Due to International regulations, a U.S. Department of Commerce Export License may be required. Hach reserves the right to approve specific shipping agents. Wooden boxes suitable for ocean shipment are extra. Specify final destination to ensure proper documentation and packing suitable for International transport. In addition, Hach may require : 1). A statement of intended end-use; 2).Certification that the intended end-use does not relate to proliferation of weapons of mass destruction (prohibited nuclear end use, chemical / biological weapons, missile technology); and 3). Certification that the goods will not be diverted contrary to U.S. and/or applicable laws in force in Buyer's jurisdiction.

ORDER TERMS:
Terms are Subject to Credit Review
In order for Hach to process the order as quickly as possible, please provide the following information.
- Complete Billing address.
- Complete Shipping address.
- Part numbers and quantities of items being ordered.
- Please reference the quotation number on your purchase order

If the order is over $25,000 Hach will also require the following additional information.
- Pricing
- Purchase Order Number
- Freight terms and INCO term FOB Origin or FCA Shipping Point
- Required delivery date
- Vendor name should specify "Hach Company" with the Loveland address:
  - o Hach, PO Box 389, Loveland, CO 80539
- Credit terms of payment. Default payment terms are Net 30.
- Indicate if order needs to ship complete or if it can ship partial.
- Tax status
- Special invoicing instructions

Sales tax is not included on quote. Applicable sales tax will be added to the invoice based on the U.S. destination, if applicable provide a resale/exemption certificate.
Shipments will be prepaid and added to invoices unless otherwise specified.
Equipment quoted operates with standard U.S. supply voltage.
Hach standard terms and conditions apply to all sales.
Additional terms and conditions apply to orders for service partnerships.
Prices do not include delivery of product. Reference attached Freight Charge Schedule and Collect Handling Fees.
Standard lead time is 30 days.
This Quote is good for a one time purchase

Sales Contact:

Name:	Jeannie Radke
Title:	Regional Sales Manager
Phone:	615-521-9605
Email:	jeannie.radke@hach.com

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Be Right™

Quotation Addendum

HACH COMPANY

Headquarters
P.O. Box 389
5600 Lindbergh Drive
Loveland, CO 80539-0389

Purchase Orders
PO Box 608
Loveland, CO 80539-0608

WebSite: www.hach.com

U.S.A.
Phone: 800-227-4224
Fax: 970-669-2932
E-Mail: orders@hach.com
quotes@hach.com
techhelp@hach.com

Export
Phone: 970-669-3050
Fax: 970-461-3939
Email: intl@hach.com

Remittance
2207 Collections Center Drive
Chicago, IL 60693

Wire Transfers
Bank of America
231 S. LaSalle St.
Chicago, IL 60604
Account: 8765602385
Routing (ABA): 071000039

ADVANTAGES OF WORKING WITH HACH

Hach Service

Protect your investment & peace of mind

- ✓ A global partner who understands your needs
- ✓ Delivers timely, high-quality service you can trust
- ✓ Provides team of unique experts to help you maximize instrument uptime
- ✓ Ensure data integrity
- ✓ Maintain operational stability
- ✓ Reduce compliance risk

www.hach.com/service-contracts

Pick&Ship™

Pick&Ship™ Program offers a better way to keep your supplies in stock

- ✓ **Convenience** of one purchase order for the entire year
- ✓ **Flexibility** to change, cancel or create new orders
- ✓ **Savings** from locking in prices & thus avoiding price surges and rush charges
- ✓ **Peace of mind** with automatic, reliable shipments just as you need them

www.Hach.com/pickandship

Technical Support

Provides post-sale instrumentation and application support

- ✓ Hach's highly skilled Technical Support staff is dedicated to helping you resolve technical issues before, during and after the sale.
- ✓ Available via phone, e-mail, or live online chat at Hach.com!
- ✓ Fast access to answers at https://support.hach.com
- ✓ Toll-free phone: 800-227-4224
- ✓ E-mail: techhelp@hach.com

www.Hach.com

ADVANTAGES OF SIMPLIFIED SHIPPING AND HANDLING

Safe & Fast Delivery

- ✓ Receive tracking numbers on your order acknowledgement
- ✓ Hach will assist with claims if an order is lost or damaged in shipment

Save Time – Less Hassle

- ✓ No need to set up deliveries for orders or to schedule pickup
- ✓ Hach ships order as product is available, at no additional charge, when simplified shipping and handling is used.

Save Money

- ✓ No additional invoice to process – save on time and administrative costs
- ✓ Only pay shipping once, even if multiple shipments are required

STANDARD SIMPLIFIED SHIPPING AND HANDLING CHARGES [1, 2, 3, 4] *Pricing Effective 4/11/2020*

Total Price of Merchandise Ordered	Standard Surface (Mainland USA)	Second Day Delivery (Mainland USA)	Next Day Delivery (Mainland USA)	Second Day Delivery (Alaska & Hawaii)	Next Day Delivery (Alaska & Hawaii)	**Collect** [4] Handling Fee *Effective 4/11/2020*
$0.00 - $49.99	$17.99	$44.99	$83.90	$72.21	$137.27	$13.47
$50.00 - $149.99	$28.59	$84.27	$159.00	$120.84	$229.73	$13.85
$150.00 - $349.99	$50.22	$133.98	$272.91	$169.07	$329.04	$14.72
$350.00 - $649.99	$69.95	$182.91	$363.75	$228.65	$442.76	$15.48
$650.00 - $949.99	$88.16	$191.13	$399.98	$236.66	$446.10	$16.04
$950.00 - $1,999.99	$110.91	$235.85	$498.69	$280.67	$543.06	$17.52
$2,000.00 - $3,999.99	$128.04	$250.64	$513.44	$291.54	$554.54	$20.22
$4,000.00 - $5,999.99	$148.44	$260.33	$538.23	$292.89	$570.53	$24.90
$6,000.00 - $7,999.99	$175.40	$296.40	$612.84	$323.07	$622.86	$29.04
$8,000.00 - $9,999.99	$200.15	$336.83	$658.19	$360.41	$683.52	$33.51
Over $10,000	2.5% of Net Order Value	4.5% of Net Order Value	7% of Net Order Value	4.5% of Net Order Value	7% of Net Order Value	$51.84

1 Shipping & Handling charges shown are only applicable to orders billing and shipping to U.S. destinations. Shipping & Handling charges will be prepaid and added to invoice. Shipping & Handling for the Pick&Ship Program is charged on each shipment release and is based on the total price of each shipment release. Shipping & Handling charges are subject to change without notice.

2 Additional Shipping & Handling charges will be applied to orders containing bulky and/or especially heavy orders. Refrigerated and all weather Samplers do not qualify for simplified Shipping & Handling charges, and are considered heavy products. Dissolved Oxygen Sensors can be damaged if exposed to temps below freezing, causing sensor failure. Must be shipped over night or 2nd day air during the cold weather months.

3 Orders shipping to Alaska or Hawaii: Additional Shipping & Handling charges may be applied at time of order processing. Second Day and Next Day delivery is not available to all destinations.

4 Hach Company will assess a collect handling fee on orders with collect shipping terms. This handling fee covers the additional costs that Hach Company incurs from processing and managing collect shipments.

Due to variations in component characteristics, regulatory transportation requirements and/or associated shipping and handling costs, individual kit components may or may not be packaged together in a single carton at time of final packaging and shipping.

SALES TAX

Sales Tax is not included in the attached quotation. Applicable sales and usage taxes will be added to your invoice, at the time of order, based on U.S. destination of goods, unless a valid resale/exemption certificate for destination state is provided to the above address or fax number, attention of the Tax Dept.

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HACH COMPANY | 5600 Lindbergh Drive | PO Box 389 | Loveland, Colorado 80539 | P 970.669.3050 | F 970.669.2932 | hach.com

TERMS & CONDITIONS OF SALE FOR HACH COMPANY PRODUCTS AND SERVICES

This document sets forth the Terms & Conditions of Sale for goods manufactured and/or supplied, and services provided, by Hach Company of Loveland, Colorado ("Hach") and sold to the original purchaser thereof ("Buyer"). Unless otherwise specifically stated herein, the term "Hach" includes only Hach Company and none of its affiliates. Unless otherwise specifically stated in a previously-executed written purchase agreement signed by authorized representatives of Hach and Buyer, these Terms & Conditions of Sale establish the rights, obligations and remedies of Hach and Buyer which apply to this offer and any resulting order or contract for the sale of Hach's goods and/or services ("Products").

1. APPLICABLE TERMS & CONDITIONS: These Terms & Conditions of Sale are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale ("Contract") in accordance with these Terms & Conditions: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgement of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of these Terms & Conditions of Sale are not a part of the Contract.

2. CANCELLATION: Buyer may cancel goods orders subject to fair charges for Hach's expenses including handling, inspection, restocking, freight and invoicing charges as applicable, provided that Buyer returns such goods to Hach at Buyer's expense within 30 days of delivery and in the same condition as received. Buyer may cancel service orders on ninety (90) day's prior written notice and refunds will be prorated based on the duration of the service plan. Inspections and re-instatement fees may apply upon cancellation or expiration of service programs. Seller may cancel all or part of any order prior to delivery without liability if the order includes any Products that Seller determines may not comply with export, safety, local certification, or other applicable compliance requirements.

3. DELIVERY: Legal title and risk of loss or damage shall remain with Hach until the Products are delivered to and accepted by Buyer pursuant to Paragraph 4, below. Hach will use commercially reasonable efforts to deliver the Products ordered herein within the time specified on the face of this Contract or, if no time is specified, within Hach's normal lead-time necessary for Hach to deliver the Products sold hereunder. Upon prior agreement with Buyer and for an additional charge, Hach will deliver the Products on an expedited basis. Standard service delivery hours are 8 am – 5 pm Monday through Friday, excluding holidays.

4. INSPECTION: Buyer will promptly inspect and accept any Products delivered pursuant to this Contract after receipt of such Products. In the event the Products do not conform to any applicable specifications, Buyer will promptly notify Hach of such nonconformance in writing. Hach will have a reasonable opportunity to repair or replace the nonconforming product at its option. Buyer will be deemed to have accepted any Products delivered hereunder and to have waived any such nonconformance in the event such a written notification is not received by Hach within thirty (30) days of delivery.

5. PRICES & ORDER SIZES: All prices are in U.S. dollars and are based on delivery as stated above. Prices do not include any charges for services such as insurance; brokerage fees; sales, use, inventory or excise taxes; import or export duties; special financing fees; VAT, income or royalty taxes imposed outside the U.S.; consular fees; special permits or licenses; or other charges imposed upon the production, sale, distribution, or delivery of Products. Buyer will either pay any and all such charges or provide Hach with acceptable exemption certificates, which obligation survives performance under this Contract. Hach reserves the right to establish minimum order sizes and will advise Buyer accordingly.

6. PAYMENTS: All payments must be made in U.S. dollars. For Internet orders, the purchase price is due at the time and manner set forth at www.hach.com. Invoices for all other orders are due and payable NET 30 DAYS from date of the invoice without regard to delays for inspection or transportation, with payments to be made by check to Hach at the above address or by wire transfer to the account stated on the front of Hach's invoice, or for customers with no established credit, Hach may require cash or credit card payment in advance of delivery. In the event payments are not made or not made in a timely manner, Hach may, in addition to all other remedies provided at law, either: (a) declare Buyer's performance in breach and terminate this Contract for default; (b) withhold future shipments until delinquent payments are made; (c) deliver future shipments on a cash-with-order or cash-in-advance basis even after the delinquency is cured; (d) charge interest on the delinquency at a rate of 1-1/2% per month or the maximum rate permitted by law, if lower, for each month or part thereof of delinquency in payment plus applicable storage charges and/or inventory carrying charges; (e) repossess the Products for which payment has not been made; (f) recover all costs of collection including reasonable attorney's fees; or (g) combine any of the above rights and remedies as is practicable and permitted by law. Buyer is prohibited from setting off any and all monies owed under this from any other sums, whether liquidated or not, that are or may be due Buyer, which arise out of a different transaction with Hach or any of its affiliates. Should Buyer's financial responsibility become unsatisfactory to Hach in its reasonable discretion, Hach may require cash payment or other security. If Buyer fails to meet these requirements, Hach may treat such failure as reasonable grounds for repudiation of this Contract, in which case reasonable cancellation charges shall be due Hach. Buyer's insolvency, bankruptcy, assignment for the benefit of creditors, or dissolution or termination of the existence of Buyer, constitutes a default under this Contract and affords Hach all the remedies of a secured party under the U.C.C., as well as the remedies stated above for late payment or non-payment. See ¶20 for further wire transfer requirements.

7. LIMITED WARRANTY: Hach warrants that Products sold hereunder will be free from defects in material and workmanship and will, when used in accordance with the manufacturer's operating and maintenance instructions, conform to any express written warranty pertaining to the specific goods purchased, which for most Hach instruments is for a period of twelve (12) months from delivery. Hach warrants that services furnished hereunder will be free from defects in workmanship for a period of ninety (90) days from the completion of the services. Parts provided by Hach in the performance of services may be new or refurbished parts functioning equivalent to new parts. Any non-functioning parts that are repaired by Hach shall become the property of Hach. No warranties are extended to consumable items such as, without limitation, reagents, batteries, mercury cells, and light bulbs. **All other guarantees, warranties, conditions and representations, either express or implied, whether arising under any statute, law, commercial usage or otherwise, including implied warranties of merchantability and fitness for a particular purpose, are hereby excluded.** The sole remedy for Products not meeting this Limited Warranty is replacement, credit or refund of the purchase price. This remedy will not be deemed to have failed of its essential purpose so long as Hach is willing to provide such replacement, credit or refund.

8. INDEMNIFICATION: Indemnification applies to a party and to such party's successors-in-interest, assignees, affiliates, directors, officers, and employees ("Indemnified Parties"). Hach is responsible for and will defend, indemnify and hold harmless the Buyer Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to Hach's breach of the Limited Warranty. To the extent allowable under Tennessee law, Buyer is responsible for and will defend, indemnify and hold harmless the Hach Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to negligence, misuse or misapplication of any goods or services, violations of law, or the breach of any provision of this Contract by the Buyer, its affiliates, or those employed by, controlled by or in privity with them. Buyer's workers' compensation immunity, if any, does not preclude or limit its indemnification obligations.

9. PATENT PROTECTION: Hach will, with respect to any Products of Hach's design or manufacture, indemnify Buyer from any and all damages and costs as finally determined by a court of competent jurisdiction in any suit for infringement of any U.S. patent (or European patent for Products that Hach sells to Buyer for end use in a member state of the E.U.) that has issued as of the delivery date, solely by reason of the sale or normal use of any Products sold to Buyer hereunder and from reasonable expenses incurred by Buyer in defense of such suit if Hach does not undertake the defense thereof, provided that Buyer promptly notifies

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Hach of such suit and offers Hach either (i) full and exclusive control of the defense of such suit when Products of Hach only are involved, or (ii) the right to participate in the defense of such suit when products other than those of Hach are also involved. Hach's warranty as to use patents only applies to infringement arising solely out of the inherent operation of the Products according to their applications as envisioned by Hach's specifications. In case the Products are in such suit held to constitute infringement and the use of the Products is enjoined, Hach will, at its own expense and at its option, either procure for Buyer the right to continue using such Products or replace them with non-infringing products, or modify them so they become non-infringing, or remove the Products and refund the purchase price (prorated for depreciation) and the transportation costs thereof. The foregoing states the entire liability of Hach for patent infringement by the Products.

10. TRADEMARKS AND OTHER LABELS: Buyer agrees not to remove or alter any indicia of manufacturing origin or patent numbers contained on or within the Products, including without limitation the serial numbers or trademarks on nameplates or cast, molded or machined components.

11. SOFTWARE AND DATA. All licenses to Hach's separately-provided software products are subject to the separate software license agreement(s) accompanying the software media and/or included as an Appendix to these Terms & Conditions of Sale. Except to the extent such express licenses conflict with the remainder of this paragraph, the following also applies relative to Hach's software: Hach grants Buyer only a personal, non-exclusive license to access and use the software provided by Hach with Products purchased hereunder solely as necessary for Buyer to enjoy the benefit of the Products. A portion of the software may contain or consist of open source software, which Buyer may use under the terms and conditions of the specific license under which the open source software is distributed. Buyer agrees that it will be bound by all such license agreements. Title to software remains with the applicable licensor(s).

12. PROPRIETARY INFORMATION; PRIVACY: "Proprietary Information" means any information, technical data or know-how in whatever form, whether documented, contained in machine readable or physical components, mask works or artwork, or otherwise, which Hach considers proprietary, including but not limited to service and maintenance manuals. To the extent allowed under Tennessee Law, Buyer and its customers, employees and agents will keep confidential all such Proprietary Information obtained directly or indirectly from Hach and will not transfer or disclose it without Hach's prior written consent, or use it for the manufacture, procurement, servicing or calibration of Products or any similar products, or cause such products to be manufactured, serviced or calibrated by or procured from any other source, or reproduce or otherwise appropriate it. All such Proprietary Information remains Hach's property. No right or license is granted to Buyer or its customers, employees or agents, expressly or by implication, with respect to the Proprietary Information or any patent right or other proprietary right of Hach, except for the limited use licenses implied by law. Hach will manage Customer's information and personal data in accordance with its Privacy Policy, located at http://www.hach.com/privacypolicy.

13. CHANGES AND ADDITIONAL CHARGES: Hach reserves the right to make design changes or improvements to any products of the same general class as Products being delivered hereunder without liability or obligation to incorporate such changes or improvements to Products ordered by Buyer unless agreed upon in writing before the Products' delivery date. Services which must be performed as a result of any of the following conditions are subject to additional charges for labor, travel and parts: (a) equipment alterations not authorized in writing by Hach; (b) damage resulting from improper use or handling, accident, neglect, power surge, or operation in an environment or manner in which the instrument is not designed to operate or is not in accordance with Hach's operating manuals; (c) the use of parts or accessories not provided by Hach; (d) damage resulting from acts of war, terrorism or nature; (e) services outside standard business hours; (f) site prework not complete per proposal; or (g) any repairs required to ensure equipment meets manufacturer's specifications upon activation of a service agreement.

14. SITE ACCESS / PREPARATION / WORKER SAFETY / ENVIRONMENTAL COMPLIANCE: In connection with services provided by Hach, Buyer agrees to permit prompt access to equipment. Buyer assumes full responsibility to back-up or otherwise protect its data against loss, damage or destruction before services are performed. Buyer is the operator and in full control of its premises, including those areas where Hach employees or contractors are performing service, repair and maintenance activities. Buyer will ensure that all necessary measures are taken for safety and security of working conditions, sites and installations during the performance of services. Buyer is the generator of any resulting wastes, including without limitation hazardous wastes. Buyer is solely responsible to arrange for the disposal of any wastes at its own expense. Buyer will, at its own expense, provide Hach employees and contractors working on Buyer's premises with all information and training required under applicable safety compliance regulations and Buyer's policies. If the instrument to be serviced is in a Confined Space, as that term is defined under OSHA regulations, Buyer is solely responsible to make it available to be serviced in an unconfined space. Hach service technicians will not work in Confined Spaces. In the event that a Buyer requires Hach employees or contractors to attend safety or compliance training programs provided by Buyer, Buyer will pay Hach the standard hourly rate and expense reimbursement for such training attended. The attendance at or completion of such training does not create or expand any warranty or obligation of Hach and does not serve to alter, amend, limit or supersede any part of this Contract.

15. LIMITATIONS ON USE: Buyer will not use any Products for any purpose other than those identified in Hach's catalogs and literature as intended uses. Unless Hach has advised the Buyer in writing, in no event will Buyer use any Products in drugs, food additives, food or cosmetics, or medical applications for humans or animals. In no event will Buyer use in any application any Product that requires FDA 510(k) clearance unless and only to the extent the Product has such clearance. Buyer will not sell, transfer, export or re-export any Hach Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Hach Products or technology in any facility which engages in activities relating to such weapons. Unless the "ship-to" address is in California, U.S.A., the Products are not intended for sale in California and may lack markings required by California Proposition 65; accordingly, unless Buyer has ordered Products specifying a California ship-to address, Buyer will not sell or deliver any Hach Products for use in California. Any warranty granted by Hach is void if any goods covered by such warranty are used for any purpose not permitted hereunder.

16. EXPORT AND IMPORT LICENSES AND COMPLIANCE WITH LAWS: Unless otherwise specified in this Contract, Buyer is responsible for obtaining any required export or import licenses. Buyer will comply with all laws and regulations applicable to the installation or use of all Products, including applicable import and export control laws and regulations of the U.S., E.U. and any other country having proper jurisdiction, and will obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all Products and technology delivered hereunder. Buyer will comply with all local, national, and other laws of all jurisdictions globally relating to anti-corruption, bribery, extortion, kickbacks, or similar matters which are applicable to Buyer's business activities in connection with this Contract, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"). Buyer agrees that no payment of money or provision of anything of value will be offered, promised, paid or transferred, directly or indirectly, by any person or entity, to any government official, government employee, or employee of any company owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Buyer or for Hach, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Buyer's activities related to this Contract. Hach asks Buyer to "*Speak Up*!" if aware of any violation of law, regulation or our Standards of Conduct ("SOC") in relation to this Contract. See http://danaher.com/integrity-and-compliance and www.danaherintegrity.com for a copy of the SOC and for access to our Helpline portal.

17. RELATIONSHIP OF PARTIES: Buyer is not an agent or representative of Hach and will not present itself as such under any circumstances unless and to

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the extent it has been formally screened by Hach's compliance department and received a separate duly-authorized letter from Hach setting forth the scope and limitations of such authorization.

18. FORCE MAJEURE: Hach is excused from performance of its obligations under this Contract to the extent caused by acts or omissions that are beyond its control of, including but not limited to Government embargoes, blockages, seizures or freeze of assets, delays or refusals to grant an export or import license or the suspension or revocation thereof, or any other acts of any Government; fires, floods, severe weather conditions, or any other acts of God; quarantines; labor strikes or lockouts; riots; strife; insurrections; civil disobedience or acts of criminals or terrorists; war; material shortages or delays in deliveries to Hach by third parties. In the event of the existence of any force majeure circumstances, the period of time for delivery, payment terms and payments under any letters of credit will be extended for a period of time equal to the period of delay. If the force majeure circumstances extend for six months, Hach and Buyer may each, at its option, terminate this Contract without penalty and without being deemed in default or in breach thereof.

19. NON ASSIGNMENT AND WAIVER: Buyer will not transfer or assign this Contract or any rights or interests hereunder without Hach's prior written consent. Failure of either party to insist upon strict performance of any provision of this Contract, or to exercise any right or privilege contained herein, or the waiver of any breach of the terms or conditions of this Contract will not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same will continue and remain in force and effect as if no waiver had occurred.

20. FUNDS TRANSFERS (PAYMENTS): Buyer and Hach both recognize that there is a risk of banking fraud when individuals impersonating a business demand payment under new banking or mailing instructions. To avoid this risk, Buyer must verbally confirm any new or changed bank transfer or mailing instructions by calling Hach at +1-970-663-1377 and speaking with Hach's Credit Manager before mailing or transferring any monies using the new instructions. Both parties agree that they will not institute mailing or bank transfer instruction changes and require immediate payment under the new instructions but will instead provide a ten (10) day grace period to verify any payment instruction changes before any new or outstanding payments are due using the new instructions.

21. **LIMITATION OF LIABILITY: Hach will not be liable to Buyer under any circumstances for any special, treble, incidental or consequential damages, including without limitation, damage to or loss of property other than for the Products purchased hereunder; lost profits, revenue or opportunity; loss of use; losses resulting from or related to downtime of the products or inaccurate measurements or reporting; the cost of substitute products; or claims of Buyer's customers for such damages, howsoever caused, and whether based on warranty, contract, and/or tort (including negligence, strict liability or otherwise). Except with regard to the indemnity and patent protection provisions contained herein, the total liability of Hach arising out of the performance or nonperformance hereunder or Hach's obligations in connection with the design, manufacture, sale, delivery, and/or use of Products will in no circumstance exceed in the aggregate the greater of One Hudred Thousand and 00/100 Dollars ($100,000.00) or a sum equal to twice the amount actually paid to Hach for Products delivered hereunder.**

22. APPLICABLE LAW AND DISPUTE RESOLUTION: The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Tennessee, without regard to its principles or laws regarding conflicts of laws. If any provision of this Contract violates any Federal, State or local statutes or regulations of any countries having jurisdiction of this transaction, or is illegal for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions. Unless otherwise specifically agreed upon in writing between Hach and Buyer, any dispute relating to this Contract which is not resolved by the parties shall be adjudicated in a court of competent jurisdiction and venue located closest to Murfreesboro, Rutherford County, Tennessee.

23. ENTIRE AGREEMENT & MODIFICATION: These Terms & Conditions of Sale constitute the entire agreement between the parties and supersede any prior agreements or representations, whether oral or written. No change to or modification of these Terms & Conditions shall be binding upon Hach unless in a written instrument specifically referencing that it is amending these Terms & Conditions of Sale and signed by an authorized representative of Hach.

24. APPENDICES: If checked, the following Appendices are attached hereto and incorporated by reference into these Terms & Conditions of Sale:

☐ CLAROS SOFTWARE AS A SERVICE SUBSCRIPTION AGREEMENT

* * *

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Contractor:

HACH Company

By: DocuSigned by: Alyssa Prill
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Name: Alyssa Prill

Title: Bid Specialist

Date: 5/21/2021

City:

City of Murfreesboro

By:

Name: Shane McFarland

Title: Mayor

Date:

Approved as to Form DocuSigned by: Adam F. Tucker
43A2035E51F9401...
Adam Tucker, City Attorney

CONTRACTOR NOTICE CONTACT INFORMATION

HACH Company

Mailing address:

Phone number: 615-521-9605

Fax number:

Company Contact Jeannie Radke

E-mail jeannie.radke@hach.com

CITY NOTICE CONTACT INFORMATION

Murfreesboro Water and Sewer Dept.

Mailing address 300 NW Broad St.

Murfreesboro, TN 37130

Phone number 615-890-0862

Fax number 615-896-4259

Company Contact Darren Gore

E-mail dgore@murfreesborotn.gov

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Sole Source Purchase Hobas Pipe Inspection & LJA Task Order

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Sole Source purchase of Sonar/Lidar/Closed Circuit Televising (CCTV) of the Hobas pipe Sewer Interceptor by Vortex Services and Engineering services of LJA for contract preparation, contractor coordination and result summary.

Staff Recommendation

1. Approve Sole Source Purchase of Lidar/Sonar/CCTV with Vortex Services.
2. Approve the Engineering Task Order with LJA.

Background Information

In August 2019, after having repaired two interceptor sewer failures, the Board approved a Task Order with S&ME (now LJA) to prepare contract documents to perform Lidar/Sonar/CCTV of portions of the existing Southwest Interceptor and Lytle Creek Interceptor Sewer Mains. This televising was completed under contract by Vortex Services (VS) in order to determine the condition of a portion of the remaining lines. The criteria for this televising was the Hobas Pipe material and any section of sewer main 15 feet deep or deeper.

At this time, almost two years later, staff would like to re-televise a portion of the previously televised lines, that had an ovality of 6% or greater as well as the remaining Hobas lines that meet the same depth criteria. The total length of lines to televise is 22,611 feet with 5808 feet of this amount being the portion that was televised previously. The total cost of mobilization and the televising of these lines are not to exceed $174,330. To complete this work, the Department would like to contract directly with VS through a Sole Source purchase. They have agreed to hold their prices from the previous contract. The thought, since accuracy is key with regard to deflection and ovality, is to have the same crew performing the work as well as the same equipment. This will allow LJA and staff to determine if the existing portion of sewer mains have deteriorated any further with regard to ovality and determine if there are additional mains to be concerned about.

Along with the Sole Source purchase, staff has requested and received a task order through the Master Services Agreement with LJA. Their services would include developing the contract documents, coordinating, and managing VS, compare the existing and new videos against each other, as well as evaluate the new video and provide a summary of the results to staff. Their proposal is in an amount not to exceed $48,250.

Council Priorities Served

Responsible budgeting

Televising of these interceptor sewer mains is a proactive move to determine if there are structural issues that need repair so that repairs can be scheduled rather than the possibility of having emergency repairs.

Fiscal Impact

This work will be funded from Working Capital Reserves in an amount of $222,580.

Attachments

1. LJA Task Order
2. Sole Source Quote
3. Exhibit of Lines to Televise

LJA ENGINEERING

200 W. Martin Luther King Boulevard, Suite 1000, Chattanooga, Tennessee 37402
t 423.720.2744 LJA.com

May 17, 2021 **TASK ORDER**

Ms. Valerie Smith, PE
Assistant Director
Murfreesboro Water Resource Department
220 NW Broad Street
Murfreesboro, Tennessee 37130

RE: Engineering Services as Related to the
2021 Hobas Inspection Project
Murfreesboro Water Resource Department
City of Murfreesboro, Tennessee
LJA Task Order No. 20210517

Dear Ms. Smith,

LJA Engineering, Inc. ("LJA") is pleased to provide this proposal for engineering services associated with the 2021 Hobas Inspection Project for Murfreesboro Water Resource Department ("Client"). This task order is made pursuant to the terms and conditions of the Professional Services Agreement ("PSA") entered into on March 4, 2021 by and between LJA Engineering Inc. and Murfreesboro Water Resource Department ("Client").

The following Scope of Services more specifically define the phases and associated tasks related to the project.

Scope of Services

1.0 Development of Specifications and Contractor Coordination

- LJA staff will prepare specifications to be used in the inspection and evaluation of approximately 23,000 linear feet of HOBAS pipe as specified in the project maps (attached as Exhibit A). Specifications will be based on the National Association of Sewer Service Companies (NASSCO) to determine the current condition of the pipe inspected. The specifications will outline and include the requirements of the current NASSCO standards. LJA staff will coordinate with Client in assembling front-end contract documents and associated forms.
- LJA staff will coordinate with the Client regarding special or unique circumstances that may need to be considered during the project.
- LJA staff will create a map book in PDF format from the current GIS layer to depict those segments to be inspected and include pertinent information such as pipe diameter, street name, etc. Maps will include aerial background layers to assist in identifying surroundings.
- LJA staff will coordinate with the contractor regarding the projected start dates when the work will be performed based on weather conditions and provide updates to Owner. LJA will coordinate with the Client to ensure they are informed of the contractors mobilization schedule.

2.0 CCTV Inspection Management, Evaluation, Summary of Findings

- LJA staff will conduct a kickoff meeting with contractor and Client to discuss the project and provide additional pertinent information. LJA staff will conduct up to three site visits during the inspection work to conduct a QA/QS of the inspection process.
- LJA staff will performed the following tasks as part of the review and evaluation process:
    - Receive final deliverables from contractor in specified format and check for completeness. Coordinate with contractor on any discrepancies.
    - Review of the ovaility CSV files
    - Reduce the data from 0.001 foot intervals to 0.1 foot intervals and add columns for linear referencing
    - Perform manual entry for Frist Measurement and add the pipe ID to each record in the table as shown in Client's GIS attribute table
    - Populate direction of survey for each record
    - Perform work flow steps for each inspection record in CSV format
    - Combine all CSV files into one integration file and prepare to import into Client's GIS structure
    - Add combined CSV table containing ovality measurements for each inspection into ArcMap
    - Create routes from sewer mainline feature and compensate for digitized lines opposite the direction of flow
    - Create line events for each 0.1 foot section of ovality data
    - Trim ovality data at the beginning and end of each survey to eliminate the false ovality reading produced by the beginning and end manhole
    - Populate fields with the ovality criticality rating
    - Join adjacent line features that fall into similar category of ovality
    - Review the ovality data for taps and other anomalies that can affect scoring
    - Calculate hyperlink to MSI Video for each feature
    - Generate a spreadsheet with "Critical" and "Bad" ovality ratings
    - Add pertinent notes in the spreadsheet and map
    - Add video and report hyperlinks to the spreadsheet
    - Perform a final review prior to Client submittal
- Upon finalization of the data, LJA staff will prepare a final dataset within ArcGIS to be delivered to the Client that will contain the final results of the inspection, access to the videos and associated reports and a criticality rating similar to the previous Hobas inspection project shown in the symbology of the GIS mapping layer. LJA staff will prepare a summary memorandum describing the results of the inspection and present the final results to the Client.
- LJA staff will receive and review pay applications as submitted by contractor and forward approved by pay application to Client to facilitate final approval.

3.0 Additional Analysis Assistance

- Depending on the findings and results, it may be required for LJA staff to provide additional coordination outside the scope of Tasks No. 1 and No. 2 such as additional pipe analysis to determine the specific extent of failure and/or coordination with Client staff to facilitate decisions for future action and may require additional presentation of data to Client staff.

Client's Responsibilities

Client shall be responsible for the following items:

- Provide information accessible relating to the project including GIS base data for sewer, water, streets, and other related layers pertinent to the project.
- Provide personnel for any direct oversight needed during the project (LJA will not provide a resident project representative on the project).
- To clean the proposed line segments ahead of the contractor's mobilization such that all debris is removed from the pipe to provide accurate readings from the Lidar sensors. The contractor will not be performing cleaning.

Compensation

We propose to provide the specific services described above to be billed as follows:

The fee for **Task 1 – Development of Specifications and Contractor Coordination**, will be billed on a lump sum basis in the amount of $8,750.

The fee for **Task 2 – CCTV Inspection Management, Evaluation, and Summary of Findings**, will be billed hourly on a cost-plus max basis at standard rates with a not-to-exceed maximum of $36,000.

The fee for **Task 3 – Additional Analysis Assistance**, will be billed hourly on a cost-plus max basis at standard rates with a not-to-exceed maximum of $3,500.

Any work not authorized within three (3) months of the date of this agreement will be subject to renegotiations based on current rates.

Schedule

LJA staff will coordinate with the Client and contractor to begin work later this summer when drier weather prevails when sewer flows are at a minimum.

Reimbursables and additional services

Included in the above fees are reimbursable expenses incurred on the project's behalf, including: mileage, printing, plotting, photocopies, reproduction, express mail, and/or courier services. Any regulatory agency review fees associated with plan reviews shall be the responsibility of the Client. Reimbursable expenses will be billed at cost plus ten percent (10%). LJA will bill monthly for all work performed and expenses incurred on the project's behalf. Unpaid invoices after thirty (30) days will accrue service charges at 1-1/2% per month and include any costs of collections and reasonable attorney's fees.

Authorization

If this proposal meets with your approval, your signature below will be sufficient authorization for LJA to commence the stated work as indicated in the above Scope of Services.

We appreciate the opportunity to submit this Task Order and look forward to working with you on this project. If you have any questions, please contact me at 931.273.8999.

Sincerely,

Travis E. Wilson, PE
Vice President

Accepted By:
CITY OF MURFREESBORO
MURFREESBORO WATER RESOURCE DEPARTMENT

By:_____

Name: Mayor Shane McFarland

Title: Mayor

Date:_____

APPROVED AS TO FORM:

By:_____

Name: Adam Tucker

Title: City Attorney

Date:_____

TEW

Attachment

City of Murfreesboro, TN
Attn: Travis Wilson

May 19, 2021

Subject: **2021 Murfreesboro HOBAS Inspections**

Greetings Travis,

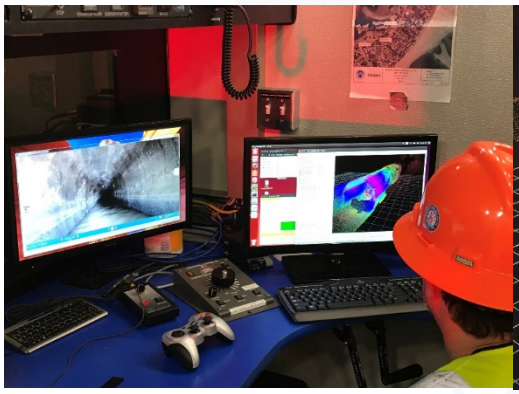
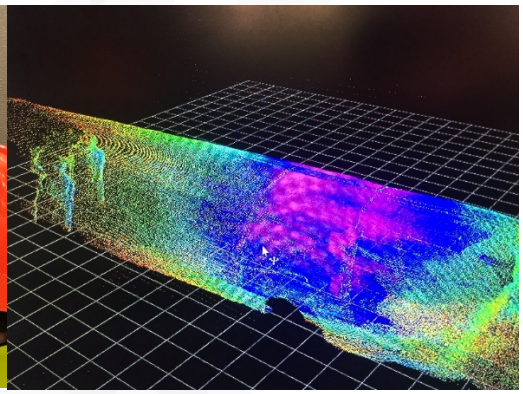
Thank you for giving us the opportunity to provide you with a proposal to perform the Multi-Sensor Inspection (MSI) tasks for the City of Murfreesboro, TN.

Scope of work: The project includes MSI of approximately 9,811.9 linear feet of 30-inch, 9,927.6 linear feet of 36-inch, 2,775.6 linear feet of 48-inch and 95.8 linear feet of 54-inch.

Vortex Services Introduction and Qualifications: Founded in 1972, Vortex Services, F/K/A Ted Berry Company, has extensive proven experience in municipal and industrial pipe cleaning, inspection, and trenchless rehabilitation. Vortex Services has completed projects from unplanned emergency services to large scale comprehensive cleaning and CCTV inspection projects.

Vortex Teams at work

With multiple dedicated MSI inspection units assigned to experienced PACP, MACP, LACP certified operators and technicians; Vortex Services will supply a quality team to perform condition assessment work as inspections are scheduled.

Vortex Services MSI Team performing large diameter assessment project for MWRA (Boston, MA)

Vortex Services has spent the last 20+ years working with communities large and small to collect field data through robotic pipeline CCTV inspection. We have been committed to listening to our customers and learning about the things they really need to manage their collections systems. In the process, we have found that collecting data in the field is only a small piece of the puzzle that makes up managing stormwater and sanitary sewer collection systems. The need to have a full-service provider that can collect, analyze, integrate data into existing municipal systems, manipulate, report, and map information was evident. The Vortex team has a variety of technical solutions and can integrate both historical and current CCTV inspection data into GIS. The integrated data can be usable across all levels of an organization

Project Approach and Allocation of Resources -Vortex Services operates under a structure that allows all team members to participate in our success and be held accountable for safety and project performance. This collaborative effort is not common in today's workplace; however, the camaraderie that exists within our company and the pride in work is evident throughout our crews:

Management Team - Vortex Services management team consists of a mix of the ownership, operations staff, administrative staff, and advisors that work collaboratively on achieving defined goals while providing a high level of service to its customers. Operating efficiencies and managing overhead are critical functions of the Management Team. There are daily, weekly, quarterly, and annual goals with KPI's that drive critical decision making all while maintaining close working relationships with our customers.

Field Operations - Vortex Services Field Operations Team is made up of over 70 employees, which comprises between 12-15 daily work teams dependent on the project responsibilities of any given day. The field staff is a highly trained group who are in direct contact with their direct supervisors daily. All field staff are tracked with our internal labor utilization reports which allows operations management to monitor real time where productivity or efficiencies can be gained, there are several key performance indicators (KPI's) regarding individual and project performance. All Vortex Services Field Supervisory staff have 'smart phones' and tablets with data packages so communication of critical project data and the company staffing schedule are available real time in the field. All Field Supervisors and Project Managers are OSHA 30 certified and all technicians are OSHA 10 certified.

CUES Inc. / CUES Mapping / Pipeline Inspection Partners Corp. – Vortex Services works closely with our technology provider for the SolidFX MSI system CUES and their sister companies and they will be critical partners to Vortex Services during the planning, execution, and deliverable preparation phases of the project.

The following employees and equipment will be designated to the project:

- Project Manager
- PACP/MACP Certified CCTV/MSI Operator
- MSI Technicians

Project Responsibilities:

City of Murfreesboro: Is the owner of the project:

- Provide State Prevailing Wage determination.
- Provide copies of sewer system mapping.
- Provide access to all structures and pipelines.
- Provide flow control by manually controlling pumping station levels whenever possible and at the request of the contractor.
- Provide a designated contract coordinator.
- Provide any scrubbing or construction of easements for access to all remote/cross-country lines.
- Supply and pay for all traffic control per local, state, and MUTCD regulations as required to complete the project, including but not limited to traffic flagger, uniformed officer detail and police vehicle.
- Provide for all other requirements of the project not explicitly spelled out in Vortex Services responsibilities.

Vortex Services, LLC. Will be the General Contractor:

- Provide a designated project manager.
- Provide a written work plan prior to start of work schedule.
- Provide a multi sensor inspection team with all labor, materials, and equipment to complete the project. Inspector will be NASSCO PACP and MACP certified.
- Provide a CDL Jet/Vac Operator with all labor, materials and equipment to pre-clean the scope of work in advance of the MSI inspections.
- Dispose of debris at an approved location.
- Provide an in-house data management and QA/QC team.

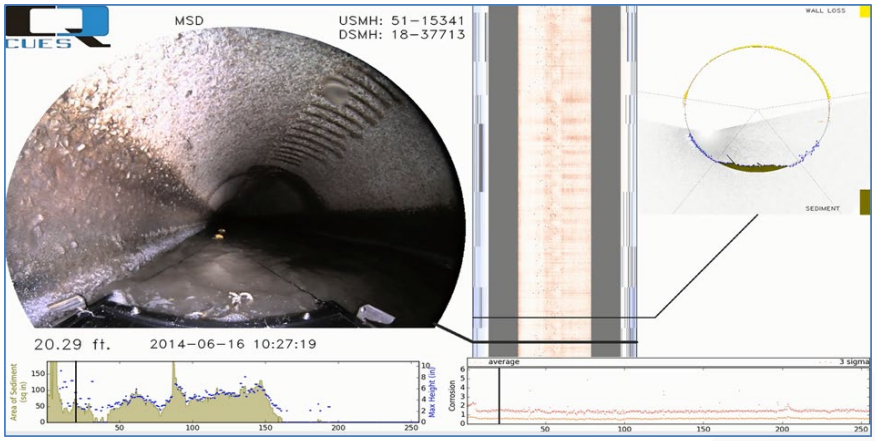
Technology Applications: MSI or multi-sensor inspection is used to describe the process of collecting multiple types of inspections at one time and generally includes the following technologies that are configured together to give the highest and most pertinent level of inspection for a pipeline that is generally larger in diameter (18" and larger).

The MSI technology is presented in the field in a simultaneous presentation of the multi-sensor data and provides comprehensive back end processing of data for visual and analytical review by the consultant and owner.

a) **CCTV inspection** is performed above the water level to provide a NASSCO PACP condition assessment of structural and O&M conditions inside the visible area of the pipe.
b) **Sonar** is used in pipes with high flow where flow control, isolation, or bypass pumping would be too expensive to include as part of the condition assessment and collects data below the water level to provide owner with the amount of debris that exists in a pipe, identify any voids or loss of invert, and is primarily a hydraulic condition assessment tool not a pipe structural condition assessment tool. When Sonar data is collected it is done via a floating MSI or wheeled Mudmaster platform and when it is collected the pipe beneath the water level is not inspected by Digital CCTV or LIDAR. Sonar data can only be collected when adequate flow is in the pipeline.
c) **Laser profiling uses LIDAR** (light detection and ranging) to provide a true profile of the pipe wall and is used in conjunction with the visual CCTV inspection to provide a greater condition assessment tool that can identify wall loss (corrosion measurements), give true pipe internal diameter, as well as pipe

geometry. Laser profiling is effective above the water or flow level only. Laser profiling can be done in 2D or 3D configurations depending on the need of the City.

a. 2D LIDAR is MSI technology that collects data and can see and measure features and defects in the cross section (ovality and pipe size).
b. 3D LIDAR is complimentary MSI technology that collects data and can see and measure features and defects in both cross section (ovality and pipe size) and longitudinal dimensions (vertical and horizontal pipe bends). By linking successive scans together true path of the pipe and the shape of the bends can be determined.



Sample data from the MSI inspection viewer that simultaneously presents live HD CTTV (top left), cross sectional LIDAR and Sonar view (top right), integrated LIDAR/Sonar pipe flat view (top center), sediment graph (lower left), and corrosion graph (lower right)

Deliverables Summary: Deliverables will be transferred on a portable hard drive and shipped in a military style Pelican shipping case periodically during the project and in the form of a final deliverable.

A. **Provide (2) Copies of CUES GraniteNet® Viewer**
   i. Includes all line reports and CCTV condition assessment data in NASSCO PACP format

B. **SFX-2D Multi-Sensor Report:** Condition Assessment Report (example will be provided) produced from SFX-2D LIDAR data, SONAR data and CCTV. Resultant reports include 4:1 video showing time synchronized multi-sensor data including LIDAR and SONAR sensor cross sections and data graphs. Additional MSI report (PDF Document) showing same information along with select distributed cross sections and summary tables.

C. **SFX-3D Multi-Sensor Report:** Condition Assessment Report produced from SFX-3D LIDAR data, SONAR, and CCTV. Same report as above. 3D LIDAR data is formatted into 2D data for processing and production of same reports. Difference is in the ability to acquire precise cross-sections not affected by sensor misalignment.

D. **PIPE SEGMENT REPORT:** A variation on the above reports. This report can be produced where the sewer is constructed from sticks of RCP. Same information is provided.

Exclusions, not covered in this proposal by Vortex Services:

- Traffic Control including but not limited to police details.
- By-pass pumping of flows.
- Construction of MH Access roads or extraordinary effort needed to access remote pipelines including removal of trees, brush, fences, or other structures to gain access.
- Demolition of pavement, covers, rings, or other structures to access pipes or manholes.
- Mechanical or robotic removal of protruding service taps – If protruding service taps or other pipe protrusions do not allow the MSI equipment to progress through the pipeline, Vortex Services will make all reasonable attempts.

Differing Conditions:

1. Flows / Flow Levels in the gravity piping higher than anticipated by the owner - If flows in the wastewater collections system are higher than anticipated a modification to the work plan may be required and shall be paid by the Owner at no additional expense to Vortex.

Condition of Property:

The parties acknowledge that the nature of the work to be performed hereunder at the property is such that the sewer line and other characteristics and conditions of the site and property cannot be fully assessed by the Vortex Services until the services have commenced. As such, the parties acknowledge that the condition of the property including the sewer lines may necessitate executing applicable change orders. Neither party, at this time, can satisfy itself as to coordination of such schedules and as to the existing condition of all parts of the property and its location, including, without limitation, access to the site, availability, location, and condition of the sewer line, all necessary utilities, climatic conditions, surface and subsurface conditions, potential exposure to hazardous or toxic wastes and substances, gases and other hazardous conditions and the condition of all improvements in or on the property. Once the actual condition of the property or of any of the other items described above is determined and necessary modifications are mutually agreed upon, Vortex Services shall be responsible for completing the work.

Billable Units

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	ITEM PRICE
1a.	Mobilization	1	LS	$20,000.00	$20,000.00
2a.	MSI Inspection (Digital CCTV, Sonar, and 3D LIDAR)	23,000	LF	$4.00	$92,000.00
2b.	PACP CCTV Data Post Processing and Reporting	23,000	LF	$0.20	$4,600.00
2c.	MSI Condition Report Post Processing	23,000	LF	$2.50	$57,500.00
2d.	LiDAR Cross Section Report Post Processing	23,000	LF	$0.01	$230.00
2e.	Reverse Setup	16	EA	$0.01	$0.16

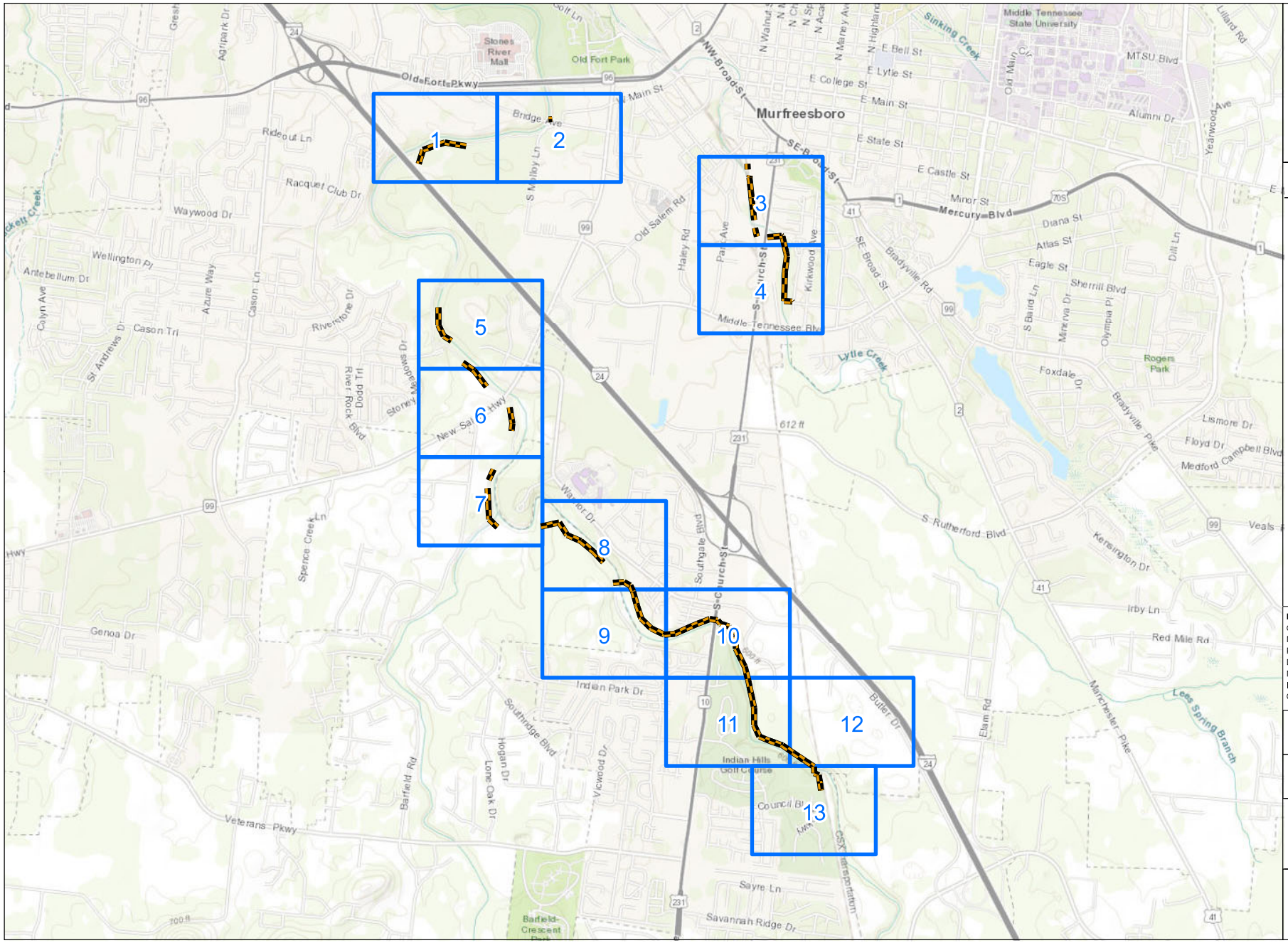
All quotes are good for 30 days from date of proposal.

We appreciate the opportunity to provide you with this proposal and look forward to working with you.

Please do not hesitate to contact me at any time to discuss further.

Sincerely,

Adam Gilbert
Project Manager
Vortex Services, LLC.
Cell: (207)-754-3628



Murfreesboro Water Resources Department

2021 HOBAS Inspection Project

INDEX

Legend

CCTV Inspection Pipes

N

1 inch = 2,500 feet

0 625 1,250 2,500 Feet

REFERENCE:
GIS BASE LAYERS WERE OBTAINED FROM MWRD. THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY. ALL FEATURE LOCATIONS DISPLAYED ARE APPROXIMATED. THEY ARE NOT BASED ON CIVIL SURVEY INFORMATION, UNLESS STATED OTHERWISE.

DATE:
5/17/2021

Exhibit A

City of MURFREESBORO TENNESSEE

LJA ENGINEERING
we build civilization™

Drawing Path: Z:\SoutheastRegion\Projects\2019\5481-19-013_Hobas_Inspection_&_Eval\GIS\ovality\PPT_LJA.mxd plotted by mcrow 05-17-2021

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: WRRF UV Parts – Sole Source Purchase

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Sole Source purchase of UV parts from Southern Sales Company.

Staff Recommendation

Approve the sole source purchase of UV parts from Southern Sales Company.

Background Information

The Trojan ultraviolet (UV) system provides disinfection of the effluent water discharged at the WRRF. Components that make up the system have a limited life expectancy and require periodic replacement. The current usage of the system requires that the lamps be replaced about every two years. Since 2002, we have replaced approximately half of the lamps and other parts every year.

New Original Equipment Manufacturer (OEM) parts are only available from a single source. The manufacturer's distributor for this area is Southern Sales Company in Nashville

Council Priorities Served

Maintain public safety

The infrastructure at the Water Resource Recovery Facility enables the production of excellent quality of water that enhances the West Fork Stones River for safe public use, beautiful scenery, and thriving aquatic life.

Fiscal Impact

The $60,342 purchase of the UV parts was budgeted in the Department's rate funded capital budget in the amount of $90,000.

Attachments

Contract with Southern Sales Company

PO Box 40384
2929 Kraft Drive
Nashville, TN 37204
Office: (615) 254-0066
Fax #: (615) 254-0791
www.southernsalesinc.com
www.tencarva.com

To: **City of Murfreesboro**
111 West Vine St.
Murfreesboro, TN 37130
Attn: James Ross

Date: 05/19/21
Project: Trojan UV Parts

Owner: City of Murfreesboro
Engineer:
Quote No: 051921TC

Under the terms and conditions herein stated, we are pleased to quote the following:

TROJAN UV PARTS

Thirty-Four (34) 908081-003 UV Lamp $ 935.00 each (Total $ 31,790.00)
One Hundred Five (105) 337693 Canister Assembly Seal Kit $ 91.20 each (Total $ 9,576.00)
Ten (10) 337143 Bottom Sleeve Floor Cup Assembly $ 147.45 each (Total $ 1,474.50)
Forty (40) 337352 Cartridge Assembly $ 165.00 each (Total $ 6,600.00)
Sixty-Eight (68) 337023 Wiper Endcap $ 17.90 each (Total $ 1,217.20)
Twenty (20) 013300-095 Torsion Spring $ 5.45 each (Total $ 109.00)
Two (2) 015461-SG-S-480 Sensor Assembly UVI $ 3,871.60 each (Total $ 7,743.20)
Two (2) 015492 UVI Sensor Sleeve $ 95.50 each (Total $ 191.00)
Four (4) 327125-180STDSAW UVI Canister Assembly $ 77.40 each (Total $ 309.60)
Twelve (12) 337697 Wiper Vent Cap $ 14.50 each (Total $ 174.00)
Twelve (12) 013342-BYHB061 TB Coupling $ 27.40 each (Total $ 328.80)
Twelve (12) 013342-INPT041 TB Coupling $ 27.40 each (Total $ 328.80)

Freight Estimate $ 500.00

Total Price……..$ 60,342.10

General Notes:
1. No sales tax included.
2. Installation by others.
3. Items not listed above are not Included.
4. All equipment ship FOB point of manufacture with freight allowed.
5. Payment terms are 100% net 30 days from invoice.
6. Any items of equipment or services not specifically outlined in the above proposal to be supplied by others.
7. Please direct all inquires regarding this proposal to Travis Callis at the phone numbers shown below

We appreciate the opportunity to quote you on this project.

Sincerely yours,
SOUTHERN SALES COMPANY
A division of Tencarva Machinery Company

Thanks,

Travis Callis
Aftermarket Sales Manager
615-254-0066 Ext. 3109 Office
615-727-6209 Direct
615-207-7178 Mobile
travisc@southernsalesinc.com
www.southernsalesinc.com

SOUTHERN SALES COMPANY

A division of Tencarva Machinery Company

TERMS AND CONDITIONS

1. ACCEPTANCE. This contingent proposal is submitted by Southern Sales Company as Seller, to Buyer subject to the terms and conditions hereinbefore and hereinafter set forth, and is contingent on Seller's final approval of additional factors such as Buyer's credit. This proposal may only be accepted on the exact terms set forth herein, and no additional terms or modifications shall be accepted except as specifically agreed to by the parties in writing. This proposal shall become an agreement binding on Buyer and Seller when signed by Buyer (expressly conditioned upon prior approval by the Murfreesboro City Council) and Seller, and shall become the entire and sole agreement of the parties pertaining to the subject matter of the agreement, mutually withdrawing, canceling, or otherwise waiving, terminating, and excluding any and all oral, written, express, or implied representations, guarantees, warranties, agreements, or understandings not set forth in full herein, or in the general provisions or specifications made a part of this agreement. All of Seller's obligations are subject to Buyer's continued credit acceptability by Seller through the time of shipment. Each individual signing this document warrants that he or she has proper authority to do so.

2. PRICES. Prices quoted in this proposal are firm for a period of **6** months from the date hereof, provided (a) Seller has not revoked the price or proposal, (b) a Buyer's signature below constituting an acceptable order is received by Seller within **30** days from date of proposal, (c) anytime after **30** days of Seller's approval, Buyer agrees to accept delivery of any or all of the equipment on a "when-ready" basis, and (d) Buyer agrees to make payment for all equipment listed herein on terms and conditions set forth herein for all partial and/or complete shipments. Otherwise, prices may be revised to reflect Seller's selling prices in effect on the date of shipment. If shipment is, for any reason, deferred beyond **12** months from the date of Buyer's acceptance, the prices set forth herein are subject to change to conform to Seller's prices prevailing on the date of shipment but not to exceed an escalation of 2% per month from the expiration of the aforesaid period to the date of shipment.

3. ITEMS INCLUDED. This proposal includes only those items specified herein and does not include installation, field erection, accessory or related materials such as controls, piping, printed matter, etc., nor any other item not specifically listed herein.

4. SUPERVISION AND SERVICE. If Buyer desires field service for checking the installation and/or instruction in operation of the equipment in excess of that set forth in this proposal, Buyer agrees to pay a **per diem rate of $1,000.00** including travel time.

5. DELIVERY. Buyer shall pay delivery costs **"FOB POINT OF SHIPMENT."** All claims for damage, delay and/or shortage arising from such shipment shall be made by Buyer directly solely against the Carrier. Buyer agrees that shipment schedules and/or delivery dates set forth in this proposal represent nothing more than Seller's best estimate of time required to ship after receipt of acceptable order and final approval data. No liability, direct or indirect, is assumed by Seller for failure to ship as scheduled. Buyer grants Seller the right to make partial shipments and Buyer agrees to pay promptly according to the terms of this agreement for all material or equipment shipped. Buyer shall notify Seller of any nonconformity within 15 days after receipt of the equipment or within 15 days after the nonconformity could have been reasonably discovered, whichever date is earlier.

6. CANCELLATION, SUSPENSION OR DELAY. Orders resulting from this proposal may be canceled, suspended or delayed at any time prior to shipment - but only upon Buyer's prior payment to Seller of Seller's reasonable charges for cancellation, suspension or delay, which charges shall include expenses already incurred, costs incurred by Seller to cancel, suspend or delay, and Seller's anticipated profit.

7. BACKCHARGES. Buyer agrees that Seller will not owe backcharges for labor, materials or other costs incurred by Buyer or others in adjustment, modification, service or repair of material or equipment furnished unless such backcharges previously have been authorized in writing by Seller.

8. TAXES. Buyer, as a Tennessee governmental entity, is exempt from State sales tax and will issue a tax exemption certificate to the Seller upon request. Buyer shall not be responsible for any taxes that are imposed on Seller. Furthermore, Seller understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to Buyer.

9. TERMS OF PAYMENT. Credit is subject to acceptance by Seller and subject to Buyer's continued credit acceptability by Seller through the time of shipment. Buyer agrees to pay on terms of **"NET 30 DAYS FROM DATE OF SHIPMENT"** of each item. Buyer also agrees to pay interest on past due accounts at the rate of one and one-half percent per month (both pre-judgment and post judgment), plus all costs of collection, including reasonable attorney fees.

10. WARRANTY. In cases where Seller is the manufacturer of new equipment, such equipment is warranted by Seller to be free from defects in material and workmanship under normal use and service for a period of one year from date of shipment. In the event of such a defect in material or workmanship within one year of shipment, Seller may (at Seller's option) repair or replace any part(s) provided that such parts are, upon request, returned to the point specified by Seller, transportation prepaid by Buyer. This warranty does not cover parts damaged by decomposition from chemical action or damaged by wear caused by abrasive materials; nor does it cover damage resulting from misuse, accident, or neglect, or from improper operation, maintenance, installation, modification, or adjustment. Nor does this warranty cover parts repaired by entities other than Seller without written approval from Seller.

In cases where Seller is not the manufacturer or where the equipment is not new, Buyer agrees that Seller is not liable for any warranty whatsoever, and Buyer's sole recourse for defects in material or workmanship shall be under the terms of the manufacturer's written warranty, if any.

No warranties have been made by Seller in reference to this equipment unless expressly included in this written agreement.

THESE WARRANTIES ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, AND SELLER SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, OR OF FITNESS FOR A PARTICULAR PURPOSE.

11. TITLE. Title to this equipment passes to buyer at the time of shipment, but pursuant to the Uniform Commercial Code, Buyer agrees (should Seller request it) to promptly execute security agreements and financing statements granting to Seller a security interest in the contract amount of this agreement in either (1) all of the equipment covered by this agreement, or (2) Buyer's entire inventory, equipment, accounts receivable and their proceeds, plus after-acquired additions and substitutions.

12. COMPLIANCE WITH LAWS. Buyer shall be solely responsible for securing any necessary permits under (and for compliance with) all safety, health and sanitation laws, ordinances and regulations in connection with the installation and operation of the equipment. Buyer agrees to provide Seller, upon request, evidence of the securing of any permits and of compliance with any such laws, ordinances and regulations, although Seller may rely exclusively on Buyer's representations, hereby made, that it shall secure such permits and comply with such laws, ordinances and regulations.

13. INDEMNIFICATION. It is understood that Seller has relied upon data furnished by and on behalf of Buyer with respect to the safety aspects of the installation and use of the equipment and that it is Buyer's responsibility to assure that the equipment will, when installed and put to use, be in compliance with safety requirements fixed by law and otherwise legally adequate to safeguard against injuries or damage to persons or property. To the extent allowed by Tennessee law, Buyer hereby agrees to defend, indemnify and hold harmless Seller, its agents and employees, against any and all losses, costs, damages, claims, liabilities or expenses, including but not limited to, reasonable attorney's fees arising out of or resulting from any injury or damage to any person or property caused by inadequacy of safety features, devices or characteristics in the equipment or in the installation, use or operation of same, except claims for repair or replacement of defective parts as provided herein.

14. DISCLAIMER OF CONSEQUENTIAL DAMAGES, LIQUIDATED DAMAGES OR PENALTIES. BUYER AGREES THAT SELLER SHALL NOT BE LIABLE FOR CONSEQUENTIAL DAMAGES. CONSEQUENTIAL DAMAGES FOR THE PURPOSES OF THIS AGREEMENT SHALL INCLUDE BUT NOT BE LIMITED TO, LOSS OF USE, INCOME OR PROFIT, OR LOSS OF OR DAMAGE TO PROPERTY (INCLUDING, BUT WITHOUT LIMITATION, PRODUCTS MANUFACTURED, PROCESSED OR TRANSPORTED BY THE USE OF THE EQUIPMENT) OCCASIONED BY OR ARISING OUT OF THE OPERATION, USE, INSTALLATION, REPAIR OR REPLACEMENT OF THE EQUIPMENT. SELLER SHALL NOT BE LIABLE FOR ANY PENALTY OR LIQUIDATED DAMAGES BASED UPON OR RELATING TO FAILURE OR INABILITY TO SHIP WITHIN A SPECIFIED TIME.

15. Governing Law and Venue. The validity, construction and effect of this proposal, the agreements herein, and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document. Any action between the parties arising from this proposal and the agreements herein may only be filed in the courts of Rutherford County, Tennessee.

15. COMPLETE AGREEMENT. The complete agreement between SOUTHERN SALES COMPANY and the Purchaser is contained herein and is not subject to modifications except in a writing signed by an authorized officer of each party.

Contractor:

Southern Sales Company
A Division of Tencarva Municipal

By: _____

Name: _____

Title: _____

Date: _____

City:

City of Murfreesboro

By: _____

Name: Shane McFarland

Title: Mayor

Date: _____

Approved as to Form: _____

Adam Tucker, City Attorney

CONTRACTOR NOTICE CONTACT INFORMATION

Southern Sales Company
A Division of Tencarva Municipal

Mailing address:

Phone number: 615-207-7178

Fax number:

Company Contact Travis Callis

E-mail travisc@sothernsalesinc.com

CITY NOTICE CONTACT INFORMATION

Murfreesboro Water and Sewer Dept.

Mailing address 300 NW Broad St.

Murfreesboro, TN 37130

Phone number 615-890-0862

Fax number 615-896-4259

Company Contact Darren Gore

E-mail dgore@murfreesborotn.gov

COUNCIL COMMUNICATION

Meeting Date: 06/03/2021

Item Title: Pension Committee

Department: Administration

Presented by: Shane McFarland, Mayor

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Appointment of Pension Committee members

Background Information

The purpose of the Pension Committee is to interpret and carry out the provision of the Pension Plan of the City of Murfreesboro, settling any disputes which may arise with regard to the rights of participants in the Pension Plan.

As established by City Code, § 10.01, the Pension Committee consists of seven members at least three of whom are participants in the Pension Plan, and members serve 3-year terms.

Council Priorities Served

Establish strong City brand

Residents volunteer for service on the City several boards and commissions and are instrumental in the operations of several City departments.

Attachments

Memo from Mayor McFarland

City of MURFREESBORO TENNESSEE

. . . creating a better quality of life.

June 3, 2021

Members of City Council

RE: Recommended Appointment – Pension Committee

As an item for the City Council agenda, I am recommending the appointment of Cathy Smith to the Pension Committee for a 1-year term replacing the vacancy left by Valarie Smith.

Sincerely,

Shane McFarland
Mayor

Administration Department
111 West Vine Street * PO Box 1139 * Murfreesboro, Tennessee 37133-1139 * Phone 615 849 2629 * Fax 615 849 2679
TDD 615 849 2689 www.murfreesborotn.gov